



## Health Policy Briefing

December 19, 2022

### Federal Funding Extended through Dec. 23

Congress passed a continuing resolution (CR) to avoid a government shutdown and provide more time to negotiate a comprehensive spending plan last week. The stopgap measure funds the federal government at current levels through December 23. Appropriations leadership have reached a bipartisan, bicameral deal on a framework for a year-end omnibus spending package. While official details have yet to be released, it has been reported that the bill will include domestic funding levels similar to those requested by the White House and a \$76 billion increase in defense funding. According to Senate Appropriations Committee Ranking Member Richard Shelby (R-Ala.), an “agreement in principle” has been reached on a top-line allocation for health care. The Senate is expected to begin debate on the approximately \$1.7 trillion fiscal year 2023 spending bill as early as Monday evening. The House of Representatives could vote on the bill as soon as Thursday.

Negotiations continue related to what other measures could be attached to the must-pass spending package before the 117th congress adjourns for the year. Two letters were sent to congressional leadership from different groups of lawmakers last week regarding the looming Medicare physician reimbursement cuts. The [first](#), spearheaded by Reps. Susan Wild (D-Pa.) and Mariannette Miller-Meeks (R-Iowa) and signed by 115 bipartisan legislators, requests that the cuts – a 4% PAYGO cut and a 4.47% cut to the Medicare conversion factor - be stopped entirely as they are in addition to the 2% Medicare sequestration cut, which resumed on July 1. Regarding spending offsets, the Wild-Miller-Meeks letter explicitly states opposition “to paying for preventing these cuts with additional provider cuts.” Another [letter](#) from the House GOP Doctors Caucus requests support for policies to address impending Medicare payment cuts in legislation moving before the end of the year. Legislation (S. 5194) from Sen. John Kennedy (R-La.) to avert the impending Medicare physician reimbursement cuts failed to pass the Senate by unanimous consent last week. Finance Committee Chair Ron Wyden (D-Ore.) objected to passing the bill which bypassed the

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committee process, stating that his panel is already working on a plan to stop the cuts and that standalone passage of a reimbursement fix would jeopardize the larger package of health care policies set to be included in year-end legislation.

### Legislation to Help Address Maternal Mortality Advances

The Senate passed the *Data Mapping to Save Moms' Lives Act* (S. 198) last week. The bill requires the Federal Communications Commission to create maps showing where poor maternal health outcomes and gaps in broadband service coincide. It will now be sent to President Joe Biden's desk for his signature.

### Defense Authorization Sent to President's Desk

The Senate passed the National Defense Authorization Act (NDAA) last week. The legislation includes \$45 billion more than requested by the White House and repeals the military's COVID-19 vaccine mandate. The latest national defense authorization is a \$76 billion increase over fiscal year (FY) 2022's \$781.8 billion in spending and provides the Pentagon with 30 days to undo its COVID-19 vaccine mandate. The NDAA will now be sent to President Joe Biden's desk to be signed into law.

### 2023 Senate Calendar Available

Majority Leader Chuck Schumer (D-N.Y.) released the Senate's calendar for 2023 last week. The chamber will convene for 34 work weeks next year, with a scheduled five-week summer recess. The Senate is scheduled to convene for the first day of the 118th Congress on January 3 to swear in the seven new senators elect and will return to session on January 23. The combined calendar for the House of Representatives and Senate can be found [here](#).

### House Intelligence Panel Releases COVID-19 Reports

Democrats on the House Permanent Select Committee on Intelligence released a new [report](#) last week examining the early response to the COVID-19 pandemic. The lawmakers conclude that the intelligence community relied too much on public data related to the virus rather than gathering clandestine information. The report criticizes intelligence agencies for their lack of focus on tracking biological threats and continued failure to prioritize biological threats since the start of the COVID-19 pandemic. Republicans on the panel released their own [report](#), which considers the role of the intelligence community in determining the origins of COVID-19 and questions why the potential link between the virus and China's work on biological weapons has not been addressed. The report is an unclassified summary of information which Republicans plan to fully declassify during the next congress.

### Matsui to Co-Chair Rare Disease Caucus

Rep. Doris Matsui (D-Calif.) will serve as co-chair of the Rare Disease Congressional Caucus for the 118th congress. She will replace the retiring Rep. G.K. Butterfield (D-N.C.) and join current co-chairs Rep. Gus Bilirakis (R-Fla.) and Sens. Amy Klobuchar (D-Minn.) and Roger Wicker (R-Miss.). Matsui is a champion of the *BENEFIT Act* (H.R. 4472) and the *Access to Rare Indications Act* (H.R. 6160). Her *TRANSPLANT Act* was successfully signed into law last year.

## Mike Braun (R-IN) to Exit Senate in 2024

Sen. Mike Braun (R-Ind.) announced that he will not seek reelection to the Senate in 2024 and will instead run for governor of Indiana. Rep. Jim Banks (R-Ind.) has already stated that he is “strongly considering running” for Braun’s seat in the Senate. Braun currently serves as a member of the Appropriations Committee and the Health, Education, Labor, and Pensions Committee.

