



Health Policy Briefing

February 14, 2022

Preliminary Deal Reached on Omnibus Funding Bill

The House of Representatives passed a three-week stopgap spending bill by a 272 to 162 vote last week ahead of the February 18 deadline to fund the federal government. The Senate will vote on the three-week continuing resolution (CR) this week, which would keep the government open through March 11 as lawmakers work to finalize a fiscal year (FY) 2022 appropriations deal. The latest CR continues funding the government at FY 2021 levels with very few exceptions. It also extends the temporary designation of fentanyl as a Schedule I controlled substance through March 11. A day after the House passed the temporary stopgap measure, Senate Appropriations leadership Patrick Leahy (D-Vt.) and Richard Shelby (R-Ala.) announced that an agreement had been reached on the framework for a full-year omnibus spending bill to enact appropriations for the remainder of the fiscal year. Federal agencies have been operating on temporary continuing resolutions since the fiscal year began on October 1, 2021. If a final appropriations deal is reached, the House would be expected to vote on the package in early March when the chamber returns from recess. The Senate is scheduled to reconvene today, and the House of Representatives returns to session on February 28.

Vote on Califf Confirmation Expected This Week

Majority Leader Chuck Schumer (D-N.Y.) has filed cloture to limit debate on Robert Califf's nomination to lead the Food and Drug Administration (FDA). A final vote on his confirmation could occur as early as Tuesday of this week. Senate Health, Education, Labor, and Pensions (HELP) Committee Chair Patty Murray (D-Wash.) had been pushing to confirm Califf ahead of the Presidents' Day recess.

While setting up a vote signals that Democrats have the support to confirm Califf, much of the chamber remains uncommitted on whether they will back the FDA nominee. Votes could also occur this week on the nominations of Shalanda Young and Nani Coloretti to serve as director and deputy director of the Office of Management and Budget (OMB). Both were advanced out of committee with bipartisan support.

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Lawmakers Express Concerns About Cuts to Specialists

A group of 63 lawmakers have sent a [letter](#) to congressional leadership asking that relief for office-based specialty providers be included in the forthcoming omnibus appropriations package to protect Medicare beneficiaries' access to care. The letter, led by Reps. Bobby Rush (D-Ill.) and Gus Bilirakis (R-Fla.), expresses concerns that the cuts of up to 20% for some specialty providers contained in the 2022 Medicare Physician Fee Schedule (MPFS) could disproportionately impact patients of color. They warn that these cuts “threaten to undermine efforts to address health inequity, accelerate health system consolidation, and weaken our ability to deal with the pandemic.”

GOP Blocks Consideration of Standalone Drug Pricing Measure

Senate Republicans blocked an attempt by Sens. Bernie Sanders (I-Vt.) and Amy Klobuchar (D-Minn.) to bring prescription drug pricing legislation to the floor last week. The standalone measure would have required manufacturers with products covered by Medicare to price such products at the level offered to the Department of Veterans Affairs. President Joe Biden continues to push Congress to pass his administration's plan to lower drug prices. The President's stalled Build Back Better package would have allowed the federal government to negotiate the cost of certain prescription drugs, capped out-of-pocket spending for Medicare beneficiaries, and limited the price of insulin. The White House is currently working to revise the \$2 trillion plan to emphasize deficit reduction to secure the support of Democratic holdout Joe Manchin (D-W.Va.), whose concerns about the impact of the legislation on federal debt and rising inflation have thwarted passage of the reconciliation package.

Wyden Releases Mental Health Agenda

Senate Finance Committee Chair Ron Wyden (D-Ore.) has released his panel's agenda to improve the nation's mental health care system. Wyden hopes to draft a bipartisan bill this summer that increases access to care, ensures parity between behavioral and physical care, expands the use of telehealth, and improves behavioral care access for children and young adults. More information about this effort and the co-chairs leading work in each of these focus areas can be found [here](#).

Cortez Masto, Young Introduced Bipartisan Telehealth Legislation

Sens. Catherine Cortez Masto (D-Nev.) and Todd Young (R-Ind.) have introduced legislation that would temporarily extend waivers permitting additional flexibility in the provision of telehealth that were first instituted in response to the coronavirus pandemic. The ***Telehealth Extension and Evaluation Act*** (S. 3593) would extend Medicare payment flexibilities for two years beyond the conclusion of the COVID-19 public health emergency (PHE). Flexibilities for rural health centers and federally qualified health centers (FQHCs) would also be extended. The bill would require the U.S. Department of Health and Human Services (HHS) to study how the expanded use of telehealth impacts utilization, fraud, and access to care for Medicare and Medicaid beneficiaries and deliver a final report 18 months following the end of the PHE. The legislation also includes provisions aimed at reducing fraud and abuse, such as requiring in-person visits within a year for patients prescribed certain durable medical equipment (DME) or lab tests.

