



Health Policy Briefing

September 21, 2020

Supreme Court Justice Ruth Bader Ginsberg Dies at 87

Supreme Court Justice Ruth Bader Ginsburg passed away on Friday at the age of 87 due to complications of metastatic pancreatic cancer. She was appointed to the Supreme Court by President Bill Clinton in 1993 and was only the second woman to serve on the high court. She was one of the Supreme Court's most liberal justices and was the senior member of the court's liberal wing since 2010. The push to fill her seat is expected to start today. If President Trump is successful in appointing his third Supreme Court justice, it could result in the most significant ideological shift for the Court in decades. With the presidential election less than seven weeks away, Majority Leader Mitch McConnell (R-Ky.) has vowed to bring President Trump's nominee up for a vote on the Senate floor, but McConnell did not clarify the timing of the vote, which will likely occur after the election, during the lame duck session. Democrats are arguing that the seat should remain open through the November 3 election and be filled by Democratic candidate Joe Biden if he wins the presidency. Republicans made similar arguments in 2016 after Justice Antonin Scalia passed away. Senator Lisa Murkowski (R-Alaska) released a statement that the Senate should not hold a vote prior to the election, while Senator Susan Collins (R-Maine) went further and noted that the decision for the new judge should be made by the president who is elected on November 3rd. In contrast, other republicans have urged for a vote. Should the Supreme Court see an ideological shift to the right, conservatives are hopeful that challenges to Roe v. Wade, the Affordable Care Act (ACA), gun rights restrictions, and anti-discrimination laws would be successful. Another conservative on the high court could also change the balance of justices in favor of slashing federal regulatory power. The court is scheduled to convene for the October 2020 term and will hear arguments on the 2010 health care law a week after the election.

Inside

- Congress Expected to Vote on Clean CR This Week.....2
- Lawmakers to Investigate Political Interference in CDC Work.....2
- Azar Reserves Power to Issue New Rules for Secretary...2
- Cassidy, Warren Request Guidance on Student Mental Health During Pandemic.....2
- Coronavirus Panel Questions Guidance from WH Task Force.....3
- Democrats Criticize Fetal Tissue Research Restrictions.....3
- Bipartisan Group of Policymakers Ask for APM Threshold Fix.....3
- E&C Republicans Request Info on Coinciding Flu Season, Pandemic.....3
- Hart Health Strategies COVID-19 Resources.....4
- Upcoming Congressional Hearings and Markups.....4
- Recently Introduced Health Legislation.....5

Congress Expected to Vote on Clean CR This Week

Congress will likely vote this week on a temporary spending measure that would extend current levels of government funding through December 11. The clean continuing resolution (CR) was due to be released on Friday but was delayed due to some ongoing negotiations on funding for the U.S. Department of Agriculture's Commodity Credit Corp.

There have been no breakthroughs on the next coronavirus stimulus package, with congressional Democrats and the White House still at odds about the overall size of the legislation. The bipartisan House Problems Solvers Caucus proposed a plan outlining additional resources for unemployment benefits, the Paycheck Protection Program (PPP), and schools and would also provide for an additional round of stimulus checks. The proposal includes approximately \$500 billion to state and local governments and \$450 a week for supplemental jobless benefits. Under the plan, total spending could increase or decrease depending on the state of the pandemic over time. White House Chief of Staff Mark Meadows has signaled that the White House would support the \$1.52 trillion stimulus plan from the 50-member group, which has a higher total spending figure than that originally endorsed by the administration. The Problem Solvers Caucus proposal, however, was rejected by House Democratic leadership, who argued that it would not go far enough to address the medical and economic needs of the nation. House Speaker Nancy Pelosi (D-Calif.) states last week that Congress should stay in session until an agreement is reached with the administration on the next stimulus package.

