



# Health Policy Briefing

November 13, 2023

## House Speaker Reveals 2-Step Plan to Avert Government Shutdown

House Speaker Mike Johnson (R-La.) plans to pursue a stopgap spending measure that would fund some parts of the federal government through January 19 and others through February 2. Under this “two-step continuing resolution (CR),” appropriations for Military Construction-Veterans Affairs, Transportation-Housing and Urban Development, Agriculture-Rural Development-Food and Drug Administration, and Energy-Water Development would be extended through January 19, while funding for the remaining eight appropriations measures would face the later deadline. The stopgap would not include any supplemental funding. Johnson is aiming to avoid “the absurd holiday-season omnibus tradition of massive, loaded up spending bills introduced right before the Christmas recess.” His plan, however, was received with some internal criticism, with conservative Rep. Chip Roy (R-Texas) expressing opposition to a clean CR that does not include additional spending cuts and policy riders. The House GOP can only afford four defections on a party-line vote. Lawmakers face a deadline of November 17 to fund the federal government and avoid a government shutdown when the current CR expires.

## Senate Confirms Monica Bertagnolli as NIH Director

The Senate confirmed Monica Bertagnolli, M.D. as director of the National Institutes of Health (NIH) in a 62-36 vote last week. Nearly every Democrat joined 13 Republicans in support of her nomination. Sens. Bernie Sanders (I-Vt.) and John Fetterman (D-Pa.) were the only members of the Democratic caucus to vote no, with Fetterman echoing concerns previously voiced by Sanders that Bertagnolli is not “prepared to take on the greed and power of the drug companies.” Bertagnolli becomes the second woman to serve as permanent head of the medical research agency. She replaces principal deputy director Lawrence Tabak, D.D.S. who has worked as NIH acting director since the departure of long-time director Francis Collins, M.D. nearly two years ago. Bertagnolli is an oncologist who most recently served as the director of the National Cancer Institute.

### Inside

- Senate Finance Advances Mental Health, PBMs, Medicare Physician Fee Schedule Relief Extension Package.....2
- Finance Leadership Requests Artificial Intelligence Briefing.....2
- HELP Chair Continues Push for Reasonable Pricing and Access Standards.....2
- Warren Comments on Amgen Acquisition of Horizon Therapeutics.....2
- Congressional Retirements.....3
- Ways and Means Republicans Criticize NSA Implementation.....3
- E&C Republicans Probe SAMHSA Expenditures.....3
- House Releases 2024 Legislative Calendar.....3
- House GOP Leadership Update.....4
- President Acts to Expand Veterans’ Health Care Coverage.....4
- CMS Issues 2025 MA, Part D Proposed Rule.....4
- Upcoming Congressional Hearings and Markups.....4
- Recently Introduced Health Legislation.....5

## Senate Finance Advances Mental Health, PBMs, Medicare Physician Fee Schedule Relief Extension Package

The Senate Finance Committee unanimously advanced the ***Better Mental Health Care, Lower-Cost Drugs, and Extenders Act*** last week. The bill would mitigate the impending Medicare physician fee schedule cut by extending the relief from last year at the 2.5% level, rather than letting it drop to 1.25%. The package would expand eligibility for workforce shortage incentive programs for mental health and substance use disorder clinicians, support the use of licensed clinical social workers in the Medicare program, and require Medicare Advantage plans to have up-to-date and accurate provider directories. Additionally, the draft would mandate that prescription drug plan sponsors with preferred pharmacy networks have a minimum share of in-network pharmacies in underserved areas not tied to a pharmacy benefit manager or the sponsor. The bill also directs the U.S. Department of Health and Human Services to collect data on drug acquisition costs, and would require plans to include certain discount-eligible drugs in their formularies.

## Finance Leadership Requests Artificial Intelligence Briefing

Senate Finance Committee Chairman Ron Wyden (D-Ore.) and Ranking Member Mike Crapo (R-Idaho) have sent a [letter](#) to the U.S. Department of Health and Human Services requesting staff briefings to learn more about how the department plans to adapt to the evolving artificial intelligence (AI) landscape. The lawmakers ask about any existing gaps in regulatory authority and about how the Centers for Medicare and Medicaid Services will monitor application of AI in the Medicare, Medicare Advantage, and Medicaid programs. “As agencies, providers, manufacturers, and insurers scale up their adoption of these types of tools across diverse health care settings,” the letter states, “the Senate Finance Committee seeks to strengthen our understanding of the relevant regulatory and statutory landscape, as well as engage on plans for adapting as the technology evolves.”