OSTP Head Lander Resigns

Eric Lander, President Joe Biden's top science advisor, resigned on Monday night following an internal review that found he mistreated and demeaned subordinates. Lander had served as Director of the Office of Science and Technology Policy (OSTP) since January 2021, a post President Biden elevated to a cabinet-level position. His resignation will be effective no later than February 18. Lander acknowledged and apologized for his conduct, and the White House accepted Lander's resignation while recognizing his work at OSTP on the pandemic, Cancer Moonshot, and climate change. Lander had been overseeing the proposed creation of the Advanced Research Projects Agency for Health (ARPA-H). He had been scheduled to testify before the House Energy and Commerce Subcommittee on Health's Tuesday hearing on ARPA-H, but his appearance was canceled.

MO Rep. Smith to Seek W&M Leadership Post

Rep. Jason Smith (R-Mo.) has announced that he will run for reelection to the House of Representatives, foregoing the chance to run for the Senate seat held by retiring Sen. Roy Blunt (R-Mo.). Smith will seek the position of top Republican on the House Ways and Means Committee. The panel's current ranking member, Kevin Brady (R-Texas) is retiring at the end of his term. Reps. Vern Buchanan (R-Fla.) and Adrian Smith (R-Neb.) are also seeking the open GOP leadership post on Ways and Means.

Senate Democrats Push for Expansion of Paid Leave

A group of Senate Democrats led by Sen. Kirsten Gillibrand (D-N.Y.) is [asking](#) congressional leadership to reinstate and expand emergency paid sick and family caregiving leave in the final fiscal year (FY) 2022 appropriations measure or in future pandemic response packages. "Guaranteed emergency leave would...ensure workers have the ability to quarantine if needed" or "care for a child who cannot attend in-person school or childcare," the lawmakers state. The letter was signed by 14 other Democratic senators.

Schumer to Prioritize Marijuana Legalization Proposal

Senate Majority Leader Chuck Schumer (D-N.Y.) announced that he will unveil legislation in April to legalize marijuana and set tax and banking rules to regulate the industry. Schumer stated that he will prioritize the measure for consideration before the November midterm elections. The legalization proposal is not expected to gain the 60 votes necessary for passage in the Senate, with many Republicans and some Democrats opposed to making marijuana more accessible.

Commission Releases Report on Illegal Opioids

The Commission on Combating Synthetic Opioid Trafficking, led by Sen. Tom Cotton (R-Ark.) and Rep. David Trone (D-Md.), has released its [final report](#) describing the illegal manufacture and trafficking of synthetic opioids. The commission, established under the *National Defense Authorization Act for Fiscal Year 2020*, was charged with developing a consensus on a strategic approach to combating the illegal flow of synthetic opioids into the United States. The final report argues that the nation's drug czar should be elevated to a cabinet-level position.

Capito Tests Positive for COVID-19

Sen. Shelly Moore Capito (R-W.Va.) has tested positive for COVID-19 in another breakthrough case of the virus on Capitol Hill. She is asymptomatic and said that she will quarantine for five days in keeping with Centers for Disease Control and Prevention (CDC) recommendations.

FDA Postpones Vaccine Advisory Committee Meeting

The Food and Drug Administration (FDA) has postponed its advisory committee meeting on the consideration of the Pfizer-BioNTech COVID-19 vaccine for children six months through four years of age. Pfizer has said that new data has emerged impacting its latest emergency use authorization (EUA) request. The delay will give the agency time to consider the additional data. The meeting was originally scheduled to occur on February 15.

Upcoming Congressional Hearings and Markups

Senate Finance Committee hearing “Protecting Youth Mental Health: Part II – Identifying and Addressing Barriers to Care;” 10:00 a.m.; February 15

House Judiciary Subcommittee on Immigration and Citizenship hearing “Is There a Doctor in the House? The Role of Immigrant Physicians in the U.S. Healthcare System;” 2:00 p.m.; February 15

Senate Homeland Security and Governmental Affairs Committee hearing “Addressing the Gaps in America’s Biosecurity Preparedness;” 10:15 a.m.; February 17

House Energy and Commerce Subcommittee on Oversight and Investigations hearing “Americans in Need: Responding to the National Mental Health Crisis;” 11:30 a.m.; February 17

Recently Introduced Health Legislation

H.R.6612 — To amend title XIX of the Social Security Act to provide a higher Federal matching rate for increased expenditures under Medicaid for maternal health care services; Sponsor: Rep. Manning, Kathy E. [D-NC-6]; Committees: House - Energy and Commerce