Lawmakers to Investigate Political Interference in CDC Work

The House Select Subcommittee on the Coronavirus Crisis will launch an investigation into reports that the White House has attempted to interfere with Centers for Disease Control and Prevention (CDC) COVID-19 reporting. Democratic members of the panel sent a [letter](#) to U.S. Department of Health and Human Services (HHS) Secretary Alex Azar and CDC Director Robert Redfield requesting information regarding the Trump administration's role in the publication of the CDC reports. House Energy and Commerce Chair Frank Pallone (D-N.J.) and Oversight Subcommittee Chair Diana DeGette (D-Colo.) also sent a [letter](#) to Secretary Azar calling on him to "stand up for public health" and clarify whether he approved the actions taken by political appointees. *Politico* recently reported that White House aides had requested to read and edit the CDC's Morbidity and Mortality Weekly Reports. The administration's decision to intrude upon the scientific reports has been criticized by lawmakers on both sides of the aisle, with Democrats going so far as to call on Secretary Azar to resign. In related news, HHS spokesperson Michael Caputo has taken a leave of absence amidst the scrutiny into his actions, and his aide Paul Alexander has departed HHS.

Azar Reserves Power to Issue New Rules for Secretary

U.S. Department of Health and Human Services (HHS) Secretary Alex Azar has issued a memo barring agencies from signing any new rules, reserving such power for the Secretary. The bulletin was sent to the leaders of operating and staff divisions within HHS and covers all 27 agencies and offices within the department. The agency clarified in a statement that "The only change made by this memo is that, instead of the Secretary's just approving all agency regulations, each regulation now also will be formally signed by him." Also stating that this "should have no effect on operational work and does not pertain in any way to guidances or any vaccine or drug approval or authorization."

Cassidy, Warren Request Guidance on Student Mental Health During Pandemic

Sens. Bill Cassidy (R-La.) and Elizabeth Warren (D-Mass.) are [calling](#) on the U.S. Department of Health and Human Services (HHS) and the Department of Education to issue guidance for how schools should address the mental health challenges faced by students as a result of the COVID-19 pandemic. The letter states that young adults are among the most at-risk population for mental health illnesses, and that pre-pandemic rates of mental health conditions have been steadily increasing. The lawmakers request information from HHS Secretary Alex Azar and Education Secretary Betsy DeVos on how schools should use federal funds to support mental health needs, taking into consideration the challenges unique to minority students, students with disabilities, students experiencing homelessness, and tribal nations.

Coronavirus Panel Questions Guidance from WH Task Force

House Select Subcommittee on the Coronavirus Crisis Chair James Clyburn (D-S.C.) has sent a [letter](#) to Vice President Mike Pence and coronavirus response coordinator Dr. Deborah Birx expressing concerns that the White House Coronavirus Task Force has weakened or retracted previous recommendations amidst the continuing pandemic. He requests that all Task Force reports tracking the spread of the coronavirus and recommendations to contain it be made public. Clyburn's letter details the status of certain states that failed to follow prior guidance and are now facing severe outbreaks.

Democrats Criticize Fetal Tissue Research Restrictions

House Oversight Committee Chair Carolyn Maloney (D-N.Y.) and Senate Health, Education, Labor, and Pensions (HELP) Committee Chair Patty Murray (D-Wash.) have sent a [letter](#) to U.S. Department of Health and Human Services (HHS) Secretary Alex Azar urging him to reverse the Trump administration's attempts to block federally funded fetal tissue research. The lawmakers cite internal HHS documents showing that political appointees "pursued these fetal tissue restrictions to advance an ideological agenda at the behest of the White House" and that the recommendations made by the Human Fetal Tissue Ethics Advisory Board are not supported by science. The letter argues that the restrictive policies have impeded research and promising therapies for a number of diseases, including coronavirus.

