



## Health Policy Briefing

August 21, 2023

### Continuing Resolution Likely as Government Funding Negotiations Continue

Senate Majority Leader Chuck Schumer (D-N.Y.) has expressed support for a continuing resolution (CR) extending through early December to fund the federal government and avoid a government shutdown when current funding runs out at the end of the fiscal year (FY) on September 30. The Senate is scheduled to be in session only 17 days before the FY 2024 appropriations bills need to be passed, and the House will be in session only 12 days. Schumer stated that he has already spoken with House Speaker Kevin McCarthy (R-Calif.) about the passage of a stopgap spending measure as government funding negotiations continue. McCarthy himself recognized the need for such a temporary measure during a GOP conference call last week. The Speaker underscored the importance of the short-term bill lasting no later than early December.

Congress has used CRs to extend government funding through December in each of the last three years. This year, the House of Representatives has passed just one of the 12 annual appropriations bills, legislation to fund Military Construction, Veterans Affairs, and related agencies, while the Senate has passed none but reported all 12 bills out of committee before the August recess. Republicans in the House continue to have internal disagreements regarding overall spending levels and policy riders, such as those related to the politicization of the Department of Justice, abortion, and border security. Government funding negotiations could be further complicated by the need to attach the administration's supplemental funding request – which is expected to be increased to account for growing disaster aid costs to respond to destructive wildfires in Hawaii – to a CR.

The latest debt limit deal included a provision to trigger a 1% across the board discretionary spending cut if the government is not fully funded by January 1. Senators are scheduled to return from August recess on September 5 and House members on September 12. Congress must also reauthorize by September 30 the **SUPPORT Act**, the **Pandemic and All-Hazards Preparedness Act**, the Children's Hospitals Graduate Medical Education Program, and extend funding for the Community Health Center Fund.

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## WH Outlines R&D Priorities for FY 2025 Budget

The Biden administration is [asking](#) federal agencies to prioritize achieving better health outcomes in any research and development projects they might propose for funding in fiscal year (FY) 2025. The White House Office of Science and Technology Policy and the Office of Management and Budget (OMB) sent a memo on Thursday outlining R&D priorities for FY 2025 budget requests to OMB. The guidance includes funding activities related to the President's Cancer Moonshot Initiative (with a focus on early detection, novel therapies, and prevention), antibiotic resistance and infectious outbreaks, preventing exposure to harmful chemicals, and mitigating the health effects of climate change.

## Senate Democrats Comment on FDA's Proposed Opioid Disposal Requirements

A group of ten Senate Democrats have sent a [letter](#) urging the Food and Drug Administration (FDA) to expand upon its proposed prescription opioid disposal policies. The agency's April [proposal](#), aimed at preventing abuse of and exposure to prescription opioids, would require patients be provided with mail-back envelopes and safe-disposal education when they are prescribed opioids in the outpatient setting. The lawmakers suggest that the FDA include a requirement for an at-home disposal option as well, highlighting that rural patients may not have regular access to the mail. The letter was led by Sens. Martin Heinrich (D-N.M.), Jon Tester (D-Mont.), and Patty Murray (D-Wash.). Comments on the proposed modification to the Opioid Analgesic Risk Evaluation and Mitigation Strategy are due by August 28.

## ProPublica Reports on Hidden Payment Processing Fees

ProPublica published an [article](#) last week shedding light on the payment processing fees charged by insurers when they pay physicians for their work electronically. The creation of these fees follows the shift from paper to electronic processing and the subsequent growth of the payment processing industry. Public records requests made by New York urologist Alex Shteynshlyuger to the Centers for Medicare and Medicaid Services (CMS) revealed federal officials frequently deferring to the payment processing company Zelis, employer of a former CMS staffer and author of current federal standards for paying doctors via electronic funds transfers. In his capacity as vice president of legislative affairs at Zelis, Matthew Albright convinced CMS that a 2000 regulation prohibiting insurers from charging excessive fees for direct transactions did not apply to payment processors. The article details how physicians are often automatically enrolled in higher-fee payment methods without their consent. When they ask to be paid by paper check, insurers often resume electronic payments and the associated fees against the wishes of the provider. Payment processors argue their service offers doctors increased convenience and efficiency, allowing them to be reimbursed by many insurers through a single payment processor. The reporting highlights a survey which found that nearly 60% of medical practices are compelled to pay fees for electronic payment at least some of the time. A separate poll found that these fees can cost larger medical practices as much as \$1 million each year.

H.R.5183 — To amend title XVIII of the Social Security Act to provide for coverage of cancer care planning and coordination under the Medicare program. Sponsor: DeSaulnier, Mark [Rep.-D-CA-10]; Committees: House - Energy and Commerce; Ways and Means.

H.R.5206 — To amend the Internal Revenue Code of 1986 to make a portion of research credit refundable for certain small businesses engaging in specified medical research. Sponsor: Buchanan, Vern [Rep.-R-FL-16]; Committees: House - Ways and Means

H.R.5207 — To amend the Internal Revenue Code of 1986 to add a new medical research component to the credit for increasing research activities. Sponsor: Buchanan, Vern [Rep.-R-FL-16]; Committees: House - Ways and Means

H.R.5208 — To amend the Internal Revenue Code of 1986 to clarify the treatment of locum tenens physicians and advanced care practitioners as independent contractors to help alleviate physician shortages, including in underserved areas. Sponsor: Carter, Earl L. “Buddy” [Rep.-R-GA-1]; Committees: House - Ways and Means

H.R.5212 — To amend the Federal Fire Prevention and Control Act of 1974 to make available under the assistance to firefighters grant program the establishment of cancer prevention programs, and for other purposes. Sponsor: Gottheimer, Josh [Rep.-D-NJ-5]; Committees: House - Science, Space, and Technology

H.R.5213 — To ensure that prior authorization medical decisions under Medicare are determined by physicians. Sponsor: Green, Mark E. [Rep.-R-TN-7]; Committees: House - Ways and Means; Energy and Commerce