



## H&K Health Dose: July 25, 2023

A weekly dose of healthcare policy news

### LEGISLATIVE UPDATES

#### This Week: Legislative Push Before August Recess

It's the last week before the August recess. The U.S. House of Representatives is back to tackle spending bills on the floor this week. Leaders plan to bring the Agriculture-FDA (H.R. 4368) and Military Construction-VA (H.R. 4366) bills to the floor. The U.S. Senate is also back to resume work on the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2024.

Additionally, Congress will tackle a newly unveiled multi-pronged healthcare package from the House Committee on Ways and Means that is meant to advance hospital transparency, as well as reform pharmacy benefit managers (PBMs) and hospital site-neutral pay. The Senate Committee on Finance will also hold a markup on PBM-related bills.

Meanwhile, the Senate Committee on Health, Education, Labor, and Pensions (HELP) postponed its planned markup of broad legislation that includes an extension of expiring funding for community health centers and other programs. By way of background, HELP Committee Chair Bernie Sanders (I-Vt.) [introduced a broad bill](#) last week designed to improve primary care access, including provisions to significantly increase funding for community health centers, reauthorize the Teaching Health Center Graduate Medical Education (THCGME) program and fund the National Health Service Corps (NHSC) – all of which expire on Sept. 30, 2023, absent Congressional action. The bill would also create 10,000 new graduate medical education slots. Notably, the bill includes a site-neutral provision that would restrict providers and facilities delivering services in off-campus outpatient departments from charging more than the median amount a payer or issuer would pay if the service were delivered in a physician's office.

#### House Committee Examines Medicare Coverage of Innovative Drugs, Devices

The House Committee on Energy and Commerce's Subcommittee on Health held a hearing, "Innovation Saves Lives: Evaluating Medicare Coverage Pathways for Innovative Drugs, Medical Devices, and Technology," on July 18, 2023. The hearing intended to review Medicare coverage determinations to ensure stability for medical innovators, providers and patients. The hearing also discussed the need for increased timely access to breakthrough therapies to reduce health disparities. Additional details on this hearing are available on the [committee's website](#).

In related news, House Republicans sought information from the Centers for Medicare & Medicaid Services (CMS) on the National Coverage Determination (NCD) process. Specifically, the committee requested a comprehensive list of up-to-date items awaiting a formal NCD and a plan for updating the NCD dashboard. The letter is available on the [House Committee on Ways and Means' website](#).

#### House Committee on Energy and Commerce Holds Full Healthcare Markup

The House Committee on Energy and Commerce held a markup of 15 health bills and reauthorizations on July 19, 2023. Similar to last week's Subcommittee on Health markup, the wide-ranging list of bills included efforts to reauthorize the Pandemic and All-Hazards Preparedness Act (PAHPA), a bill to continue a pandemic-era telehealth benefit and efforts to reauthorize programs related to maternal health and children's hospital graduate medical education (CHGME). Notably, the committee advanced H.R. 4531, SUPPORT for Patients and Communities Act, which would remove the institutions for mental disease (IMD) exclusion, prohibiting states from using Medicaid money to pay for substance use disorder treatment in large mental health



institutions. It also includes proposals to bar states from unenrolling individuals from Medicaid while they are incarcerated awaiting trials and to permanently require Medicaid coverage of every form of medication-assisted treatment. The full House of Representatives is expected to consider these bills at a later date. Additional details are available on the House Committee on Energy and Commerce [website](#).

## Senate HELP Committee Advances PAHPA Reauthorization Bill

The Senate Committee on Health, Education, Labor, and Pensions (HELP) considered [legislation](#) to reauthorize PAHPA (S. 2333) on July 20, 2023, which is set to expire on Sept. 30, 2023, without Congressional action. The legislation was approved by a vote of 17-3. Notably, the package is broader in scope than the package moving forward in the House. It would require pharmaceutical manufacturers to notify the U.S. Food and Drug Administration (FDA) about potential drug shortages stemming from increased demand for a product. It also includes a provision backed by HELP Committee Chair Bernie Sanders (I-Vt.) to study funding models for biomedical research that delink research and development (R&D) costs from the price of a drug, as well as a proposal from Ranking Member Bill Cassidy (R-La.) to extend the priority review voucher program for five years. The differences between the chambers will need to be reconciled to enact a bill that will become law. While the Senate version garnered bipartisan support, the Energy and Commerce Committee Democrats voted against the bills ([H.R. 4420](#), [H.R. 4421](#)) during a markup on July 19, 2023. They criticized the bill for the lack of policies to address drug shortages.

## Lawmakers Continue to Push for PEPFAR Reauthorization

A bipartisan group of 75 members of Congress has sent a [letter](#) to the U.S. Department of State expressing support for reauthorizing the President's Emergency Plan for AIDS Relief (PEPFAR) and highlighting the urgency of continuing to address mother-to-child HIV transmission. The letter, led by Reps. Mike Lawler (R-N.Y.) and Abigail Spanberger (D-Va.) follows a similar bipartisan [letter](#) sent by members of the Senate in June 2023.

## REGULATORY UPDATES

### HHS OIG Releases Report on Medicaid Managed Care Prior Authorization Practices

The U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG) [released](#) a report, "High Rates of Prior Authorization Denials by Some Plans and Limited State Oversight Raise Concerns About Access to Care in Medicaid Managed Care." In the report, OIG analyzed Medicaid Managed Care Organization (MCO) prior authorization practices. The analysis found that the included MCOs denied one in eight prior authorization requests. Among the 115 MCOs in the study, 12 had a denial rate of more than 25 percent, according to the report.

OIG recommended the following actions:

- requiring states to regularly review the appropriateness of a sample of MCO prior authorization denials
- requiring states to collect data on MCO prior authorization decisions
- issuing guidance to states on the use of MCO prior authorization data for oversight
- requiring states to implement automatic external medical reviews of upheld MCO prior authorization denials
- working with states on actions to identify and address MCOs that may be issuing inappropriate prior authorization denials.



## White House Establishes Permanent Pandemic Preparedness Office

The White House is creating a permanent office for [pandemic preparedness](#) that will assume responsibility for the government's response to COVID-19, monkeypox, and future pathogens and biological threats and will also oversee HHS' efforts to develop and procure next-generation vaccines.