



Health Policy Briefing

November 20, 2023

Congress Extends Government Funding Through Early 2024

Congress passed a stopgap spending measure (H.R. 6363) last week that funds some parts of the federal government through January 19 and others through February 2. The “two-step” continuing resolution (CR) was passed by the House of Representatives on Tuesday, with 209 Democrats joining 127 Republicans voting in support of the measure. The temporary funding bill was then approved by the Senate on Wednesday in an 87-11 vote. President Joe Biden signed the agreement into law on Thursday, less than a day before existing funding was set to expire. The package extends appropriations for Military Construction-Veterans Affairs (VA), Transportation-Housing and Urban Development (HUD), Agriculture-Rural Development-Food and Drug Administration (FDA), and Energy-Water Development through January 19, while funding for the remaining eight appropriations measures, including the U.S. Department of Health and Human Services, extends through February 2. Congress faces an effective April 30 deadline to pass fiscal year 2024 appropriations, given that the most recent debt ceiling agreement included a provision to subject all discretionary spending to a 1% cut should a CR still be in place past that date. Speaker Johnson stated last week that it would be the last time he supports a short-term government funding measure.

The CR was passed as further progress on FY 2024 appropriations bills has stalled. House leadership postponed a vote on their Labor-Health and Human Services-Education spending bill (H.R. 5894) last week after failing to secure enough support for its passage. The bill includes steep funding cuts for domestic agencies, including the National Institutes of Health (NIH). The chamber has also failed to move the Agriculture-FDA, Financial Services, and Transportation-HUD spending bills. The Senate has passed only three of the 12 annual appropriations bills, covering Agriculture-FDA, Military Construction-VA, and Transportation-HUD. The Senate is scheduled to return from Thanksgiving break on November 27, and the House is expected to reconvene on November 28.

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E&C Health Panel Advances 21 Bills

The House Energy and Commerce Subcommittee on Health advanced 21 bills last week. The bills under consideration were focused on lowering prescription drug costs, improving the Medicare program's coverage process, and addressing laboratory and physician reimbursement issues. The following legislation was approved by voice vote:

- H.R. 5372, ***Expanding Seniors' Access to Lower Cost Medicines Act of 2023***
- H.R. 2880, ***Protecting Patients Against PBM Abuses Act***
- H.R. 5393, To amend title XVIII of the Social Security Act to ensure fair assessment of pharmacy performance and quality under Medicare part D, and for other purposes
- H.R. 5385, ***Medicare PBM Accountability Act***
- H.R. 5386, ***Cutting Copays Act***
- H.R. 4881, To amend title XVIII of the Social Security Act to limit cost sharing for drugs under the Medicare program.
- H.R. 5389, ***National Coverage Determination Transparency Act***
- H.R. 133, ***Mandating Exclusive Review of Individual Treatments (MERIT) Act***
- H.R. 5396, ***Coverage Determination Clarity Act of 2023***
- H.R. 5371, ***Choices for Increased Mobility Act of 2023***
- H.R. 5388, ***Supporting Innovation for Seniors Act***
- H.R. 5380, To amend title XVIII of the Social Security Act to increase data transparency for supplemental benefits under Medicare Advantage
- H.R. 3842, ***Expanding Access to Diabetes Self-Management Training Act of 2023***
- H.R. 5397, ***Joe Fiandra Access to Home Infusion Act of 2023***
- H.R. 6366, To amend title XVIII of the Social Security Act with respect to the work geographic index for physician payments under the Medicare program, and to revise the phase-in of clinical laboratory test payment changes under such program
- H.R. 6369, To amend title XVIII of the Social Security Act to extend incentive payments for participation in eligible alternative payment models
- H.R. 6371, ***Provider Reimbursement Stability Act of 2023***
- H.R. 6364, ***Medicare Telehealth Privacy Act of 2023***
- H.R. 1352, ***Increasing Access to Biosimilars Act of 2023***

H.R. 1691, the ***Ensuring Patient Access to Critical Breakthrough Products Act***, was advanced 21-6. Several Democrats, including full Committee Ranking Member Frank Pallone (D-N.J.), expressed concerns that the proposal could undermine the Centers for Medicare and Medicaid Services' process for determining whether a medical product is reasonable and necessary. Democrats also opposed the H.R. 5555, the ***DMEPOS Relief Act***, which advanced 16-12. The bill would maintain the enhanced reimbursement rates for durable medical equipment instituted in response to the COVID-19 pandemic. Energy and Commerce Chair Cathy McMorris Rodgers (R-Wash.) stated her intention to finalize offsets for the bills and technical assistance from federal agencies before full committee markup.

