



Health Policy Briefing

September 30, 2019

CR Extending Funding Through Nov. 21 Signed Into Law

The Senate passed a stopgap spending measure (H.R. 4378) last week by a vote of 81-16 to prevent a government shutdown at the end of the fiscal year (FY) on September 30. The continuing resolution (CR) would fund the government at current levels through Thursday, November 21. The CR includes a package of health extenders that would temporarily extend current funding for several public health programs that have expired or are set to expire at the end of the month. The package also includes the bipartisan *Fair and Accurate Medicaid Pricing (AMP) Act* (H.R. 3276). This bill would repeal the requirement that drug manufacturers include the prices of certain authorized generics when calculating the average manufacturer price (AMP) of brand drugs and would exclude manufacturers from the definition of wholesalers in the calculation of Medicaid drug rebates. Estimates indicate that such changes will produce savings of \$3.1 billion over the next decade. The CR, which passed the House last week, was signed into law by the President on Friday. Lawmakers, however, are no closer to reaching an agreement on the passage of FY 2020 appropriations legislation and continue to grapple with negotiations surrounding abortion policy, funding for a wall along the southern border, and overall top-line spending figures. Lawmakers have departed Washington for the next two weeks, leaving five legislative weeks before the November 21 deadline to fund the federal government.

Status of Drug Pricing Reforms Remains Unclear

Leadership of the Senate Finance Committee officially introduced the bill previously advanced by the panel that aims to lower the cost of prescription drugs. The text of the *Prescription Drug Pricing Reduction Act* (S. 2543) follows the committee's consideration of a conceptual document in July and includes inflationary caps on price increases and requirements for pharmacy benefit managers (PBM) to disclose rebate information. While Chairman Chuck Grassley (R-Iowa) has stressed that this is the only bipartisan drug pricing bill

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in Congress to be advanced through the committee process, he has also acknowledged the possibility that drug pricing reform will be delayed until next year. Senate Majority Leader Mitch McConnell (R-Ky.) has not yet committed to bringing the bill to the floor for a vote. Grassley is reportedly working with Democrats in the House to see if any common ground on the issue of drug prices can be reached.

There is much speculation around the potential for the impeachment inquiry against President Trump to negatively impact bipartisanship in Congress and overshadow the congressional agenda for the rest of the year. House Speaker Nancy Pelosi (D-Calif.) announced the official opening of an impeachment inquiry last week. While the White House stated that the move “destroyed any chances of legislative progress,” Pelosi still appeared optimistic about working with the President to lower drug prices. Her senior health advisor Wendell Primus said that the Speaker’s drug pricing legislation could be considered on the House floor before the end of October. The **Lower Drug Costs Now Act** (H.R. 3) would direct the Secretary of the U.S. Department of Health and Human Services (HHS) to negotiate the price of as many as 250 drugs that lack marketed competition and would enact price caps of 1.2 times the average price in six other countries, named in the bill. Two of the committees of jurisdiction – Energy and Commerce as well as Education and Labor – held hearings on the bill last week. The Ways and Means Committee is expected to hold its hearing on H.R. 3 the first week following the return of Congress from its two-week October recess; the Energy and Commerce Committee may schedule its markup of the legislation for that week as well.

The House Ways and Means Committee has released a new [report](#) examining drug prices in the U.S. compared to the prices paid by other similar countries. The report finds that costs in the U.S. are nearly four times higher than the combined average of 11 other comparable nations, and that patients themselves are paying as much as 67 percent more for prescription drugs than the patients in other countries. Monthly average per capita spending on prescriptions in the U.S. is almost double the next closest country. The report analyzes 2018 data for 79 products sold in Australia, Canada, Denmark, France, Germany, Japan, the Netherlands, Portugal, Sweden, Switzerland, the U.K., and the U.S. The Committee asserts that the U.S. could save \$49 billion annually in Medicare Part D through the use of these countries’ average prices for the 79 drugs examined alone.