## HELP Chair Continues Push for Reasonable Pricing and Access Standards

Senate Health, Education, Labor and Pensions (HELP) Committee Chairman Bernie Sanders (I-Vt.) sent a [letter](#) to Ambassador Pamela Hamamoto urging her to push for the inclusion of reasonable pricing and access standards in the new World Health Organization Pandemic Accord. “The U.S. should champion including reasonable pricing and technology sharing requirements into all funding agreements with pharmaceutical companies,” Sanders argues. “That is not just the right thing to do. It is the smart thing to do to protect the American people from viruses that respect no borders.”

## Warren Comments on Amgen Acquisition of Horizon Therapeutics

Sen. Elizabeth Warren (D-Mass.) has sent a [letter](#) to the Federal Trade Commission (FTC) Chair Lina Khan expressing her disappointment with the agency’s decision to allow Amgen’s acquisition of Horizon Therapeutics to move forward. She expresses concerns about the potential impact of the merger on the price and availability of medicine. The letter urges the FTC to “vigorously challenge consolidation and anticompetitive behavior in the health care industry, consistent with its proposed merger guidelines.”

## Congressional Retirements

Sen. Joe Manchin (D-W.Va.) has announced that he will not run for reelection next year. Manchin has served in the Senate since 2010. He currently sits on the Appropriations Committee and the Committee on Veterans' Affairs. Manchin's decision complicates Democrats' hope to hold on to the Senate majority in 2025. Democrats and Democrat-aligned independents currently only hold a 51-seat majority in the chamber, and nearly all competitive seats up for reelection next year are held by Democrats. West Virginia Governor Jim Justice, who switched parties in 2017, and Rep. Alex Mooney (R-W.Va.) are running for the GOP nomination for Manchin's Senate seat.

In the House, Rep. Brad Wenstrup, D.P.M. (R-Ohio) announced last week that he will be retiring from Congress at the end of next year. Wenstrup has served in Congress since 2013. He currently sits on the House Ways and Means Committee and is chairman of the Select Subcommittee on the Coronavirus Pandemic and co-chair of the GOP Doctors Caucus. Rep. Derek Kilmer (D-Wash.), House Appropriations Committee member, also announced that he will not seek reelection next year. Wenstrup and Kilmer join nearly two dozen other members of Congress who have already announced their plans to retire or seek other offices in 2024. Additionally, Rep. Brian Higgins (D-N.Y.) announced that after serving 19 years in the House, he will resign in February. He serves on the House Ways and Means Committee and Budget Committee. He also co-chairs the Bipartisan Cancer Caucus.

## Ways and Means Republicans Criticize NSA Implementation

Republicans on the House Ways and Means Committee have sent a [letter](#) to the Biden administration criticizing its implementation of the *No Surprises Act* (NSA). The letter expresses concerns that some patients still receive a balance bill following the independent dispute resolution (IDR) process, and urges agencies to enforce the patient protections established by the law. But even worse, the letter states, are the "challenges when grouping IDR claims, the growing backlog of cases, and cases in which large health insurers fail to pay medical providers any amount after arbitration combine to place a significant financial burden on medical providers, forcing them to reduce available staff and services for patients." The lawmakers also highlight the administration's failure to issue rulemaking on the advanced explanation of benefits provision of the law.

## E&C Republicans Probe SAMHSA Expenditures

House Energy and Commerce Committee Republicans have [sent](#) a "final notice" to the Substance Abuse and Mental Health Services Administration (SAMHSA) informing Administrator Miriam E. Delphin-Rittmon, Ph.D. that they will issue a subpoena if she fails to provide requested accounting details about how SAMHSA spent COVID-19 related supplemental money and 9-8-8 crisis care funding. The lawmakers are seeking "to get full accountability for SAMHSA funds," stating that the agency "has repeatedly not provided requested information about expenditures, nor have any legal reasons been provided for not yet providing the requested information and documents." Dr. Delphin-Rittmon is asked to produce the requested documents by November 27, 2023.

## House Releases 2024 Legislative Calendar

House Majority Leader Steve Scalise (R-La.) [released](#) the chamber's schedule for calendar year 2024 last week. The House's schedule for the second session of the 118th Congress has 113 legislative days. It features similar recesses to prior years, including two weeks in February and the month of August, along with a week off in July for the Republican National Convention. The House plans to recess all October ahead of the 2024 elections and is scheduled to return after Veterans Day for a lame duck session. The Senate has not yet released its 2024 calendar.