Warnock, Kennedy Report on Insulin Deserts

Sens. Raphael Warnock (D-Ga.) and John Kennedy (R-La.) released a [report](#) last week on the urgency of lowering the cost of insulin for all patients across the nation. The lawmakers have proposed to limit the out-of-pocket cost of insulin to \$35 a month in the private insurance market and for the uninsured, similar to the insulin out-of-pocket cap for Medicare beneficiaries included in last year's ***Inflation Reduction Act***. The Congressional Budget Office estimates that the private insurance portion of the bill (S. 954) would cost \$629 million over the next decade. The lawmakers point out that this price tag is significantly less than the \$410 billion annual cost of diabetes. Warnock is pushing for a vote on the legislation by the end of the year.

Bipartisan Group Investigates Health Risks of Meta Platforms

Sens. Elizabeth Warren (D-Mass.), Richard Blumenthal (D-Conn.), Josh Hawley (R-Mo.), Dick Durbin (D-Ill.), and Marsha Blackburn (R-Tenn.) sent a [letter](#) to Mark Zuckerberg, CEO of Meta, requesting information related to the mental and physical health risks posed by his company's products, including Facebook and Instagram. The lawmakers assert that Meta "concealed and misrepresented its extensive knowledge about the threats to young people on its platforms."

Congressional Retirements

Rep. Michael Burgess, MD (R-Texas) announced that he will not seek reelection at the conclusion of his 11th term in Congress next year. Burgess is the second highest ranking Republican on both the House Energy and Commerce Committee and House Rules Committee. He served as the top Republican on the Energy and Commerce Health Subcommittee during both the 115th and 116th Congresses. Burgess also leads the House Budget Committee's health care task force and is co-chair of the GOP Doctors Caucus. During his time on Capitol Hill, Burgess has focused on health policy issues and has been a champion of Medicare physician payment reform. "It has been the honor of my life to have gone from a small-town doctor delivering babies, with no prior political experience, to elected to represent my friends and neighbors in the United States Congress," Burgess said in a statement. Several other lawmakers also announced their decisions to leave Congress in recent days:

- Rep. Abigail Spanberger (D-Va.) is retiring from the House to run for governor of Virginia.
- Rep. Dan Kildee (D-Mich.) will retire from Congress at the end of his term. Kildee is a member of the House Ways and Means Committee.
- Rep. George Santos (R-N.Y.) will not seek reelection. The decision follows a recommendation from the House Ethics Committee chairman that Santos be expelled from the House. The panel released the results from an investigation into the lawmaker last week which found substantial evidence that Santos violated federal criminal laws.

A running list of members of Congress who are retiring or seeking other office can be found [here](#).

Combined Senate/House 2024 Calendar

The Senate has released a tentative calendar for 2024. The chamber's schedule includes a two-week Presidents' Day recess, a two-week recess in late March and early April, another week in late April, two weeks around the Fourth of July, and a five-week August recess, along with an October recess ahead of the 2024 elections. The lame duck session will include two-weeks spent on Capitol Hill in November and another three in December. The combined House and Senate legislative calendar for next year can be found [here](#).

Senior FDA Regulator Woodcock to Retire

Janet Woodcock, Principal Deputy Commissioner at the FDA, has announced her plans to retire early next year after nearly four decades at the agency. During her time at the FDA, Woodcock has overseen the approval of numerous critical medical treatments, and played a central role in the government's pandemic response through her work on COVID-19 therapeutics. Woodcock has also been a strong proponent of reforming the clinical trial system. FDA Commissioner Robert Califf called her "a legend in every sense of the word," highlighting her "indelible mark" on public health. Woodcock has also been the subject of some controversy in recent years, centering on her role in the opioid epidemic as well her support for the approval of the Alzheimer's drug Aduhelm and a Duchenne muscular dystrophy drug despite opposition from other agency officials.

