



H&K Health Dose: March 5, 2024

A weekly dose of healthcare policy news

LEGISLATIVE UPDATES

The U.S. House of Representatives and the U.S. Senate are both in session this week, with committee activity in both chambers. In addition to action on fiscal year (FY) 2024 appropriations legislation and a negotiated health extender package, votes in the House are expected on several health-related measures. Further details are below.

The White House is expected to announce a new federal task force focused on easing healthcare costs. Specific timing of the announcement has not been publicly confirmed, but it will likely come this week, before or during President Joe Biden's State of the Union address to Congress on March 7, 2024.

This Week: Markups and Hearings

The House Committee on Ways and Means will convene on March 6, 2024, at 10:00 a.m. for a [markup of the following bills](#):

- Protecting America's Seniors' Access to Care Act (H.R. 7513)
- Kidney PATIENT Act of 2023 (H.R. 5074)
- Real-Time Benefit Tool Implementation Act (H.R. 7512)
- Views and Estimates Letter to the Committee on the Budget

The House Committee on Oversight and Accountability Select Subcommittee on the Coronavirus Pandemic will hold a hearing, "[Examining the White House's Role in Pandemic Preparedness and Response](#)," on March 6, 2024, at 10:00 a.m.

The House Select Committee on the Chinese Communist Party will hold a hearing, "[Growing Stakes: The Bioeconomy and American National Security](#)," on March 7, 2024, at 9:00 a.m.

The Senate Committee on the Budget will convene for a hearing, "[How Primary Care Improves Health Care Efficiency](#)," on March 6, 2024, at 10:00 a.m.

The Senate Committee on Health, Education, Labor and Pensions (HELP) will hold a hearing, "[The Older Americans Act: Supporting Efforts to Meet the Needs of Seniors](#)," on March 7, 2024, at 11:00 a.m.

FY 2024 Appropriations Update

The [legislative text](#) of the first six FY 2024 appropriations bills was released on March 3, 2024. If enacted, this bipartisan, bicameral consensus legislation would provide funding for the agencies included in the Military Construction, Veterans Affairs and Related Agencies; Agriculture, Food and Drug Administration and Related Agencies; Commerce, Justice, Science and Related Agencies; Energy and Water Development and Related Agencies; Interior, Environment and Related Agencies; and Transportation, Housing and Urban Development, and Related Agencies bills through the rest of FY 2024, which ends on Sept. 30, 2024. Summaries of the appropriations provisions in the bill are available to review for the [House Democrats](#) and the [House Republicans](#).



The deadline to pass this "minibus" funding package is March 8, 2024, pushed back from March 1, 2024, under a stopgap measure enacted on March 1, 2024. Votes are currently expected on March 6, 2024. The House plans to use the Senate amendment to [H.R. 4366](#) as the vehicle for the negotiated text, which will allow for more expedited consideration in the Senate.

After the passage of the first six appropriations bills, legislators will turn to the next six, which include more challenging subject areas, like the U.S. Department of Labor (DOL), U.S. Department of Health and Human Services (HHS) and the U.S. Department of Education. Appropriators are continuing to negotiate the second package, which has a deadline of March 22, 2024.

Health and Public Health Extenders Are Expected in Appropriations Package

As part of the March 8, 2024, appropriations package, Congress intends to include a negotiated health package with FY 2024 funding for several important health programs, backdated to the beginning of the FY (Oct. 1, 2023). It would extend funding for these programs at FY 2024 levels through Dec. 31, 2024.

Specifically, the legislation includes:

- \$4.27 billion in funding for Community Health Centers (CHCs) for FY 2024, a \$270 million year-over-year increase
- \$345 million in funding for the National Health Services Corps (NHSC) for FY 2024, a \$35 million year-over-year increase
- \$175 million in funding for the Teaching Health Centers Graduate Medical Education (THCGME) program for FY 2024, a \$48.5 million year-over-year increase
- approximately \$160 million in funding for the Special Diabetes Programs (SDP) for FY 2024, a year-over-year increase of about \$10 million
- funding extensions for certain provisions of the Public Health Service Act (PHSA) related to health security

Notably, the health extender package also addresses impending cuts to Medicaid Disproportionate Share Hospital (DSH) funding by eliminating \$8 billion in cuts for 2024 entirely, rather than delaying their implementation. The package does not address the Medicaid DSH cuts currently slated to take effect in 2025 and 2026.

