



Health Policy Briefing

October 5, 2020

Trump Receiving Medical Care for COVID-19 at Walter Reed

President Donald Trump and First Lady Melania Trump announced that they had tested positive for coronavirus in the early hours of Friday. The White House canceled all public events on Friday, and his future campaign schedule is unknown. The President has been staying at Walter Reed hospital since Friday night, where his doctor says he is doing well and only experiencing mild symptoms. According to his medical team, the President is currently fever-free and not on supplemental oxygen. Doctors have administered an experimental antibody cocktail from Regeneron Pharmaceuticals Inc. along with Remdesivir. Should he become incapacitated, the 25th Amendment would provide for the vice president to take over. Democratic presidential candidate Joe Biden has tested negative for the virus. The two men shared the debate stage for the first time on Tuesday.

The Senate will not return today as scheduled and will instead recess until October 19. Three

Republican senators – Mike Lee (Utah), Thom Tillis (NC), and Ron Johnson (R-Wis.) – have tested positive for the coronavirus in recent days, and two more are quarantining. Republican leadership does not believe that these developments will impact plans to confirm Supreme Court nominee Amy Coney Barret. The Judiciary Committee is still scheduled to move forward with her confirmation hearing beginning on October 12.

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HHS Announces Release of an Additional \$20 B in Provider Relief Funds

On October 1, the U.S. Department of Health and Human Services (HHS) [announced](#) the intended distribution of an additional \$20 billion in funds from the CARES Act Provider Relief Fund “that considers financial losses and changes in operating expenses caused by the coronavirus.” **Providers will be eligible to apply for the funding starting October 5, with an application deadline of November 6, 2020.** If a provider has already received the two percent allocation based on patient revenue from the General Distribution, then the provider would be eligible for an equitable add-on payment that considers: (1) a provider’s change in operating revenues from patient care; (2) a provider’s change in operating expenses from patient care, including expenses incurred related to coronavirus; and (3) payments already received through prior Provider Relief Fund distributions. This round of funding is also open to providers that began practicing January 1, 2020 through March 31, 2020 and those who previously received, rejected or accepted a General Distribution payment to ensure that those providers receive their allocation of two percent of patient revenue in addition to any add-on payment. According to HHS, approximately \$106 billion of the approximately \$175 billion initially appropriated to the Provider Relief Fund has gone out to providers as of September 23.

Congress Passes CR to Fund Government Through Dec. 11

Congress has cleared a \$1.4 trillion stopgap spending measure to avert a government shutdown and fund the federal government at current levels through December 11. The bill, which had previously been advanced by the House of Representatives, passed the Senate on Wednesday by a vote of 84-10. Lawmakers were able to reach an agreement on the inclusion of nutrition assistance and trade relief payments for farmers in the final deal. The bill extends the Medicare geographic practice cost index (GPCI) floor and a number of health care programs, including the National Quality Forum, Money Follows the Person (MFP) Medicaid demonstration, Medicaid spousal impoverishment protections, community health centers, community behavioral health clinics, the National Health Services Corps, Teaching Health Centers, and the Special Diabetes Program, that were set to expire on November 30, and averts a \$50 increase in 2021 Medicare Part B premiums. It would instead limit any increase in Medicare premiums to around \$4 a month. It would extend the time in which health care providers must repay Medicare Accelerated and Advance Payment Program loans and reduce the interest rate of those loans to four percent until the current public health emergency ends. The bill would also delay cuts to disproportionate share hospitals (DSH) until December 11. The bill authorizes the Food and Drug Administration (FDA) to collect user fees to support its reviews of over-the-counter drugs and its regulation of production facilities. The new deadline creates the possibility of a vehicle to which a surprise medical billing fix could be attached after the election but before the end of the year. Lawmakers will now attempt to complete work on the 12 annual appropriations bills for fiscal year (FY) 2021 during the lame duck session of Congress following the November 3 elections.

House Passes Another COVID Relief Bill Without GOP Support

The House of Representatives has passed another coronavirus stimulus bill without full support of Republican lawmakers. The \$2.2 trillion measure, a reduction from the \$3.4 trillion bill passed by the House in May, was intended to be a compromise deal, but it was unable to garner any bipartisan support. It would restore the \$600 per week increase in jobless benefits, provide another round of direct stimulus checks to Americans, and provide \$436 billion in funding for state and local governments. It also includes \$75 billion for COVID testing, contact tracing, and isolation measures, \$50 billion for the Provider Relief Fund, and \$20 billion for the Biomedical Advanced Research and Development Authority (BARDA) for the development and procurement of vaccines and therapeutics. The Centers for Disease Control and Prevention (CDC) would receive \$7 billion for its vaccination campaign and \$1 billion for a vaccination public awareness campaign. It includes \$3.5 billion for the Substance Abuse and Prevention Treatment block grant, \$4 billion for the Mental Health Services block grant, and \$50 million for suicide prevention. The bill would allow uninsured Americans to sign up for coverage on the Affordable Care Act (ACA) marketplace during a two-month special enrollment period, and unemployed Americans would qualify for enhanced subsidies to purchase coverage. States would also receive money to increase their ACA outreach and enrollment. The bill instructs insurers to cover COVID-19 tests for anyone who wants one.

