



H&K Health Dose: November 15, 2022

A weekly dose of healthcare policy news

LEGISLATIVE UPDATES

Congress This Week: Back in Session

Congress returned on Nov. 14, 2022, for a week that will be consumed by internal organization. Although the country is still awaiting final results of the midterm elections, the U.S. House of Representatives appears likely to flip to Republican control, while the Senate will remain in Democratic hands. House Republicans will hold leadership elections shortly. House Democrats will hold their leadership elections on November 30. While staff are working behind the scenes on policies for the lame-duck session, many things are on hold until these leadership votes are concluded.

Once Congress returns from the Thanksgiving holiday, year-end legislative business is expected to begin (although behind-the-scenes work has been ongoing over the past several weeks). This leaves little time to work on lame-duck policy, and the current continuing resolution (CR) runs out on Dec. 16, 2022. It is unlikely that there will be a government shutdown, and instead expect Congress to adopt an omnibus, a CR or a combination of the two (cromnibus).

In the healthcare arena, several items must be addressed during lame duck, including addressing Medicaid funding in the territories, Medicare Low-Volume Payment Adjustment, Medicare-Dependent Hospital Program and the Maternal, Infant and Early Childhood Home Visiting Program.

There is also a push to address mental health, telehealth, a 4.4 percent reduction to the Medicare conversion factor, waive the Medicare PAYGO 4 percent cut, extend the 5 percent incentive performance bonus for Medicare providers participating in Advanced Alternative Payment Models, extend the Medicare hospital-at-home program and address certain U.S. Food and Drug Administration (FDA) policies that fell out of the September user-fee reauthorization package.

Moving to the 118th session of Congress, Republican control of the House next year would allow them to largely set the healthcare policy agenda, but how much can be achieved is in question. The Republicans' healthcare agenda has been sparse on specifics, but potential changes in committee leadership roles might flesh out some details in legislation. The House Republicans' [Commitment to America](#) agenda calls for expanded access to telehealth and "lower prices through transparency, choice, and competition." House Republicans also promise oversight of the Biden Administration and investigations into its response to the pandemic, Medicare's new ability to negotiate drug prices, and the IRS rules that "close" the Affordable Care Act's "family glitch."

While government may be divided, bipartisan healthcare proposals always have a chance of advancing next session. In addition to some possible lame-duck leftovers, transparency may be a bipartisan focus as well as bringing down healthcare costs. Additionally, a number of health programs will need to be reauthorized by Oct. 1, 2023. Many have bipartisan support and therefore are likely to be renewed. Some of those items include Medicaid Disproportionate Share Hospital (DSH), Community Health Center Funding and the Special Diabetes Program for Type I Diabetes.



REGULATORY UPDATES

COVID-19 PHE Expected to Stretch into April 2023

The COVID-19 Public Health Emergency (PHE) is now expected to extend into April. The administration had previously assured state Medicaid providers that it would provide at least 60 days' advance notice of the PHE ending. With the PHE currently scheduled to end Jan. 11, 2023, and the 60-day mark passing with no such announcement, many are taking that as confirmation that the administration intends to extend the PHE at least until April. By law, the PHE must be renewed in 90-day increments. The PHE includes important implications for telehealth flexibilities and an increased federal match for state Medicaid dollars, among other temporary waivers and flexibilities.

CMS Innovation Center Releases Report on Strategic Refresh

The Centers for Medicare & Medicaid Innovation (CMMI) Center [announced](#) a person-centered update to its strategy "refresh" largely focused on overcoming barriers to care, improving care fragmentation across settings and providers, and improving access to high-quality, value-based specialty care. According to recently updated [figures](#), last year four out of every 10 U.S. healthcare dollars flowed through an alternative payment model (APM), half of which were in models with downside risk. However, specialty engagement in APMs has lagged behind primary care settings.

Of relevance, the CMMI Center recently [announced](#) that it would extend by two years its specialty-focused Bundled Payments for Care Improvement Advanced Model, including a mandatory episode starting in 2023 and a successor episode aimed at improving care transitions.

CMS also released Research Identifiable Files (RIFs) and Public Use Files (PUFs) for the following CMMI Center models:

- [Comprehensive Care for Joint Replacement](#)
- [Maryland Total Cost of Care](#)
- [Vermont All-Payer ACO Model](#)
- [Independence at Home Demonstration](#)

New IDR Entities

The U.S. Departments of Health and Human Services, Labor and the Treasury jointly announced three new organizations that will serve as independent dispute resolution (IDR) entities in the federal IDR process: EdiPhy Advisors LLC, Provider Resources Inc. and iMPROve Health. The IDR process addresses disagreements related to the new surprise medical billing requirements. The certified IDR [updated list](#) is available on the CMS.gov website.