Additionally, the legislation includes a 1.68 percent increase to Medicare physician pay, partially mitigating a 3.37 percent cut that kicked in Jan. 1, 2024. The increase will be paid on a prospective basis – applicable only to payment rates going forward – rather than a retroactive fix applicable to all claims paid at the lower rate since it took effect. A 1.88 percent increase to Advanced Payment Model (APM) bonuses is included. Congress also waived PAYGO (pay as you go).

The health extender package also includes several behavioral health reforms. In addition to reauthorizing substance use disorder (SUD) treatment programs under the SUPPORT Act, the bill makes permanent a state plan amendment option to circumvent the so-called Institutions for Mental Diseases (IMDs) exclusion and permanently requires state Medicaid plans to cover medication-assisted treatment (MAT). It also establishes Certified Community Behavioral Health Clinic (CCBHC) services as an optional Medicaid benefit and requires HHS to issue guidance on how states can improve integrating behavioral health with primary care.

New policies – such as those related to health price transparency, site-neutral payments and pharmacy benefit manager (PBM) reforms – were not included, as agreements could not be reached. Instead, those policies may be considered as part of another health package, which is anticipated after the election during a lame-duck session that will be driven by the need for Congress to address Medicare coverage of telehealth and other year-end priorities.



House Floor Votes Expected on Health Legislation

According to the [weekly schedule](#) published by House Majority Leader Steve Scalise (R-La.), several health-related measures are scheduled to be considered under suspension of the rules on March 5, 2024. Each of the bills was advanced unanimously by the House Committee on Energy and Commerce (E&C) in July 2023.

- [Preventing Maternal Deaths Reauthorization Act of 2023 \(H.R. 3838\)](#) would reauthorize through FY 2028 several Centers for Disease Control and Prevention (CDC) maternal health initiatives that expired on Sept. 30, 2023. The legislation would provide \$108 million annually in funding for these programs.
- [Gabiella Miller Kids First Research Act 2.0 \(H.R. 3391\)](#) would reauthorize National Institutes of Health (NIH) pediatric disease research initiatives through FY 2028 at \$12.6 million annually.
- [Medicaid Primary Care Improvement Act \(H.R. 3836\)](#) would allow, under certain circumstances, state Medicaid programs to provide coverage of primary care services through a "direct primary care arrangements" model. This model would allow Medicaid beneficiaries to pay a monthly or annual fee to providers that would cover some of the beneficiaries' primary care needs.

Senate AI Working Group Discusses Health Priorities at Senate Finance Committee Hearing

The Senate's bipartisan Artificial Intelligence (AI) Working Group – led by Senate Majority Leader Chuck Schumer (D-N.Y.) and Sens. Mike Rounds (R-S.D.), Todd Young (R-Ind.) and Martin Heinrich (D-N.M.) – is recommending that the Senate Committee on Finance consider how the Medicare and Medicaid programs can be used to fund AI innovations in healthcare. The chamber's bipartisan AI Working Group organized a series of AI Insight Forums last year and plans to issue a report by the end of this month containing ideas and guidelines to inform AI legislation.

Senate HELP Committee GOP Members Seek Information on STLDI Plans as Final Rule Goes to OMB

Sens. Bill Cassidy, M.D. (R-La.), ranking member of Senate HELP Committee, and Mike Braun (R-Ind.) recently [sent a letter](#) to the heads of several agencies regarding a proposed rule that would "limit patients' access to...short-term limited duration insurance (STLDI) plans [which] offer health insurance coverage for periods of time when an individual changes jobs, transitions off of a plan offered by their college, or is in a waiting period before starting other health insurance coverage," according to a [Senate Committee on HELP press release](#).

The senators requested responses by March 6, 2024, on a "question-by-question basis" from the agencies promulgating the Final Rule, which is now before the White House's Office of Management and Budget (OMB).

House E&C Committee's Subcommittee on Health Considers Legislation on Rare Diseases

The House E&C Committee's Subcommittee on Health [held a hearing](#) on Feb. 29, 2024, which included discussion on legislative solutions to support patients living with rare diseases.