The legislation passed by a vote of 214-207, with 17 Democrats joining Republicans in voting no. House Speaker Nancy Pelosi (D-Calif.) and Treasury Secretary Steven Mnuchin continue to negotiate a bipartisan deal but have yet to reach a breakthrough. The two sides remain at odds about the expansion of the earned income and child tax credits and the paring back of net operating loss (NOL) provisions passed by Congress in March, both of which Democrats support but Republicans oppose. Republicans also oppose the scale of proposed aid to state and local authorities, while President Trump over the weekend tweeted his support for a new package noting that saying the country “wants and needs” fiscal stimulus. Pelosi is facing pressure from the centrist wing of her party, with two dozen Democrats urging her to accept the White House’s offer of a \$1.6 trillion bill. Democratic leaders have said the chamber will remain on-call in October should a compromise be reached.

Candidates Spar at First Presidential Debate

The first presidential debate between President Donald Trump and former Vice President Joe Biden took place last week. The two sparred on a number of health care related issues, including COVID-19 and the president’s response to the pandemic and the impact that the President’s Supreme Court Justice nominee Amy Coney Barrett could have on the future of the Affordable Care Act. The next Presidential debate is scheduled for October 15th, while the Vice-Presidential debate will take place on October 7th.

Lawmakers Consider Supreme Court Nominee’s Record Ahead of Confirmation Hearing

The President’s nominee to the Supreme Court Amy Coney Barrett began meeting with members of the Senate last week. While she has not participated in any cases that dealt with the Affordable Care Act (ACA), Barrett’s academic writing and other public actions indicate disagreement with past Supreme Court decisions to uphold the 2010 health care law. She has opposed the law’s provisions dealing with birth control and has criticized Chief Justice John Roberts’ majority opinion in upholding the law for pushing the ACA “beyond its plausible meaning to save the statute.” The Supreme Court is scheduled to hear oral arguments a week after the November elections in a case challenging the law’s constitutionality. Barrett could participate in the case if she is confirmed in time for oral arguments. During her time as an appeals judge, she has not participated in any cases involving the question of severability – or whether a law can stand if parts of it are struck down, and her writings do not indicate where she would stand on the issue. The current lawsuit centers on the constitutionality of the ACA’s individual mandate. The mandate’s penalty was zeroed out by Congress, which a collection of Republican-led states are arguing make the mandate unconstitutional since it can no longer be considered a tax. It remains unclear which parts of the law, such as Medicaid expansion or provisions which support the transition from Medicare fee-for-service to value-based care – would survive if the ACA is found to be unconstitutional by the Supreme Court. The 2010 health care law created the Medicare Shared Savings Program (MSSP), funded the Center for Medicare and Medicaid Innovation (CMMI), and established a pathway for the approval of biosimilars, among other things.

Senate Leaders Spar on Health Care Bill

The Senate blocked legislation last week that would prohibit the Department of Justice (DOJ) from supporting a legal challenge to the Affordable Care Act (ACA) by a vote of 51-43. The vote on S. 4653 was forced by Minority Leader Chuck Schumer (D-N.Y.). Republican senators Susan Collins (Maine), Joni Ernst (Iowa), Cory Gardner (Colo.), Martha McSally (Ariz.), Dan Sullivan (Alaska), and Lisa Murkowski (Alaska) joined Senate Democrats in support of the measure. The Supreme Court is scheduled to hear a Trump administration-backed lawsuit against the 2010 health care law shortly following the November 3 elections.

In a move to counter Schumer’s attempt to make health care a focus in the weeks leading up to the election, Majority Leader Mitch McConnell (R-Ky.) called a vote on Sen. Thom Tillis’ (R-N.C.) legislation to guarantee that individuals with pre-existing conditions can obtain health coverage even if the ACA is overturned in court. The bill, however, would have permitted the use of lifetime caps by insurers. The measure stalled following a 47-47 vote, with Republican Sens. Ted Cruz (Texas), Rand Paul (Ky.), and Mike Lee (Utah) breaking ranks to vote against it.