Bipartisan Group of Policymakers Ask for APM Threshold Fix

Reps. Suzan DelBene (D-Wash.), Roger Marshall (R-Kan.), Peter Welch (D-Vt.), and Darin LaHood (R-Ill.) are urging House leadership to address the forthcoming threshold jump for qualifying participants in alternative payment models (APMs). To qualify for participation bonuses under MACRA, a certain percentage of provider revenue must come through the APM. This threshold increases from 50 percent to 75 percent on January 1, 2021. The lawmakers ask that a fix to this policy be included in the next COVID-19 stimulus bill given the important role value-based care has played in responding to the coronavirus pandemic and the challenges faced by providers in meeting current thresholds due to subsequent shifts in care.

E&C Republicans Request Info on Coinciding Flu Season, Pandemic

Republican leadership of the House Energy and Commerce Committee has [written](#) to Centers for Disease Control and Prevention (CDC) Director Robert Redfield to ask how the agency is planning to manage its response to the coinciding seasonal flu and COVID-19 pandemic during the fall and winter months. The letters notes that experts have predicted as many as "100 million cases of influenza-like symptoms that could overwhelm current testing capacity" and greatly increase stress on hospitals. The lawmakers underscore the need to increase the flu vaccination rate and ask what the CDC is planning to do to ensure access to the flu vaccine.

Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic. Please remember to clear your cache to ensure you download the most recent documents.

- [COVID-19 Testing](#)
- [Disaster Primer](#)
- [Federal Relief Overview](#)
- [Health Care Workers on the Front Lines](#)
- [Hospice and Palliative Care](#)
- [Nursing Resources](#)
- [Personal Protective Equipment](#)
- [Physician Provisions](#)
- [Re-Opening America](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business – PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)

Upcoming Congressional Hearings and Markups

Senate Homeland Security and Governmental Affairs Subcommittee on Federal Spending Oversight and Emergency Management hearing “State and Local Cybersecurity: Defending Our Communities from Cyber Threats Amid COVID-19;” 3:00 p.m., 342 Dirksen Bldg.; September 22

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing “COVID-19: An Update on the Federal Response;” 10:00 a.m., G50 Dirksen Bldg.; September 23

House Energy and Commerce Subcommittee on Health hearing “Health Care Lifeline: The Affordable Care Act and the COVID-19 Pandemic;” 10:00 a.m., remote; September 23

House Science, Space, and Technology Committee hearing “Data for Decision-Making: Responsible Management of Data during COVID-19 and Beyond;” 11:00 a.m., remote; September 23

Senate Judiciary Committee hearing “Examining Threats to American Intellectual Property: Cyber-attacks and Counterfeits During the COVID-19 Pandemic;” 2:30 p.m., 226 Dirksen Bldg.; September 23

Senate Indian Affairs Committee hearing to examine legislation including S.3126, Native Behavioral Health Access Improvement Act; S.3264, Bridging the Tribal Digital Divide Act; and S.3937, Special Diabetes Programs for Indians Reauthorization Act; 2:30 p.m., 628 Dirksen Bldg.; September 23

House Small Business Subcommittee on Innovation and Workforce Development hearing “Paycheck Protection Program: An Examination of Loan Forgiveness, SBA Legacy Systems, and Inaccurate Data;” 10:00 a.m., 2360 Rayburn Bldg.; September 24

Senate Banking, Housing, and Urban Affairs Committee hearing “The Quarterly CARES Act Report to Congress;” 10:00 a.m., 106 Dirksen Bldg.; September 24

House Small Business Subcommittee on Economic Growth, Tax, and Capital Access hearing “A Review of PPP Forgiveness;” 9:30 a.m., 2360 Rayburn Bldg.; September 25

Senate Armed Services Readiness and Management Support Subcommittee hearing “Supply Chain Integrity;” 9:15 a.m., G50 Dirksen Bldg.; October 1

House Select Subcommittee on the Coronavirus Crisis hearing with Secretary of Health and Human Services Alex M. Azar II; 9:00 a.m., 2154 Rayburn Bldg.; October 2

Recently Introduced Health Legislation

H.Res.1103 — Expressing support for the designation of the third week of September as National Student Sleep Health Week; Sponsor: Rep. Lofgren, Zoe [D-CA-19]; Committees: House - Energy and Commerce; Education and Labor