H.Con.Res.68 — Expressing the sense of the Congress that assisted suicide (sometimes referred to using other terms) puts everyone, including those most vulnerable, at risk of deadly harm; Sponsor: Rep. Correa, J. Luis [D-CA-46]; Committees: House - Energy and Commerce

H.Res.911 — Supporting the goals and ideals of “National Black HIV/AIDS Awareness Day”; Sponsor: Rep. Lee, Barbara [D-CA-13]; Committees: House - Energy and Commerce

H.Res.910 — Expressing support for the designation of February 4, 2022, as “National Cancer Prevention Day”; Sponsor: Rep. Dingell, Debbie [D-MI-12]; Committees: House - Energy and Commerce

H.Res.909 — Expressing support for health care personnel and condemning assaults on health care personnel as the U.S. health care system faces unprecedented staffing shortages and increased workplace related stressors; Sponsor: Rep. Carter, Troy [D-LA-2]; Committees: House - Energy and Commerce; Judiciary; Education and Labor

S.3587 — A bill to modify conditions of funding for the distance learning, telemedicine, and broadband program of the Rural Utilities Service, and for other purposes; Sponsor: Sen. Thune, John [R-SD]; Committees: Senate - Agriculture, Nutrition, and Forestry

S.3588 — A bill to amend the Public Health Service Act to improve domestic manufacturing surge capacity and capabilities for biodefense and pandemic preparedness; Sponsor: Sen. Romney, Mitt [R-UT]; Committees: Senate - Health, Education, Labor, and Pensions

H.Res.913 — Expressing support for the designation of February 6 to 12, 2022, as “National Burn Awareness Week”; Sponsor: Rep. Thompson, Mike [D-CA-5]; Committees: House - Oversight and Reform

H.R.6622 — To amend title XIX of the Social Security Act to provide clarification with respect to the liability of third party payers for medical assistance paid under the Medicaid program, and for other purposes; Sponsor: Rep. Burgess, Michael C. [R-TX-26]; Committees: House - Energy and Commerce

H.R.6625 — To prohibit the Secretary of Health and Human Services from issuing guidance intended to restrict access to COVID-19 monoclonal antibody therapies and other treatments; Sponsor: Rep. Davis, Rodney [R-IL-13]; Committees: House - Energy and Commerce

H.R.6634 — To amend title XXVIII of the Public Health Service Act to eliminate the sunset of authority to make certain appointments for National Disaster Medical System, and for other purposes; Sponsor: Rep. Schrier, Kim [D-WA-8]; Committees: House - Energy and Commerce

S.3593 — To amend titles XI and XVIII of the Social Security Act to extend certain telehealth services covered by Medicare and to evaluate the impact of telehealth services on Medicare beneficiaries, and for other purposes; Sponsor: Sen. Cortez Masto, Catherine [D-NV]; Committees: Senate – Finance

S.3596 — A bill to amend title XXI of the Social Security Act to disregard State expenditures on health services initiatives to increase access to behavioral health services for children in schools for purposes of the reimbursement limitation on expenditures under the Children’s Health Insurance Program that are not related to Medicaid or health insurance assistance; Sponsor: Sen. Thune, John [R-SD]; Committees: Senate – Finance

S.3601 — A bill to require the Administrator of the Federal Emergency Management Agency to include breast pumps and other lactation supplies and equipment in disaster relief and emergency response; Sponsor: Sen. Duckworth, Tammy [D-IL]; Committees: Senate - Homeland Security and Governmental Affairs

S.3603 — A bill to direct the Secretary of Veterans Affairs to carry out a pilot program to improve the ability of veterans to access medical care in medical facilities of the Department of Veterans Affairs and in the community by providing veterans the ability to choose health care providers; Sponsor: Sen. Blackburn, Marsha [R-TN]; Committees: Senate - Veterans’ Affairs

H.Con.Res.71 — Expressing the sense of Congress that Congress should issue a subpoena to Dr. Anthony Fauci and reduce the salary of the Director of the National Institute of Allergy and Infectious Diseases and Chief Medical Advisor to the President; Sponsor: Rep. Gosar, Paul A. [R-AZ-4]; Committees: House - Energy and Commerce; Rules

H.R.6641 — To direct the Secretary of Health and Human Services to provide for certain adjustments to Medicare payment for items of durable medical equipment that were formerly included in round 2021 of the DMEPOS competitive bidding program; Sponsor: Rep. Mullin, Markwayne [R-OK-2]; Committees: House - Energy and Commerce; Ways and Means

H.R.6647 — To amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; Sponsor: Rep. McMorris Rodgers, Cathy [R-WA-5]; Committees: House - Veterans’ Affairs

S.3611 — A bill to provide for improvements in the reimbursement of eligible health care providers through the Provider Relief Fund, and for other purposes; Sponsor: Sen. Shaheen, Jeanne [D-NH]; Committees: Senate - Health, Education, Labor, and Pensions