Lawmakers Probe Private Equity Receipt of COVID Funds

Reps. Katie Porter (D-Calif.), Bill Pascrell (D-N.J.), and Rosa DeLauro (D-Conn.) sent a [letter](#) to U.S. Department of Health and Human Services (HHS) Secretary Alex Azar requesting information regarding coronavirus relief payments made to private equity-backed health care companies. The lawmakers ask for details on how the relief loans have been allocated and which providers have been denied aid. They also seek a breakdown of funding by provider type and ownership. The letter expresses concern that smaller hospitals may be at a disadvantage, arguing that “it is egregious that HHS has prioritized money for private equity-owned hospitals with no transparency and seemingly no regard for hospitals that do not have financial support from Wall Street.”

We&M Leaders Request More Info on Planned Drug Discount Cards

Reps. Bill Pascrell (D-N.J.) and Lloyd Doggett (D-Texas) are [asking](#) U.S. Department of Health and Human Services (HHS) Secretary Alex Azar for more details about the Trump administration’s plan to send prescription drug discount cards to seniors in the coming weeks. “It appears that the Trump Administration may seek to rely on existing waiver authority and claim imaginary ‘savings’ from a separate plan that has not even gone into effect yet,” the letter states. “In reality, and in keeping with past dubious actions by this administration to try and abuse taxpayer money, senior citizens and taxpayers will likely be left on the hook to pay for this scam, should it ever be effectuated,” Pascrell and Doggett write.

Democrats Expand Investigation into White House COVID PR Campaign

Democrats in the House of Representatives are expanding their investigation into the White House’s \$300 million ad campaign used to promote the President’s response to the coronavirus pandemic. The probe being led by the Oversight and Reform Committee and the Select Subcommittee on the Coronavirus Crisis will now include the administration’s public relations contracts with Atlas Research and DD&T Group. The lawmakers had previously sent an inquiry to Fors Marsh Group. The companies were paid by the U.S. Department of Health and Human Services (HHS) to produce advertisements which the lawmakers have characterized as political propaganda. The panels are requesting details on the companies’ contracts and related documents, and all communication with HHS spokesperson Michael Caputo. On Friday, Secretary Azar announced he had ordered a review of the campaign, while Politico reported that same day that the three celebrities who had agreed to participate in the campaign were reconsidering.

Clyburn Calls on Administration to Fix School Reopening Guidance

Chairman of the House Select Subcommittee on the Coronavirus Crisis James Clyburn (D-S.C.) has [written](#) to U.S. Department of Health and Human Services Secretary Alex Azar, Vice President Mike Pence, and Centers for Disease Control and Prevention (CDC) Director Robert Redfield asking the administration to revise guidance on the reopening of schools during the COVID-19 pandemic to “accurately reflect the science.” “I am alarmed that CDC—the world’s preeminent public health agency—has issued guidance that misstates the science, is internally inconsistent, and could put children, teachers, and their families at greater risk of infection and death from the coronavirus,” Clyburn wrote. “Rather than reflecting sound science, new reports show that CDC’s misleading guidance was the product of intense political pressure from the President and political appointees at the White House and Department of Health and Human Services (HHS).” The letter requests a staff briefing by October 7, 2020, and documents and information by October 14, 2020.

Medicare Spends \$4.4 Billion on COVID Hospitalizations

The latest snapshot of Medicare COVID-19 data shows that the program has spent \$4.4 billion this year to hospitalize more than 178,000 beneficiaries with COVID-19. More than one million beneficiaries have contracted the coronavirus, with elderly, minority, and patients with kidney failure those most likely to be impacted. Eighty percent of hospitalized Medicare patients had high blood pressure, 62 percent had high levels of fat or lipids in their blood, 52 percent had chronic kidney disease, 51 percent had diabetes, and 45 percent had anemia. Among those who were hospitalized, 31 percent went home, 32 percent died, 22 percent were discharged to nursing homes, 13 percent received home health services, and 5 percent went into hospice care.

AHRQ Launches National Nursing Home COVID Action Network

The Agency for Healthcare Research and Quality (AHRQ) has announced a partnership with the University of New Mexico ECHO Institute and the Institute for Healthcare Improvement (IHI) to establish a National Nursing Home COVID Action Network. The partnership will provide free training and mentorship to nursing homes across the country to increase the implementation of evidence-based infection prevention and safety practices to protect residents and staff. More than 15,000 nursing homes that are certified to participate in the Medicare and Medicaid programs will be able to participate in a 16-week training program using a standardized curriculum developed by the IHI. Training and mentorship will be provided through the Project ECHO External Link Disclaimer model of telementoring. Nursing home teams that would like to participate may sign-up on the Project ECHO website.