Civica Rx to Make First Vancomycin Delivery

Civica Rx recently announced that it is preparing the delivery of its first batches of newly manufactured generic antibiotics to its member health care systems nationwide. Civica Rx is a nonprofit drug manufacturing and distribution company that was launched last year to stabilize both the supply and price of essential generics. There are currently 39 health system members of Civica representing more than 1,000 U.S. hospitals.

CBO: Ruiz/Roe Surprise Billing Approach Would Increase Deficit

A new analysis from the Congressional Budget Office (CBO) indicates that the legislation introduced by Reps. Raul Ruiz (D-Calif.) and Phil Roe (R-Tenn.) to address surprise insurance gaps would increase the federal deficit by \$15 billion over the next decade. The budget agency’s score of the bill was obtained by The Hill after being emailed to a congressional office. The CBO’s official score of the competing surprise billing legislation advanced by the House Energy and Commerce Committee shows savings of more than \$20 billion over 10 years. Unlike the approach proposed by Reps. Ruiz and Roe, the Energy and Commerce bill would initially set a benchmark payment rate that insurers would pay providers for out-of-network care based on the median negotiated rate in a given area. The Ruiz/Roe legislation instead provides for an independent dispute resolution (IDR) process under which an arbiter would take into account the amount that physicians charge before payer negotiations take place. The CBO cites the increased payments to physicians that have been observed in New York since the state passed a similar policy in its score of the Ruiz/Roe bill. Lawmakers in both chambers continue to pursue an agreement on surprise billing.

Senate Passes Ebola Eradication Act

The Senate passed legislation last week directing the United States Agency for International Development (USAID) to act in response to the threat posed by Ebola in the Democratic Republic of the Congo (DRC), South Sudan, and Burundi. S. 1340 also directs the USAID to report to Congress on its efforts in the eastern part of the DRC and on proposed additional legal authorities needed to improve such efforts. The bill was agreed to by unanimous consent.

Warner Files Discharge Petition To Reverse WH Waiver Regulation

Sen. Mark Warner (D-Va.) has filed a discharge petition to force a Senate vote on a Congressional Review Act resolution to reverse recent regulations from the Trump administration that make it easier for health insurance plans to qualify for waivers from the Affordable Care Act's (ACA) consumer protections. The petition, which is supported by the entire Senate Democratic caucus, must be voted on no later than November 12. It requires a simple majority to pass, meaning that Democrats must gain the support of four GOP colleagues in order for the resolution to be successful.

Krishnamoorthi Calls on Companies to End E-Cigarette Advertising

House Oversight and Reform Subcommittee on Economic and Consumer Policy Chairman Raja Krishnamoorthi (D-Ill.) is [calling](#) on e-cigarette manufacturers to stop all television, radio, print, and digital advertising in the U.S. His request follows the announcement from market-leader Juul that it would immediately stop advertising its products in light of significant increases in vaping among youths.

Grassley to Continue Seeking Details on Puerto Rico's Medicaid Program

Senate Finance Committee Chairman Chuck Grassley (R-Iowa) stated that he received more questions than answers from Centers for Medicare and Medicaid Services (CMS) Administrator Seema Verma in response to a letter lawmakers sent the agency in July regarding how much Puerto Rico receives in Medicaid funding. The letter also posed questions regarding whether there were processes in place to reduce waste, fraud, and abuse of federal Medicaid dollars and when Puerto Rico planned to implement processes to increase transparency. According to Grassley, Verma's response is inconsistent with the information he has gathered from the local government of Puerto Rico. He intends to follow up with the agency on these issues.