S.3615 — A bill to establish a cap on costs for covered prescription drugs under Medicare parts B and D; Sponsor: Sen. Sanders, Bernard [I-VT]; Committees: Senate – Finance

S.3617 — A bill to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to modify the authority of the Office of National Drug Control Policy and the United States Anti-Doping Agency, and for other purposes; Sponsor: Sen. Blackburn, Marsha [R-TN]; Committees: Senate - Commerce, Science, and Transportation

S.3620 — A bill to establish the Commission for the Comprehensive Study of Health Data Use and Privacy Protection; Sponsor: Sen. Cassidy, Bill [R-LA]; Committees: Senate - Health, Education, Labor, and Pensions

H.Res.916 — Expressing support for the annual Heart Valve Disease Awareness Day on February 22, 2022, coinciding with American Heart Month; Sponsor: Rep. Barr, Andy [R-KY-6]; Committees: House - Energy and Commerce

- H.R.6659 — To amend title 38, United States Code, to improve health care and services for veterans exposed to toxic substances, and for other purposes; Sponsor: Rep. Bost, Mike [R-IL-12]; Committees: House - Veterans' Affairs
- H.R.6675 — To direct the Secretary of Veterans Affairs to seek to enter into an agreement with a nongovernmental entity to conduct an audit of the health care system of the Department of Veterans Affairs; Sponsor: Rep. Gosar, Paul A. [R-AZ-4]; Committees: House - Veterans' Affairs
- H.R.6676 — To amend title 18, United States Code, to prohibit administering COVID-19 vaccines to minors without parental consent, and for other purposes; Sponsor: Rep. Herrera Beutler, Jaime [R-WA-3]; Committees: House - Judiciary
- H.R.6698 — To amend title XIX of the Social Security Act to repeal the requirement that States establish a Medicaid Estate Recovery Program and to limit the circumstances in which a State may place a lien on a Medicaid beneficiary's property; Sponsor: Rep. Schakowsky, Janice D. [D-IL-9]; Committees: House - Energy and Commerce
- H.R.6699 — To extend protections to part-time workers in the areas of family and medical leave and pension plans, and to ensure equitable treatment in the workplace; Sponsor: Rep. Schakowsky, Janice D. [D-IL-9]; Committees: House - Education and Labor; House Administration; Oversight and Reform; Ways and Means
- H.R.6700 — To amend title XVIII of the Social Security Act to remove the 96-hour physician certification requirement for inpatient critical access hospital services; Sponsor: Rep. Smith, Adrian [R-NE-3]; Committees: House - Ways and Means
- H.R.6702 — To require more accurate reporting of abortion drug prescribing and related adverse events, and for other purposes; Sponsor: Rep. Walorski, Jackie [R-IN-2]; Committees: House - Energy and Commerce
- S.3626 — A bill to improve access to the Program of All-Inclusive Care for the Elderly, and for other purposes; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate - Finance
- S.3628 — A bill to authorize the Secretary of Health and Human Services to establish a grant program to promote comprehensive mental health and suicide prevention efforts in schools, and for other purposes; Sponsor: Sen. Rosen, Jacky [D-NV]; Committees: Senate - Health, Education, Labor, and Pensions
- S.3629 — A bill to authorize a study on certain exemptions for treatment of opioid use disorder through opioid treatment programs during the COVID-19 public health emergency, and for other purposes; Sponsor: Sen. Markey, Edward J. [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions
- S.3630 — A bill to establish a Dual Eligible Quality Care Fund to provide grants to State Medicaid programs to improve their capacity to ensure the provision of quality integrated care for dual eligible beneficiaries; Sponsor: Sen. Scott, Tim [R-SC]; Committees: Senate - Finance
- S.3632 — A bill to amend the program for local substance use disorder services; Sponsor: Sen. Rubio, Marco [R-FL]; Committees: Senate - Health, Education, Labor, and Pensions
- S.3636 — A bill to establish within the National Science Foundation a program to award STEM ecosystem grants; Sponsor: Sen. Kelly, Mark [D-AZ]; Committees: Senate - Health, Education, Labor, and Pensions
- S.3637 — A bill to require the Commandant of the Coast Guard to establish an interim behavioral health policy for members of the Coast Guard that achieves parity with the behavioral health policy of the Department of Defense, and for other purposes; Sponsor: Sen. Murkowski, Lisa [R-AK]; Committees: Senate - Commerce, Science, and Transportation
- S.3638 — A bill to provide lawful permanent resident status for certain advanced STEM degree holders, and for other purposes; Sponsor: Sen. Durbin, Richard J. [D-IL]; Committees: Senate - Judiciary