President Appoints New NCI Director

The White House has appointed W. Kimryn Rathmell, MD, PhD to serve as the next director of the National Cancer Institute. Rathmell succeeds Monica Bertagnolli, who was recently confirmed by the Senate to lead the NIH. Dr. Rathmell is an oncologist and kidney cancer expert who heads the Vanderbilt University Medical Center. She has held key leadership positions at the American Society of Clinical Oncology, the Kidney Cancer Research Foundation, and the American Society for Clinical Investigation.

White House Initiative on Women's Health Research

The White House [announced](#) the establishment of an initiative focused on women's health research last week. The initiative will be led by First Lady Jill Biden, alongside the White House Gender Policy Council, and chaired by Carolyn Mazure, Yale School of Medicine professor of women's health research, psychiatry, and psychology. It will direct multiple federal agencies to issue recommendations to advance women's health research within 45 days. The initiative will also engage with the private and philanthropic sectors to identify areas for additional investment.

Speaker Johnson Hires New Health Staffer

Drew Keyes has been hired as Senior Policy Advisor for the office of House Speaker Mike Johnson (R-La.). Keyes most recently worked as a senior policy analyst at Paragon Health Institute. Keyes previously served as a professional policy staffer for the Republican Study Committee (RSC), where he was the staff lead for the RSC's Health Care Task Force. Keyes got his start on Capitol Hill in the offices of Reps. Louie Gohmert (R-Texas) and Tom McClintock (R-Calif.).

S.3290 — A bill to amend title 38, United States Code, to modify the authority of the Secretary of Veterans Affairs to furnish improvements and structural alterations as part of home health services for disabled veterans; Sponsor: Cortez Masto, Catherine [Sen.-D-NV]; Committees: Senate - Veterans' Affairs

H.Res.867 — Expressing support for the designation of November 9, 2023, as “National Microtia and Atresia Awareness Day”; Sponsor: Neguse, Joe [Rep.-D-CO-2]; Committees: House - Energy and Commerce

H.R.6364 — To amend title XVIII of the Social Security Act to maintain certain telehealth flexibilities relating to provider privacy under the Medicare program; Sponsor: Balderson, Troy [Rep.-R-OH-12]; Committees: House - Energy and Commerce; Ways and Means

H.R.6366 — To amend title XVIII of the Social Security Act with respect to the work geographic index for physician payments under the Medicare program, and to revise the phase-in of clinical laboratory test payment changes under such program; Sponsor: Hudson, Richard [Rep.-R-NC-9]; Committees: House - Energy and Commerce; Ways and Means

H.R.6369 — To amend title XVIII of the Social Security Act to extend incentive payments for participation in eligible alternative payment models; Sponsor: Schrier, Kim [Rep.-D-WA-8]; Committees: House - Energy and Commerce; Ways and Means

H.R.6371 — To provide for certain adjustments to the physician fee schedule under the Medicare program; Sponsor: Murphy, Gregory [Rep.-R-NC-3]; Committees: House - Energy and Commerce; Ways and Means

H.R.6373 — To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to offer annual preventative health evaluations to veterans with a spinal cord injury or disorder and increase access to assistive technologies, and for other purposes; Sponsor: Bergman, Jack [Rep.-R-MI-1]; Committees: House - Veterans' Affairs

H.R.6374 — To provide for the issuance of a Veterans Health Care Stamp; Sponsor: Burgess, Michael C. [Rep.-R-TX-26]; Committees: House - Oversight and Accountability; Veterans' Affairs

H.R.6388 — To authorize the Secretary of Health and Human Services, acting through the Administration for Community Living, to carry out a grant program for States to provide telephone reassurance services to certain older adults and to other adults with disabilities, and for other purposes; Sponsor: Molinaro, Marcus J. [Rep.-R-NY-19]; Committees: House - Energy and Commerce

S.3297 — A bill to amend title XVIII of the Social Security Act to expand the availability of medical nutrition therapy services under the Medicare program; Sponsor: Collins, Susan M. [Sen.-R-ME]; Committees: Senate - Finance

H.Res.870 — Supporting the goals and ideals of National Rural Health Day; Sponsor: Harshbarger, Diana [Rep.-R-TN-1]; Committees: House - Energy and Commerce

H.R.6395 — To amend the Energy Act of 2020 to require the Secretary of the Interior to include the Secretary of Health and Human Services in consultations regarding designations of critical minerals, elements, substances, and materials; Sponsor: Curtis, John R. [Rep.-R-UT-3]; Committees: House - Natural Resources