H.R.8200 — To improve the health of minority individuals during the COVID-19 pandemic, and for other purposes; Sponsor: Rep. Kelly, Robin L. [D-IL-2]; Committees: House - Ways and Means; Small Business; Transportation and Infrastructure; Judiciary; Natural Resources; Energy and Commerce; House Administration; Oversight and Reform; Education and Labor; Budget; Agriculture

H.R.8203 — To direct the Secretary of Health and Human Services to develop an action plan, make targeted grants, and develop public awareness campaigns with respect to COVID-19 and the disproportionate impact of the COVID-19 pandemic on racial and ethnic minorities and other vulnerable populations; Sponsor: Rep. Cardenas, Tony [D-CA-29]; Committees: House - Energy and Commerce

H.R.8205 — To amend the Public Health Service Act to expand, enhance, and improve applicable public health data systems used by the Centers for Disease Control and Prevention, and for other purposes; Sponsor: Rep. Castor, Kathy [D-FL-14]; Committees: House - Natural Resources; Energy and Commerce; Oversight and Reform

H.R.8206 — To clarify the eligibility for participation of peer support specialists in the furnishing of behavioral health integration services under the Medicare program; Sponsor: Rep. Chu, Judy [D-CA-27]; Committees: House - Ways and Means; Energy and Commerce

H.R.8218 — To amend title XVIII of the Social Security Act to provide for increased Medicare payment for certain rural providers of ambulance services; Sponsor: Rep. Gianforte, Greg [R-MT-At Large]; Committees: House - Ways and Means; Energy and Commerce

H.R.8219 — To direct the Under Secretary for Health of the Department of Veterans Affairs to provide certain information to Department of Veterans Affairs medical center staff and homelessness service providers regarding the Coordinated Entry program, and for other purposes; Sponsor: Rep. Gonzalez, Anthony [R-OH-16]; Committees: House - Veterans' Affairs

H.Res.1108 — Expressing support for designation of the week of September 13, 2020, through September 20, 2020, as "Balance Awareness Week"; Sponsor: Rep. Johnson, Eddie Bernice [D-TX-30]; Committees: House - Energy and Commerce

H.R.8245 — To authorize the Secretary of Health and Human Services to make payments to hospitals in COVID-19 hot spots to provide hero pay to eligible workers, and for other purposes; Sponsor: Rep. Ruppertsberger, C. A. Dutch [D-MD-2]; Committees: House - Ways and Means; Energy and Commerce; Education and Labor

H.R.8247 — To make certain improvements relating to the transition of individuals to services from the Department of Veterans Affairs, suicide prevention for veterans, and care and services for women veterans, and for other purposes; Sponsor: Rep. Takano, Mark [D-CA-41]; Committees: House - Veterans' Affairs

H.R.8251 — To amend title 18, United States Code, to prohibit preventing access to lifesaving medical procedures and treatments, and for other purposes; Sponsor: Rep. Wagner, Ann [R-MO-2]; Committees: House - Judiciary

H.R.8254 — To establish a demonstration program to provide integrated care for Medicare beneficiaries with end-stage renal disease, and for other purposes; Sponsor: Rep. Blumenauer, Earl [D-OR-3]; Committees: House - Ways and Means; Energy and Commerce

H.R.8261 — To amend title 38, United States Code, to provide for a presumption of service connection for certain diseases associated with exposure to toxins, including emissions from open burn pits, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Veterans' Affairs; Education and Labor; Armed Services

S.Res.692 — A resolution designating September 2020 as “National Prostate Cancer Awareness Month”; Sponsor: Sen. Menendez, Robert [D-NJ]; Committees: Senate - Judiciary

S.Res.696 — A resolution designating September 4, 2020, as “National Polycystic Kidney Disease Awareness Day”, and raising awareness and understanding of polycystic kidney disease; Sponsor: Sen. Blunt, Roy [R-MO]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