There was strong bipartisan support for the [Accelerating Kids' Access to Care Act \(H.R. 4758\)](#), which would enable providers to enroll in state Medicaid programs other than their home state's program without additional screening requirements. There was also partisan support and opposition for the [Optimizing Research Progress Hope And New \(ORPHAN\) Cures Act \(H.R. 5539\)](#) and the [Maintaining Investments in New Innovation \(MINI\) Act \(H.R. 5547\)](#).

A markup of the bills discussed during the hearing is expected at a later date. Additional details are available on the [E&C Committee website](#).



Retirements

Kyrsten Sinema (I-Ariz.) announced her intent to retire from Congress at the end of the year on March 5, 2024. Sen. Sinema was first elected in 2018 as a Democrat and left the party to become an Independent in 2022. Her decision to retire follows previous retirement announcements from other Senate moderates, including Sen. Joe Manchin (R-W.Va.) and Sen. Mitt Romney (R-Utah).

Senate Minority Leader Mitch McConnell (R-Ky.) announced on Feb. 28, 2024, his intent to step down from his leadership position after the presidential election in November 2024. He does not plan to retire from Congress at the end of the year, nor has he indicated that he will not seek reelection when his current term ends in 2026.

Sen. McConnell is the longest-serving party leader in Senate history and has been the top Republican in the chamber for more than 17 years. Sen. John Cornyn (R-Texas) publicly launched his campaign for the leadership role on Feb. 29, 2024, and Senate Minority Whip John Thune (R-S.D.) formally confirmed his campaign on March 4, 2024. Sen. John Barrasso (R-Wyo.) was also widely expected to run but announced on March 5, 2024, his decision to instead seek the position of Republican whip. Other potential candidates to succeed Sen. McConnell include Sens. Rick Scott (R-Fla.), Steve Daines (R-Mont.), Tom Cotton (R-Ark.) and Marco Rubio (R-Fla.). An election for Sen. McConnell's replacement in Senate leadership will take place in November 2024.

Rep. Mark Green (R-Tenn.), chairman of the House Committee on Homeland Security, has formally reversed his decision to retire from Congress this year. Rep. Green will run for reelection to represent Tennessee's 7th congressional district in November 2024.

REGULATORY UPDATES

CMS Interoperability and Prior Authorization Final Rule Education Session

The Centers for Medicare & Medicaid Services' (CMS) Office of Burden Reduction and Health Informatics will host a virtual education session on March 26, 2024, from 1:00 to 2:00 p.m. ET on the CMS Interoperability and Prior Authorization final rule. Questions can be submitted beforehand through the [registration link](#), which is open until March 25, 2024. However, CMS encourages registration by March 19, 2024, in order to review and answer questions.

PBM Reform Discussions Are Ongoing

While PBM reform is unlikely to ride along in upcoming funding packages, the Biden Administration and Federal Trade Commission (FTC) remain focused on the issue. In remarks by FTC Chair Lina Khan at the [White House Roundtable](#) on PBMs on March 4, 2024, FTC [says](#) "PBMs have not fully complied with [FTC] orders to turn over documents and data."

CMS' 2025 MA and Part D Final Rule at White House Budget Office

CMS' annual technical update for Medicare Advantage (MA) and Part D is at the White House OMB, signaling a final rule release is pending. A [summary of proposals](#) from the proposed rule was released in February 2024.

Biden-Harris Administration Issues Final Guidance to Help People with Medicare Prescription Drug Coverage Manage Prescription Drug Costs

Continuing the implementation of the Inflation Reduction Act of 2022, CMS released the [final part one](#)



[guidance](#) for the new [Medicare Prescription Payment Plan](#) on Feb. 29, 2024. Under the Medicare Prescription Payment Plan and beginning in 2025, Medicare Part D enrollees will have the option to pay out-of-pocket prescription drug costs in the form of capped monthly payments instead of all at once at the pharmacy. Part one of the guidance focuses on the operational requirements for the program. [Draft part two guidance](#), released on Feb. 15, 2024, focuses on Part D enrollee education, outreach and communications for the program. Comments on the draft part two guidance should be sent [via email](#) and are due on March 16, 2024.