Lawmakers Urge CMS to Reconsider Cuts to EEG/VEEG Services

A group of more than 60 bipartisan lawmakers have written to CMS urging the agency to reconsider its proposed payment reductions for long-term EEG (electroencephalograph) and video EEG (VEEG) professional and technical service codes. Such testing services are used in the diagnosis and treatment of uncontrolled or intractable epilepsy. The lawmakers raise concerns that the payment reductions could impede patient access to long-term EEG and VEEG services, which could increase patient risk of subsequent seizures, brain damage, disability and death, worsen surgical outcomes, and result in higher health care costs overall. The letter was led by Reps. Earl Blumenauer (D-Ore.), Brad Wenstrup (R-Ohio), Terri Sewell (D-Ala.), and Cathy McMorris Rodgers (R-Wash.).

Upcoming Congressional Hearings and Markups

House Energy and Commerce Subcommittee on Health field hearing on the public health threat posed by gun violence; time TBD, University of Chicago Medical Center; October 3

Recently Introduced Health Legislation

H.Res.570 — Commemorating the 20th anniversary of the Centers for Disease Control and Prevention’s Racial and Ethnic Approaches to Community Health (REACH) program; Sponsor: Rep. Watson Coleman, Bonnie [D-NJ-12]; Committees: House - Energy and Commerce

H.R.4429 — To ensure that a fair percentage of Federal cancer research funds are dedicated to pediatric cancer research; Sponsor: Rep. Fitzpatrick, Brian K. [R-PA-1]; Committees: House - Energy and Commerce

H.R.4439 — To amend the Federal Food, Drug, and Cosmetic Act to make permanent the authority of the Secretary of Health and Human Services to issue priority review vouchers to encourage treatments for rare pediatric diseases; Sponsor: Rep. Butterfield, G. K. [D-NC-1]; Committees: House - Energy and Commerce

H.R.4442 — To amend title 18, United States Code, to prohibit prenatal genetic testing and abortions on the basis of sexual orientation, and for other purposes; Sponsor: Rep. Duffy, Sean P. [R-WI-7]; Committees: House – Judiciary

H.R.4451 — To amend title 38, United States Code, to clarify that caregivers for veterans with serious illnesses are eligible for assistance and support services provided by the Secretary of Veterans Affairs, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Veterans’ Affairs

H.R.4452 — To amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to permit leave to care for an adult child, grandchild, or grandparent who has a serious health condition, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Education and Labor, Oversight and Reform, House Administration

H.R.4453 — To amend title XVIII of the Social Security Act to distribute additional information to Medicare beneficiaries to prevent health care fraud, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Energy and Commerce, Ways and Means

H.R.4455 — To amend title XVIII of the Social Security Act to provide for a temporary payment increase under the Medicare program for certain biosimilar biological products to encourage the development and use of such products; Sponsor: Rep. Schrader, Kurt [D-OR-5]; Committees: House - Energy and Commerce, Ways and Means

H.Res.584 — Expressing support for the designation of September 2019 as “National Prostate Cancer Awareness Month”; Sponsor: Rep. Payne, Donald M., Jr. [D-NJ-10]; Committees: House - Energy and Commerce, Ways and Means

H.Res.586 — Supporting the designation of September 2019 as “National Recovery Month”; Sponsor: Rep. Trone, David J. [D-MD-6]; Committees: House - Energy and Commerce

H.Res.587 — Recognizing LGBTQ+ suicide as a public health problem and expressing support for the designation of September as “National Suicide Prevention Month”; Sponsor: Rep. Watson Coleman, Bonnie [D-NJ-12]; Committees: House - Energy and Commerce

H.Res.588 — Expressing support for the designation of “National Amplified Musculoskeletal Pain Syndrome Awareness Day”; Sponsor: Rep. Wild, Susan [D-PA-7]; Committees: House - Energy and Commerce

H.R.4457 — To amend the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for additional preventive care for individuals with chronic conditions without the imposition of cost sharing requirement, and for other purposes; Sponsor: Rep. Underwood, Lauren [D-IL-14]; Committees: House - Energy and Commerce, Education and Labor, Ways and Means