H.R.6400 — To amend title XVIII of the Social Security Act to extend eligibility for certain payment increases for biosimilar biological products under the Medicare program; Sponsor: Cárdenas, Tony [Rep.-D-CA-29]; Committees: House - Energy and Commerce; Ways and Means

H.R.6403 — To amend the General Education Provisions Act to require the disclosure of student medical and counseling records to parents; Sponsor: Gaetz, Matt [Rep.-R-FL-1]; Committees: House - Education and the Workforce

H.R.6407 — To amend title XVIII of the Social Security Act to expand the availability of medical nutrition therapy services under the Medicare program; Sponsor: Kelly, Robin L. [Rep.-D-IL-2]; Committees: House - Energy and Commerce; Ways and Means

H.R.6412 — To amend title XXVII of the Public Health Service Act to provide certain informational resources related to Down syndrome; Sponsor: Molinaro, Marcus J. [Rep.-R-NY-19]; Committees: House - Energy and Commerce

H.R.6415 — To increase access to mental health, substance use, and counseling services for first responders, and for other purposes; Sponsor: Tokuda, Jill N. [Rep.-D-HI-2]; Committees: House - Energy and Commerce; Transportation and Infrastructure

S.3304 — A bill to ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes; Sponsor: Casey, Robert P., Jr. [Sen.-D-PA]; Committees: Senate - Health, Education, Labor, and Pensions

S.3307 — A bill to amend title XVIII of the Social Security Act to require the inclusion of certain information in encounter data under Medicare Advantage; Sponsor: Cortez Masto, Catherine [Sen.-D-NV]; Committees: Senate – Finance

S.3311 — A bill to direct the Secretary of Health and Human Services to conduct a demonstration program to test providing preferential treatment under the Medicare, Medicaid, and CHIP programs for certain drugs and biologicals manufactured in the United States; Sponsor: Smith, Tina [Sen.-D-MN]; Committees: Senate – Finance

S.3312 — A bill to provide a framework for artificial intelligence innovation and accountability, and for other purposes; Sponsor: Thune, John [Sen.-R-SD]; Committees: Senate - Commerce, Science, and Transportation

S.3326 — A bill to improve access to opioid use disorder treatment services under the Medicare program; Sponsor: Collins, Susan M. [Sen.-R-ME]; Committees: Senate – Finance

S.3327 — A bill to require the Secretary of Health and Human Services to publish a list of hospitals found to be in noncompliance with the hospital price transparency rule; Sponsor: Braun, Mike [Sen.-R-IN]; Committees: Senate - Health, Education, Labor, and Pensions

S.3330 — A bill to require the Secretary of Labor to conduct a study on the fiduciary duties of pharmacy benefit managers; Sponsor: Braun, Mike [Sen.-R-IN]; Committees: Senate - Health, Education, Labor, and Pensions

S.3337 — A bill to establish national data privacy standards in the United States, and for other purposes; Sponsor: Cortez Masto, Catherine [Sen.-D-NV]; Committees: Senate - Commerce, Science, and Transportation

S.Res.470 — A resolution designating November 16th, 2023, as “National Rural Health Day”; Sponsor: Barrasso, John [Sen.-R-WY]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

H.R.6424 — To provide additional authorities for the leadership of the United States Agency for International Development in health technology innovation for global health in low-resource settings, and for other purposes; Sponsor: Fitzpatrick, Brian K. [Rep.-R-PA-1]; Committees: House - Foreign Affairs

H.R.6428 — To help individuals receiving disability insurance benefits under title II of the Social Security Act obtain rehabilitative services and return to the workforce, and for other purposes; Sponsor: Hill, J. French [Rep.-R-AR-2]; Committees: House - Ways and Means

H.R.6430 — To amend title XVIII of the Social Security Act to extend Medicare-dependent hospital and Medicare low-volume hospital payments, and to direct the Comptroller General of the United States to carry out a report on Medicare rural hospital classifications; Sponsor: Miller, Carol D. [Rep.-R-WV-1]; Committees: House - Ways and Means

H.R.6433 — To preserve access to emergency medical services; Sponsor: Perez, Marie Gluesenkamp [Rep.-D-WA-3]; Committees: House - Energy and Commerce; Education and the Workforce