2024 Call for MIPS Improvement Activities is Open

CMS encourages interested parties to submit improvement activities for consideration for future years of the Merit-Based Incentive Payment System (MIPS). The MIPS Annual Call for Improvement Activities process allows clinicians, professional associations and medical societies that represent clinicians, researchers, consumer groups and others to identify and submit activities.

CMS is looking for the following when considering new activities:

- relevant to an existing improvement activities subcategory (or a proposed new subcategory)
- moves toward achieving improved beneficiary health outcomes
- feasible to implement, recognizing importance in minimizing burden, including, to the extent possible, for small practices, practices in rural areas or practices in areas designated as geographic Health Professional Shortage Areas (HPSAs) by the Health Resources and Services Administration (HRSA)
- has evidence that supports that an activity has a high probability of contributing to improved beneficiary health outcomes
- can be linked to existing and related MIPS quality, promoting interoperability and cost measures as applicable and feasible
- can be validated by CMS
- does not duplicate other improvement activities in the inventory
- drives improvements that go beyond purely common clinical practices

If interested in proposing new activities for MIPS, review the [2024 MIPS Call for Measures and Activities](#) and fill out and submit the form from the toolkit before July 1, 2024, for 2026 activities.

ARPA-H Funds AI-Driven Drug Repurposing Project

The Advanced Research Projects Agency for Health (ARPA-H) has [provided \\$48 million](#) to a nonprofit organization focused on using AI to repurpose existing medications. The Machine Learning (ML)/AI-Aided Therapeutic Repurposing In eXtended uses (MATRIX) project will support efforts "to deliver hope and improved outcomes to those facing rare diseases."

MACPAC Announces March 2024 Public Meeting

Registration for the upcoming live webcast of the Medicaid and CHIP Payment and Access Commission (MACPAC) March 2024 public meeting is live. The public meeting will take place on March 7, 2024, from 10:30 a.m. – 4:15 p.m. ET and on March 8, 2024, from 10:00 a.m. – 12:15 pm ET. The meeting will include a "special panel discussion on how state Medicaid programs can cover health-related social needs." The [meeting agenda](#) is available online, as well as the [registration link](#).

HHS Health Information Technology Advisory Committee Announces Meeting

The HHS Health IT Advisory Committee (HITAC) will hold a meeting on March 7, 2024, at 10:00 a.m. ET "to develop and submit recommendations to the national coordinator on the topics of interoperability, privacy and



security, patient access, and use of technologies that support public health." [The agenda](#), as well as a [registration link](#), are available online.

HRSA Seeks Input on Processes Related to Screening for Heritable Disorders in Newborns and Children

At the request of the [Advisory Committee on Heritable Disorders in Newborns and Children \(ACHDNC\)](#), HHS' Health Resources and Services Administration (HRSA) is seeking input from the public on the process used by the ACHDNC for nomination and evidence-based review of conditions that are considered for inclusion in the Recommended Uniform Screening Panel (RUSP). [Specific information sought](#), as well as the comment submission process, is available online.

Stakeholder Input for NASEM Assessment of NIH Research on Women's Health

The Committee on the Assessment of National Institutes of Health (NIH) Research on Women's Health will hold a hybrid [information-gathering session](#) on March 7, 2024, as part of a study that "aims to fill gaps in our understanding of women's health research" and "ultimately...determine the funding needed to bridge gaps in women's health research at NIH." Written comments may be submitted for consideration by the study committee (as individuals or on behalf of an organization) via this [online form](#) through April 3, 2024. [Further information](#) on attending the session and the [meeting agenda](#) are available online.

FTC, DOJ and HHS Launch Private Equity Inquiry

The Biden Administration is seeking public comments on small acquisitions by private equity companies in the healthcare industry. The FTC, U.S. Department of Justice (DOJ) and HHS are seeking information on deals that weren't reported to the agencies. According to a [press release](#) published March 5, 2024, the agencies have launched a cross-government public inquiry into private equity and other corporations' increasing control over healthcare. Supplementally, [an RFI was released](#) with comments due May 6, 2024. These agency actions come as Congress has increased scrutiny over the impact of private equity ownership in hospitals, with the Senate Committee on the Budget announcing a [bipartisan investigation](#) on the issue in December 2023.