Toomey Will Not Seek Reelection in 2022

Sen. Pat Toomey (R-Pa.) will not seek reelection or run for governor of Pennsylvania in 2022. Toomey was first elected to the Senate in 2010 after previously serving in the U.S. House of Representatives for six years. Honoring his pledge to limit himself to three terms, he did not seek re-election to the House in 2004. His current senate term will end January 3, 2023. Toomey currently serves on the Senate Banking, Budget, and Finance committees. He is the co-chair of the Bipartisan Congressional Task Force on Alzheimer's Disease.

E&C Personnel Changes

Ranking Member of the House Energy and Commerce Committee Greg Walden (D-Ore.) has announced senior staff changes for the committee. Staff director Mike Bloomquist has accepted a job in the private sector and will be replaced by deputy staff director Ryan Long. Long returned to work for Energy and Commerce Republicans during the 115th Congress. He has previously spent time in private practice after a decade with the committee in various roles including professional staff member, counsel, and chief health counsel under Chairmen Joe Barton and Fred Upton.

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](#)

Recently Introduced Health Legislation

H.Res.1153 — Condemning unwanted, unnecessary medical procedures on individuals without their full, informed consent; Sponsor: Rep. Jayapal, Pramila [D-WA-7]; Committees: House - Judiciary; Energy and Commerce

H.R.8399 — To amend the Internal Revenue Code of 1986 to deny the deduction for advertising and promotional expenses for prescription drugs; Sponsor: Rep. Finkenauer, Abby [D-IA-1]; Committees: House - Ways and Means

H.R.8412 — To direct the Secretary of Veterans Affairs to establish goals for the timely delivery of medical and appointments, to make publicly available certain information regarding wait times under the community care program of the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Brownley, Julia [D-CA-26]; Committees: House - Veterans' Affairs

H.R.8417 — To facilitate direct primary care arrangements; Sponsor: Rep. Crenshaw, Dan [R-TX-2]; Committees: House - Ways and Means; Energy and Commerce; Education and Labor

H.R.8419 — To prevent surprise medical bills with respect to COVID-19 testing; Sponsor: Rep. Fletcher, Lizzie [D-TX-7]; Committees: House - Ways and Means; Energy and Commerce; Education and Labor

H.R.8433 — To address the public health risks posed by wildlife markets, and for other purposes; Sponsor: Rep. Quigley, Mike [D-IL-5]; Committees: House - Ways and Means; Judiciary; Natural Resources; Energy and Commerce; Foreign Affairs; Financial Services

H.R.8436 — To prohibit discrimination in health care and require the provision of equitable health care, and for other purposes; Sponsor: Rep. Schiff, Adam B. [D-CA-28]; Committees: House - Ways and Means; Energy and Commerce

H.R.8441 — To establish certain protections and benefits for front line workers, and for other purposes; Sponsor: Rep. Torres, Norma J. [D-CA-35]; Committees: House - Ways and Means; Judiciary; Energy and Commerce

H.R.8442 — To amend the Public Health Service Act to provide for activities to increase the awareness and knowledge of health care providers and women with respect to ovarian and cervical cancer, and for other purposes; Sponsor: Rep. Velazquez, Nydia M. [D-NY-7]; Committees: House - Energy and Commerce

S.4740 — A bill to support public health infrastructure; Sponsor: Sen. Murray, Patty [D-WA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4742 — A bill to amend title XIX of the Social Security Act to promote access to life-saving therapies for Medicaid enrollees by ensuring coverage of routine patient costs for items and services furnished in connection with participation in qualifying clinical trials, and for other purposes; Sponsor: Sen. Burr, Richard [R-NC]; Committees: Senate - Finance

S.4745 — A bill to prevent surprise medical bills with respect to COVID-19 testing; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.4749 — A bill to address the public health risks posed by wildlife markets, and for other purposes; Sponsor: Sen. Cornyn, John [R-TX]; Committees: Senate - Foreign Relations

S.4753 — A bill to require the Secretary of Veterans Affairs to establish a pilot program to furnish doula services to veterans; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate - Veterans' Affairs

H.Res.1160 — Expressing support for the designation of September 2020 as “Pain Awareness Month” and recognizing the disproportionate impact of migraine disease and headache disorders on women; Sponsor: Rep. Dean, Madeleine [D-PA-4]; Committees: House - Energy and Commerce

H.R.8444 — To direct the Secretary of Health and Human Services to enter into an agreement with the National Academy of Medicine under which the National Academy agrees to conduct a one-year study assessing the effectiveness of current vital statistics reporting and data sharing between State, local, and Federal agencies, and for other purposes; Sponsor: Rep. Taylor, Van [R-TX-3]; Committees: House - Energy and Commerce

