



## H&K Health Dose: April 16, 2024

A weekly dose of healthcare policy news

### LEGISLATIVE AND REGULATORY UPDATES

Congressional action will focus on aid to Israel this week; however, committees will continue to move their health agendas forward via hearings. The U.S. House of Representatives has several healthcare-related hearings this week covering cybersecurity, physician payment, healthcare costs and the President's Budget request for the U.S. Department of Health and Human Services' (HHS) fiscal year (FY) 2025. In addition, HHS Secretary Xavier Becerra testified at a U.S. Senate Committee on Appropriations hearing on April 16, 2024. The secretary, who has had a busy few weeks testifying before committees of jurisdiction, is reportedly considering leaving his position within the administration to run for California governor in 2026. Becerra has set aside nearly \$1.55 million in leftover campaign contributions from when he was California attorney general in an account to run for California superintendent of public instruction in 2030, which would be usable in the 2026 governor's race.

Several committee membership shuffle-ups in the past week: Following Rep. Kay Granger's (R-Texas) decision to step down early from her leadership position on the House Committee on Appropriations, the House Republican Steering Committee has selected Rep. Tom Cole (R-Okla.) as chair. This change leaves vacant the position of chair, Subcommittee on Transportation, Housing and Urban Development (THUD). The vacancy will likely be filled by Rep. Steve Womack (R-Ark.), though the vote has not yet occurred.

Additionally, the House Committee on Energy and Commerce (E&C) Subcommittee on Health gained Rep. Troy Balderson (R-Ohio). The full list of the [subcommittee membership changes](#) can be found on the House E&C Committee website.

On the regulatory front, the Medicaid Drug Rebate Program (MDRP) has cleared the Office of Management and Budget (OMB) and will likely be released imminently. Additionally, the Medicaid Access Rule is at OMB and should be released soon. Notably, the Medicaid Access Proposed Rule contained a number of policies, including the much-discussed 80/20 provision that would require 80 percent of all Medicaid payments to be spent on direct care workers and direct service professionals' compensation for personal care services.

The [Medicare Payment Advisory Commission \(MedPAC\)](#) and [Medicaid and CHIP Payment and Access Commission \(MACPAC\)](#) held their April public meetings April 11-12, 2024. The Medicare and Medicaid focused groups highlighted similar issues of telehealth, the ability to accurately measure standard of care and disparities data inconsistency.

### This Week: House Health Hearings

HHS Secretary Xavier Becerra is expected to appear before the House E&C Committee's Subcommittee on Health on April 17, 2024, to discuss the President's Budget request for FY 2025. A [webcast of the hearing](#) will be available.

The House E&C Committee's Subcommittee on Health also convened for a hearing, "Examining Health Sector Cybersecurity in the Wake of the Change Healthcare Attack," on April 16, 2024. The hearing featured witnesses from the healthcare information technology (IT) industry and an orthopedic surgeon impacted by the attack, among other cybersecurity stakeholders. A [recording of the hearing](#) is available. A bipartisan group of legislators in the House E&C Committee also released a [Request for Information \(RFI\)](#) regarding the "impact of the cyberattack, the actions the company is taking to secure its systems, and the outreach to the health care community in the aftermath." Additionally, the Senate Committee on Finance is expected to convene for a hearing on the cyberattack soon.



Additionally, the House E&C Committee's Subcommittee on Oversight and Investigations held a hearing, "Examining How Improper Payments Cost Taxpayers Billions and Weaken Medicare and Medicaid," on April 16, 2024. The [recording of the hearing](#) is available.

Also on April 16, 2024, the House Committee on Education and the Workforce held a Subcommittee on Health, Employment, Labor and Pensions hearing, "ERISA's 50th Anniversary: the Path to Higher Quality, Lower Cost Health Care." A [recording of the hearing](#) is available.

## **House E&C Committee Gears Up for Telehealth Waiver Authority Expirations**

The House E&C Committee's Subcommittee on Health held a hearing, "Legislative Proposals to Support Patient Access to Telehealth Services," on April 10, 2024. Subcommittee members and witnesses discussed 15 legislative proposals to promote access to telehealth services beyond the end of 2024 when several flexibilities related to COVID-19 expire. Most recently, the Consolidated Appropriations Act of 2023 extended these telehealth flexibilities through the end of 2024. During the hearing, Subcommittee Chair Brett Guthrie (R-Ky.) highlighted the progress U.S. Congress and Centers for Medicare & Medicaid Services (CMS) have made to support the expansion of telehealth flexibilities during the COVID-19 pandemic and through the end of this year. Legislators on the panel raised concerns about increasing healthcare costs associated with telehealth. A [full list of legislation](#) considered at the hearing is available online.

## **Senate Finance Committee Holds Hearing: Bolstering Chronic Care Through Medicare Physician Payment**

At a Senate Finance Committee hearing on April 11, 2024, advocates and professionals discussed updating traditional Medicare for the next generation by focusing on managing and treating chronic illness, along with revising payment methods for physicians and other clinicians providing healthcare services. Members and witnesses raised concerns about underinvestment in physician payments and prohibitive administrative burden acting as barriers for rural facilities' participation in value-based care models. There was bipartisan agreement that physicians should be paid more under traditional Medicare to account for inflation and increased overhead costs. [Witness statements and a recording of the hearing](#) are available.

## **FDA Commissioner Floats New FDA Pathway for Hemp-Derived CBD**

The U.S. Food and Drug Administration (FDA) Commissioner Dr. Robert Califf appeared before the House Committee on Oversight and Accountability on April 11, 2024, for a hearing to "examine the FDA's response to the infant formula shortage, drug shortages, regulation of tobacco and hemp-derived products, and conduct general oversight of the agency." During the hearing, the commissioner said that the agency did not consider hemp-derived CBD safe enough to be sold lawfully as a dietary supplement and urged Congress to create a new pathway to regulate the substance. This comes after documents were made public earlier this year that suggested the FDA change the scheduling classification of cannabis. A [recording of the hearing](#) is available.

## **Update on Bipartisan Privacy Rights Discussion Draft Legislation**

A breakthrough on privacy rights legislation – a bipartisan discussion draft released last week by House E&C Committee Chair Cathy McMorris Rodgers (R-Wash.) and Senate Committee on Commerce, Science and Transportation Chair Maria Cantwell (D-Wash.) – does not currently have a clear and quick pathway to enactment. A provision of the legislation that would give individual citizens the right to sue for privacy violations has been condemned as a non-starter by key committee legislators. The House E&C Committee will convene for a hearing on the discussion draft this week.



## Sen. Sanders Releases Long COVID Moonshot Draft Proposal

Sen. Bernie Sanders (I-Vt.) is seeking comments by April 23, 2024, in response to a [draft legislative proposal](#) that calls for \$10 billion in 10 years in mandatory funding for the Long COVID research program at the National Institutes of Health (NIH). The funding would be dedicated to a host of programs, including to establish a long COVID research program, expedite long COVID research, establish a long COVID research advisory board, establish a long COVID data system derived from patient populations, develop an interagency public education and outreach campaign, provide information and continuing education programs for healthcare providers and allied health professionals, and require the director of the Long COVID Research Program to issue an annual report on previous year expenditures.