H.R.4460 — To provide funding for programs and activities under the SUPPORT for Patients and Communities Act; Sponsor: Rep. Kuster, Ann M. [D-NH-2]; Committees: House - Energy and Commerce, Ways and Means, Judiciary, Oversight and Reform, Education and Labor, Financial Services

H.R.4468 — To amend titles XVIII and XIX of the Social Security Act with respect to nursing facility requirements, and for other purposes; Sponsor: Rep. Evans, Dwight [D-PA-3]; Committees: House - Ways and Means, Energy and Commerce

S.Res.327 — A resolution designating September 23, 2019, as “National Falls Prevention Awareness Day” to raise awareness and encourage the prevention of falls among older adults; Sponsor: Sen. Collins, Susan M. [R-ME]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Voice Vote.

S.Res.329 — A resolution designating September 2019 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 Voice Vote.

S.2538 — A bill to amend title XI of the Social Security Act to repeal the requirement for unique health identifiers; Sponsor: Sen. Paul, Rand [R-KY]; Committees: Senate - Finance

H.Res.592 — Recognizing the anniversary of the eradication of smallpox and the importance of vaccination in the United States and worldwide; Sponsor: Rep. Bera, Ami [D-CA-7]; Committees: House - Energy and Commerce, Science, Space, and Technology

H.R.4484 — To require short-term limited duration insurance issuers to renew or continue in force such insurance coverage at the option of the enrollees, and for other purposes; Sponsor: Rep. Budd, Ted [R-NC-13]; Committees: House - Energy and Commerce, Education and Labor

S.Res.341 — A resolution designating September 2019 as “National Ovarian Cancer Awareness Month”; Sponsor: Sen. Stabenow, Debbie [D-MI]; Committees: Senate - Judiciary

S.2543 — An original bill to amend titles XI, XVIII, and XIX of the Social Security Act to lower prescription drug prices in the Medicare and Medicaid programs, to improve transparency related to pharmaceutical prices and transactions, to lower patients’ out-of-pocket costs, and to ensure accountability to taxpayers, and for other purposes; Sponsor: Sen. Grassley, Chuck [R-IA]; Committees: Senate - Finance

S.2546 — A bill to amend the Employee Retirement Income Security Act of 1974 to require a group health plan or health insurance coverage offered in connection with such a plan to provide an exceptions process for any medication step therapy protocol, and for other purposes; Sponsor: Sen. Murkowski, Lisa [R-AK]; Committees: Senate - Health, Education, Labor, and Pensions

H.Res.601 — Supporting the designation of October 5, 2019, as National Ostomy Awareness Day; Sponsor: Rep. Payne, Donald M., Jr. [D-NJ-10]; Committees: House - Oversight and Reform

H.R.4499 — To amend the Public Health Service Act to provide that the authority of the Director of the National Institute on Minority Health and Health Disparities to make certain research endowments applies with respect to both current and former centers of excellence, and for other purposes; Sponsor: Rep. Barragan, Nanette Diaz [D-CA-44]; Committees: House - Energy and Commerce

H.R.4519 — To amend the Public Health Service Act to authorize the Director of the National Institutes of Health to make awards to outstanding scientists, including physician-scientists, to support researchers focusing on pediatric research, including basic, clinical, translational, or pediatric pharmacological research, and for other purposes; Sponsor: Rep. Engel, Eliot L. [D-NY-16]; Committees: House - Energy and Commerce

H.R.4524 — To amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs to transport individuals to and from facilities of the Department of Veterans Affairs in connection with rehabilitation, counseling, examination, treatment, and care, and for other purposes; Sponsor: Rep. Larsen, Rick [D-WA-2]; Committees: House - Veterans' Affairs

H.R.4527 — To amend title XVIII of the Social Security Act to provide an option for first responders age 50 to 64 who are separated from service due to retirement or disability to buy into Medicare; Sponsor: Rep. Malinowski, Tom [D-NJ-7]; Committees: House - Ways and Means, Energy and Commerce