S.4572 — A bill to amend title 38, United States Code, to provide for a presumption of service connection for certain diseases associated with exposure to toxins, and for other purposes; Sponsor: Sen. Gillibrand, Kirsten E. [D-NY]; Committees: Senate - Veterans' Affairs

S.4574 — A bill to establish a demonstration program to provide integrated care for Medicare beneficiaries with end-stage renal disease, and for other purposes; Sponsor: Sen. Young, Todd [R-IN]; Committees: Senate - Finance

S.4578 — A bill to provide for domestic sourcing of personal protective equipment, and for other purposes; Sponsor: Sen. Portman, Rob [R-OH]; Committees: Senate - Homeland Security and Governmental Affairs

S.4583 — A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the programs and activities of the National Institutes of Health with respect to Tourette syndrome; Sponsor: Sen. Menendez, Robert [D-NJ]; Committees: Senate - Health, Education, Labor, and Pensions

H.Res.1117 — Expressing support for the designation of September 2020 as Peripheral Artery Disease Awareness Month; Sponsor: Rep. Payne, Donald M., Jr. [D-NJ-10]; Committees: House - Oversight and Reform

H.Res.1118 — Expressing support for the designation of September 2020 as “National Prostate Cancer Awareness Month”; Sponsor: Rep. Payne, Donald M., Jr. [D-NJ-10]; Committees: House - Ways and Means; Energy and Commerce

H.R.8268 — To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to furnish mental and behavioral health care to certain individuals discharged or released from the active military, naval, or air service under conditions other than honorable, and for other purposes; Sponsor: Rep. Escobar, Veronica [D-TX-16]; Committees: House - Veterans' Affairs

H.R.8269 — To direct the Secretary of Veterans Affairs to conduct annual surveys of veterans on experiences obtaining hospital care and medical services from medical facilities of the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Escobar, Veronica [D-TX-16]; Committees: House - Veterans' Affairs

H.R.8272 — To amend title 18, United States Code, to prohibit physically impeding an ambulance from providing emergency medical treatment, and for other purposes; Sponsor: Rep. Higgins, Clay [R-LA-3]; Committees: House - Judiciary

S.Res.698 — A resolution designating September 2020 as “National Spinal Cord Injury Awareness Month”; Sponsor: Sen. Rubio, Marco [R-FL]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

H.R.8283 — To provide temporary licensing reciprocity for telehealth and interstate health care treatment; Sponsor: Rep. Latta, Robert E. [R-OH-5]; Committees: House - Energy and Commerce

H.R.8306 — To direct the Secretary of Veterans Affairs to establish a pilot program to furnish hyperbaric oxygen therapy to a veteran who has a traumatic brain injury or post-traumatic stress disorder; Sponsor: Rep. Murphy, Gregory [R-NC-3]; Committees: House - Veterans' Affairs

H.R.8308 — To amend the Public Health Service Act to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for services furnished via telehealth if such services would be covered if furnished in-person, and for other purposes; Sponsor: Rep. Phillips, Dean [D-MN-3]; Committees: House - Energy and Commerce

S.Res.706 — A resolution expressing support for the designation of September 2020 as “Sickle Cell Disease Awareness Month” in order to educate communities across the United States about sickle cell disease and the need for research, early detection methods, effective treatments, and preventative care programs with respect to complications from sickle cell disease and conditions related to sickle cell disease; Sponsor: Sen. Scott, Tim [R-SC]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

S.Res.708 — A resolution supporting the designation of September 18, 2020, as “National Concussion Awareness Day”; Sponsor: Sen. Hassan, Margaret Wood [D-NH]; Committees: Senate - Health, Education, Labor, and Pensions

S.4613 — A bill to amend the Fairness to Contact Lens Consumers Act to prevent certain automated calls and to require notice of the availability of contact lens prescriptions to patients, and for other purposes; Sponsor: Sen. Boozman, John [R-AR]; Committees: Senate - Commerce, Science, and Transportation