H.R.8449 — To direct the Secretary of Veterans Affairs to carry out a pilot program to collect and analyze data regarding suicides and attempted suicides by veterans on the property of the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Crow, Jason [D-CO-6]; Committees: House - Veterans' Affairs

H.R.8450 — To treat certain face coverings and disinfectants as medical expenses for purposes of certain Federal tax benefits; Sponsor: Rep. Curtis, John R. [R-UT-3]; Committees: House - Ways and Means

H.R.8467 — To amend titles XVIII and XIX of the Social Security Act and title XXVII of the Public Health Service Act to provide for coverage of certain drugs used in the treatment or management of a rare disease or condition, and for other purposes; Sponsor: Rep. Thompson, Mike [D-CA-5]; Committees: House - Ways and Means; Energy and Commerce

S.Res.727 — A resolution designating September 2020 as “National Ovarian Cancer Awareness Month”; Sponsor: Sen. Stabenow, Debbie [D-MI]; Committees: Senate - Judiciary

S.Res.737 — A resolution expressing support for the designation of September 30, 2020, as “National Veterans Suicide Prevention Day”; Sponsor: Sen. Kaine, Tim [D-VA]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Voice Vote.

S.Res.738 — A resolution recognizing suicide as a serious public health problem and expressing support for the designation of September as “National Suicide Prevention Month”; Sponsor: Sen. Cassidy, Bill [R-LA]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Voice Vote.

S.4760 — A bill to establish a program to develop antimicrobial innovations targeting the most challenging pathogens and most threatening infections; Sponsor: Sen. Bennet, Michael F. [D-CO]; Committees: Senate - Health, Education, Labor, and Pensions

S.4761 — A bill 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 for 3 primary care visits and 3 behavioral health care visits without application of any cost-sharing requirement; Sponsor: Sen. King, Angus S., Jr. [I-ME]; Committees: Senate – Finance

S.4767 — A bill to establish programs to support research and development with respect to personal protective equipment for health care workers; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4769 — A bill to improve the public health response to addressing maternal mortality and morbidity during the COVID-19 public health emergency; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4775 — A bill to provide continued emergency assistance, educational support, and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic; Sponsor: Sen. McConnell, Mitch [R-KY]; Placed on Senate Legislative Calendar under Read the First Time.

H.R.8473 — To amend the Internal Revenue Code of 1986 to consolidate health accounts into Medisave Accounts, and for other purposes; Sponsor: Rep. Gonzalez, Anthony [R-OH-16]; Committees: House - Ways and Means; Energy and Commerce

H.R.8476 — To provide for strategies to increase access to telehealth under the Medicaid program and Children's Health Insurance Program, and for other purposes; Sponsor: Rep. Blunt Rochester, Lisa [D-DE-At Large]; Committees: House - Energy and Commerce

H.R.8479 — To amend the Public Health Service Act to provide for stockpiles to ensure that all Americans have access to generic drugs at risk of shortage, and for other purposes; Sponsor: Rep. Carter, Earl L. "Buddy" [R-GA-1]; Committees: House - Energy and Commerce

H.R.8484 — To require the Secretary of Veterans Affairs to secure medical opinions for veterans with service-connected disabilities who die from COVID-19 to determine whether their service-connected disabilities were the principal or contributory causes of death, and for other purposes; Sponsor: Rep. Davidson, Warren [R-OH-8]; Committees: House - Veterans' Affairs

H.R.8496 — To amend title XVIII of the Social Security Act to revise payment amounts for results of COVID-19 PCR diagnostic panels, to require laboratories to furnish the results such panels within 28 days as a condition of participation under such title, and for other purposes; Sponsor: Rep. Sherrill, Mikie [D-NJ-11]; Committees: House - Ways and Means; Energy and Commerce

S.Res.742 — A resolution designating September 2020 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 Voice Vote.

S.4778 — A bill to require the Secretary of Veterans Affairs to submit to Congress a report on the use of security cameras in medical centers of the Department of Veterans Affairs; Sponsor: Sen. Capito, Shelley Moore [R-WV]; Committees: Senate - Veterans' Affairs

S.4781 — A bill to direct the Occupational Safety and Health Administration to issue an occupational safety and health standard to protect workers from heat-related injuries and illnesses; Sponsor: Sen. Harris, Kamala D. [D-CA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4794 — A bill making emergency supplemental appropriations for the COVID-19 Telehealth Program of the Federal Communications Commission for the fiscal year ending September 30, 2020; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Appropriations