H.R.4530 — To amend the Internal Revenue Code of 1986 to permit individuals eligible for Indian Health Service assistance to qualify for health savings accounts; Sponsor: Rep. Moolenaar, John R. [R-MI-4]; Committees: House - Ways and Means

H.R.4532 — To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make certain grants to assist nursing homes for veterans located on tribal lands; Sponsor: Rep. O'Halleran, Tom [D-AZ-1]; Committees: House - Veterans' Affairs

H.R.4533 — To amend the Public Health Service Act to improve behavioral health outcomes for American Indians and Alaskan Natives, and for other purposes; Sponsor: Rep. Pallone, Frank, Jr. [D-NJ-6]; Committees: House - Energy and Commerce, Ways and Means, Natural Resources

H.R.4534 — To amend the Public Health Service Act to improve the public health system in tribal communities and increase the number of American Indians and Alaska Natives pursuing health careers, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Energy and Commerce

H.R.4537 — To amend the Public Health Service Act to improve the provision of mobile medical health care services to certain underserved areas and populations, and for other purposes; Sponsor: Rep. Velazquez, Nydia M. [D-NY-7]; Committees: House - Energy and Commerce

H.R.4538 — To amend title III of the Public Health Service Act to limit the orphan drug exclusion under the drug discount program under section 340B of such title; Sponsor: Rep. Welch, Peter [D-VT-At Large]; Committees: House - Energy and Commerce

S.Res.349 — A resolution supporting the designation of September 20, 2019, as "National Concussion Awareness Day"; Sponsor: Sen. Hassan, Margaret Wood [D-NH]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Voice Vote.

S.Res.350 — A resolution designating September 2019 as "National Childhood Cancer Awareness Month"; Sponsor: Sen. Manchin, Joe, III [D-WV]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

S.Res.354 — A resolution designating September 2019 as “National Brain Aneurysm Awareness Month”; Sponsor: Sen. Markey, Edward J. [D-MA]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

S.Res.356 — A resolution designating September 4, 2019, as “National Polycystic Kidney Disease Awareness Day”, and raising awareness and understanding of polycystic kidney disease; Sponsor: Sen. Blunt, Roy [R-MO]; Committees: Senate - Judiciary

S.2552 — A bill to amend title XVIII of the Social Security Act to provide an option for first responders age 50 to 64 who are separated from service due to retirement or disability to buy into Medicare; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Finance

S.2554 — A bill to require the Centers for Disease Control and Prevention to conduct research on mass violence; Sponsor: Sen. Isakson, Johnny [R-GA]; Committees: Senate - Health, Education, Labor, and Pensions

S.2558 — A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make certain grants to assist nursing homes for veterans located on tribal lands; Sponsor: Sen. Sinema, Kyrsten [D-AZ]; Committees: Senate - Veterans' Affairs

S.2569 — A bill to establish in the Department of Veterans Affairs a pilot program instituting a clinical observation program for pre-med students preparing to attend medical school; Sponsor: Sen. Baldwin, Tammy [D-WI]; Committees: Senate - Veterans' Affairs

S.2574 — A bill to amend title XIX of the Social Security Act to increase the ability of Medicare and Medicaid providers to access the National Practitioner Data Bank for the purpose of conducting employee background checks; Sponsor: Sen. Gardner, Cory [R-CO]; Committees: Senate - Finance

S.2585 — A bill to amend title XIX of the Social Security Act and Public Health Service Act to improve the reporting of abortion data to the Centers for Disease Control and Prevention, and for other purposes; Sponsor: Sen. Ernst, Joni [R-IA]; Committees: Senate - Finance

S.2586 — A bill to improve maternal health care; Sponsor: Sen. McSally, Martha [R-AZ]; Committees: Senate - Health, Education, Labor, and Pensions