## House GOP Leadership Update

Rep. Blake Moore (R-Utah) has been elected the new vice chair of the House Republican Conference. He will fill the position formerly held by the new Speaker of the House Mike Johnson (R-La.). Moore was first elected to the House of Representatives in 2020 and currently serves on the Ways and Means and Budget committees. The role of conference vice chair is one of seven elected leadership positions in the House GOP and is responsible for focusing on political messaging.

## President Acts to Expand Veterans' Health Care Coverage

The White House announced several changes that will expand health care coverage for the nation's veterans. Beginning this month, all living World War II veterans will be able to access health care services, including nursing home care, from the Department of Veterans Affairs at no cost. The administration will also work to accelerate **PACT Act** enrollment for veterans applying for benefits following exposure to toxic substances in the line of duty.

## CMS Issues 2025 MA, Part D Proposed Rule

The Centers for Medicare and Medicaid Services has released its contract year 2025 policy and technical changes to the Medicare Advantage (MA) Plan Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (PACE), and Health Information Technology Standards proposed rule. The regulation proposes new guardrails for plan compensation to agents and brokers to stop anti-competitive steering, and would fix the amount they can be paid per enrollee – regardless of the plan the beneficiary enrolls in – at \$642. The current cap is \$611. The rule would also prohibit MA plan organizations from contracting with third-party marketers that offer volume-based bonuses for enrollment into certain plans. CMS expresses concerns that such contract terms may interfere with the ability of agents or brokers to assist enrollees in finding the plan that is best suited to their needs. A fact sheet on the proposed rule can be found [here](#).

## Upcoming Congressional Hearings and Markups

House Rules Committee meets on H.R. 5894, the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2024; 4:00 p.m.; November 13

House Veterans' Affairs Subcommittee on Health hearing "Emerging Therapies: Breakthroughs in the Battle Against Suicide?" 2:00 p.m.; November 14

Senate Finance Subcommittee on Health Care hearing "Ensuring Medicare Beneficiary Access: A Path to Telehealth Permanency;" 2:30 p.m.; November 14

Senate Foreign Relations Committee hearing "U.S. Leadership on Artificial Intelligence in an Era of Strategic Competition;" 10:00 a.m.; November 15

House Veterans' Affairs Subcommittee on Technology Modernization hearing "Electronic Health Record Modernization Deep Dive: System Uptime;" 12:00 p.m.; November 15

H.R.6230 — To prohibit group health plans, health insurance issuers, and Federal health care programs from applying prior authorization requirements, utilization management techniques, and medical necessity reviews. Sponsor: Van Drew, Jefferson [Rep.-R-NJ-2]; Committees: House - Energy and Commerce; Oversight and Accountability

H.R.6227 — To amend the Federal Food, Drug, and Cosmetic Act to expand the tropical disease product priority review voucher program to encourage prevention and treatment of coccidioidomycosis. Sponsor: Schweikert, David [Rep.-R-AZ-1]; Committees: House - Energy and Commerce

S.3227 — A bill to amend the Internal Revenue Code of 1986 to provide an alternative manner of furnishing certain health insurance coverage statements to individuals; Sponsor: Thune, John [Sen.-R-SD]; Committees: Senate – Finance

H.R.6243 — To direct the Secretary of Labor to issue an occupational safety and health standard that requires employers to keep opioid overdose reversal drugs onsite and develop and implement training plans to respond to drug overdose emergencies and to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the grants authorized under the Comprehensive Opioid Abuse Grant Program; Sponsor: Gallego, Ruben [Rep.-D-AZ-3]; Committees: House - Education and the Workforce; Judiciary

H.R.6251 — To establish a grant program to provide schools with opioid overdose reversal drugs, to direct schools receiving Federal funds to report to certain Federal information systems any distribution of an opioid overdose reversal drug, and for other purposes; Sponsor: Schiff, Adam B. [Rep.-D-CA-30]; Committees: House - Energy and Commerce; Education and the Workforce

S.3233 — A bill to amend title XVIII of the Social Security Act to reduce the occurrence of diabetes in Medicare beneficiaries by extending coverage under Medicare for medical nutrition therapy services to such beneficiaries with pre-diabetes or with risk factors for developing type 2 diabetes; Sponsor: Peters, Gary C. [Sen.-D-MI]; Committees: Senate – Finance

S.3236 — A bill to amend title XVIII of the Social Security Act to provide Medicare coverage of ambulance services that do not include transportation; Sponsor: Welch, Peter [Sen.-D-VT]; Committees: Senate – Finance

S.3244 — A bill to amend the Medicare Improvements for Patients and Providers Act of 2008 to extend funding outreach and assistance for low-income programs; Sponsor: Warner, Mark R. [Sen.-D-VA]; Committees: Senate – Finance

S.3245 — A bill to amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to conduct surveys of non-retail pharmacy drug prices, and for other purposes; Sponsor: Warner, Mark R. [Sen.-D-VA]; Committees: Senate – Finance

H.R.6257 — To amend title XVIII of the Social Security Act to provide Medicare coverage of ambulance services that do not include transportation; Sponsor: Balint, Becca [Rep.-D-VT-At Large]; Committees: House - Energy and Commerce; Ways and Means

H.R.6258 — To amend the Child Abuse Prevention and Treatment Act to disqualify any State that discriminates against parents or guardians who oppose medical, surgical, pharmacological, psychological treatment, or clothing and social changes related to affirming the subjective claims of gender identity expressed by any minor if such claimed identity is inconsistent with such minor's biological sex from receiving funding under such Act; Sponsor: Banks, Jim [Rep.-R-IN-3]; Committees: House - Education and the Workforce

H.R.6270 — To amend title I of the Patient Protection and Affordable Care Act to authorize the establishment of, and provide support for, State-based universal health care systems that provide comprehensive health benefits to State residents, and for other purposes; Sponsor: Khanna, Ro [Rep.-D-CA-17]; Committees: House - Energy and Commerce; Ways and Means; Armed Services; Oversight and Accountability; Education and the Workforce

H.R.6275 — To prohibit brand name drug manufacturers from compensating generic drug manufacturers to delay the entry of a generic drug into the market, and to prohibit biological product manufacturers from compensating biosimilar and interchangeable product manufacturers to delay entry of biosimilar and interchangeable products, and for other purposes; Sponsor: Perez, Marie Gluesenkamp [Rep.-D-WA-3]; Committees: House - Energy and Commerce; Judiciary

H.R.6279 — To amend the Internal Revenue Code of 1986 to allow certain wearable devices to be purchased using health savings accounts and other spending arrangements and reimbursement accounts; Sponsor: Steel, Michelle [Rep.-R-CA-45]; Committees: House - Ways and Means

S.3254 — A bill to amend the Internal Revenue Code of 1986 to allow expenses for parents to be taken into account as medical expenses, and for other purposes; Sponsor: Rosen, Jacky [Sen.-D-NV]; Committees: Senate - Finance

S.3258 — A bill to amend title XVIII of the Social Security Act to provide coverage of ALS-related services under the Medicare program for individuals diagnosed with amyotrophic lateral sclerosis, and for other purposes; Sponsor: Coons, Christopher A. [Sen.-D-DE]; Committees: Senate - Finance

S.3259 — A bill to amend the Public Health Service Act to reauthorize and expand technical assistance and support for recovery community organizations and peer support networks, and for other purposes; Sponsor: Collins, Susan M. [Sen.-R-ME]; Committees: Senate - Health, Education, Labor, and Pensions

S.3260 — A bill to direct the Secretary of Health and Human Services to establish a working group to formulate recommendations for standardizing the measurements of loneliness and isolation, and for other purposes; Sponsor: Ricketts, Pete [Sen.-R-NE]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.6283 — To improve services provided by pharmacy benefit managers; Sponsor: Miller-Meeks, Mariannette [Rep.-R-IA-1]; Committees: House - Energy and Commerce; Ways and Means; Education and the Workforce; Oversight and Accountability

H.R.6284 — To direct the Secretary of Health and Human Services to establish a working group to formulate recommendations for standardizing the measurements of loneliness and isolation, and for other purposes; Sponsor: Flood, Mike [Rep.-R-NE-1]; Committees: House - Energy and Commerce

H.R.6288 — To amend the Federal Food, Drug, and Cosmetic Act to provide for a Pediatric Brain Tumor Real-World Data Registry Program, and for other purposes; Sponsor: Bera, Ami [Rep.-D-CA-6]; Committees: House - Energy and Commerce

H.R.6296 — To provide for an emergency increase in Federal funding to State Medicaid programs for expenditures on home and community-based services; Sponsor: Dingell, Debbie [Rep.-D-MI-6]; Committees: House - Energy and Commerce

H.R.6301 — To amend the Employee Retirement Income Security Act of 1974 to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide for cost-sharing for oral anticancer drugs on terms no less favorable than the cost-sharing provided for anticancer medications administered by a health care provider; Sponsor: Grothman, Glenn [Rep.-R-WI-6]; Committees: House - Education and the Workforce

H.R.6302 — To amend title XXVII of the Public Health Service Act to establish requirements for the disclosure of certain information relating to health care sharing ministries, and for other purposes; Sponsor: Huffman, Jared [Rep.-D-CA-2]; Committees: House - Energy and Commerce

H.R.6305 — To amend title III of the Public Health Service Act to impose a limitation on regulations relating to the control of communicable diseases, and for other purposes; Sponsor: Luna, Anna Paulina [Rep.-R-FL-13]; Committees: House - Energy and Commerce; Rules

H.R.6310 — To amend title XVIII of the Social Security Act to extend incentive payments for participation in eligible alternative payment models under the Medicare program; Sponsor: Ruiz, Raul [Rep.-D-CA-25]; Committees: House - Energy and Commerce; Ways and Means

H.R.6313 — To amend title XVIII of the Social Security Act to improve the accuracy of geographic adjustment factors under the Medicare program and to permanently extend certain adjustments to such factors for certain localities, and for other purposes; Sponsor: Smith, Adrian [Rep.-R-NE-3]; Committees: House - Energy and Commerce; Ways and Means

H.R.6315 — To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive the requirement of certain veterans to make copayments for hospital care and medical services in the case of an error by the Department of Veterans Affairs, and for other purposes; Sponsor: Smucker, Lloyd [Rep.-R-PA-11]; Committees: House - Veterans' Affairs

S.3282 — A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive the requirement of certain veterans to make copayments for hospital care and medical services in the case of an error by the Department of Veterans Affairs, and for other purposes; Sponsor: Klobuchar, Amy [Sen.-D-MN]; Committees: Senate - Veterans' Affairs

S.3284 — A bill to amend title 38, United States Code, to modify the limitation on reimbursement for emergency treatment of amounts owed to a third party or for which the veteran is responsible under a health-plan contract; Sponsor: Blumenthal, Richard [Sen.-D-CT]; Committees: Senate - Veterans' Affairs

H.Res.860 — Expressing support for raising awareness about the growing population of young adults living with chronic health conditions in the United States; Sponsor: Raskin, Jamie [Rep.-D-MD-8]; Committees: House - Energy and Commerce; Education and the Workforce

H.R.6330 — To direct the Secretary of Veterans Affairs to carry out a pilot program to collect and analyze data regarding suicides and attempted suicides by veterans on the property of the Department of Veterans Affairs, and for other purposes; Sponsor: Crow, Jason [Rep.-D-CO-6]; Committees: House - Veterans' Affairs

H.R.6331 — To require the Secretary of Veterans Affairs to establish a pilot program to furnish doula services to veterans; Sponsor: Davis, Donald G. [Rep.-D-NC-1]; Committees: House - Veterans' Affairs

H.R.6333 — To amend title 38, United States Code, to modify the limitation on reimbursement for emergency treatment of amounts owed to a third party or for which the veteran is responsible under a health-plan contract; Sponsor: Dingell, Debbie [Rep.-D-MI-6]; Committees: House - Veterans' Affairs

H.R.6338 — To direct the Secretary of Veterans Affairs to establish a pilot program for gynecologic cancer care coordination at the Department of Veterans Affairs, and for other purposes; Sponsor: Garcia, Sylvia R. [Rep.-D-TX-29]; Committees: House - Veterans' Affairs

H.R.6340 — To direct the Under Secretary for Health of the Department of Veterans Affairs to provide certain information to Department of Veterans Affairs medical center staff and homelessness service providers regarding the Coordinated Entry program, and for other purposes; Sponsor: Harder, Josh [Rep.-D-CA-9]; Committees: House - Veterans' Affairs

H.R.6344 — To amend titles XVIII and XIX of the Social Security Act to require providers of services and health maintenance organizations under the Medicare and Medicaid programs to provide for certain policies to be in place relating to do-not-resuscitate orders or similar physician's orders for unemancipated minors receiving services; Sponsor: LaTurner, Jake [Rep.-R-KS-2]; Committees: House - Energy and Commerce; Ways and Means

H.R.6347 — To limit cost-sharing for prescription drugs, and for other purposes; Sponsor: Manning, Kathy E. [Rep.-D-NC-6]; Committees: House - Energy and Commerce

H.R.6353 — To direct the Secretary of Veterans Affairs to conduct a review on opioid overdose deaths among veterans, and for other purposes; Sponsor: Murphy, Gregory [Rep.-R-NC-3]; Committees: House - Veterans' Affairs

H.R.6360 — To amend title 38, United States Code, to assign the highest priority status for hospital care and medical services provided through the Department of Veterans Affairs to veterans who are former prisoners of war; Sponsor: Walberg, Tim [Rep.-R-MI-5]; Committees: House - Veterans' Affairs