## Virginia to Hold Special Election Feb. 21

The state of Virginia will hold a special election on February 21 to fill the vacancy left by the death of Rep. Donald McEachin (D) last month. State Rep. Lamont Bagby (D) and state Sen. Jennifer McClellan (D) have already filed statements of candidacy with the Federal Election Commission. The Democratic primary will be held this Tuesday, December 20. The Democratic nominee is favored to win the 4th congressional district seat.

## GAO Explores Persistent PEPFAR Staffing Challenges

The Government Accountability Office (GAO) published a new [report](#) last week on the President’s Emergency Plan for AIDS Relief (PEPFAR) which found that while coordination between the State Department and officials implementing the program globally has improved, longstanding staffing shortages remain a problem. GAO reports that 70% of the Office of the U.S. Global AIDS Coordinator and Health Diplomacy headquarters positions are open, and approximately 90% of overseas positions are filled on an “acting” basis. PEPFAR has spent more than \$100 billion combating HIV/AIDS across the world since its creation in 2003.

## SAMHSA Proposes to Make Permanent COVID-Era Addiction Treatment Flexibilities

The Biden administration released a new proposed [regulation](#) last week to make permanent the substance use disorder (SUD) treatment flexibilities instituted in response to the COVID-19 pandemic. The rule would maintain patients’ expanded access to SUD treatment medications by allowing doctors to continue to initiate treatment with buprenorphine via telehealth and allowing certain patients to maintain weeks’ worth of doses of methadone in their homes. The proposal would also eliminate the requirement that doctors who prescribe buprenorphine submit a report to the Substance Abuse and Mental Health Services Administration each year and do away with the requirement that patients must be addicted to opioids for a full year before beginning treatment at a methadone clinic. Public comments on the proposed regulatory changes are due February 14, 2023.

## HHS Proposes to Strengthen MA Consumer Protections

The Biden administration has proposed new consumer protections that would safeguard seniors from deceptive marketing practices by Medicare Advantage (MA) plans. The Centers for Medicare and Medicaid Services (CMS) proposes to prohibit ads that do not mention a specific plan name as well as ads that use words and imagery that may be misleading, confusing, or misrepresentative of the plan. CMS also proposes to codify guidance protecting people with Medicare or exploring Medicare coverage from misleading marketing and ensure they are not pressured into enrolling into plans that may not best meet their needs. Further, the agency proposes to strengthen the role of plans in monitoring agent and broker activity. Senate Special Aging Committee Chair Bob Casey (D-Pa.) and Senate Finance Committee Chair Ron Wyden (D-Ore.) praised the proposed regulations. The lawmakers led a [letter](#) last month urging the White House to enact such consumer protections, and Sen. Wyden has released a [report](#) detailing the tactics used by insurance companies, brokers, and third-party marketing companies to enroll seniors in health care plans.

S.5238 — A bill to require the Administrator of the Centers for Medicare & Medicaid Services to provide guidance regarding coverage of prescription digital therapeutics under Medicaid and the State Children’s Health Insurance Program; Sponsor: Capito, Shelley Moore [Sen.-R-WV]; Committees: Senate – Finance

H.R.9487 — To implement certain recommendations to promote the inclusion of pregnant and lactating women in clinical research, and for other purposes; Sponsor: Castor, Kathy [Rep.-D-FL-14]; Committees: House - Energy and Commerce

H.R.9499 — To amend the Protecting Access to Medicare Act of 2014 to clarify the meaning of psychiatric rehabilitation services under demonstration programs to improve community mental health services, and for other purposes; Sponsor: Torres, Ritchie [Rep.-D-NY-15]; Committees: House - Energy and Commerce

S.J.Res.66 — A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Veterans Affairs relating to “Reproductive Health Services”; Sponsor: Tuberville, Tommy [Sen.-R-AL]; Committees: Senate - Veterans’ Affairs

S.5244 — A bill making continuing appropriations for fiscal year 2023, extending various health programs, and for other purposes; Sponsor: Lee, Mike [Sen.-R-UT]; Introduced in the Senate. Read the first time. Placed on Senate Legislative Calendar under Read the First Time

H.J.Res.102 — Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Veterans Affairs relating to “Reproductive Health Services”; Sponsor: Cloud, Michael [Rep.-R-TX-27]; Committees: House - Veterans’ Affairs

H.R.9505 — To provide for health coverage with no cost-sharing for additional breast screenings for certain individuals at greater risk for breast cancer; Sponsor: DeLauro, Rosa L. [Rep.-D-CT-3]; Committees: House - Energy and Commerce; Ways and Means; Armed Services; Veterans’ Affairs

H.R.9510 — To amend the Federal Trade Commission Act to make hospital organizations and cooperative hospital service organizations subject to the law relating to unfair methods of competition; Sponsor: Jayapal, Pramila [Rep.-D-WA-7]; Committees: House – Judiciary

H.R.9521 — To prohibit any head of a Federal agency from providing assistance to the Wuhan Institute of Virology and other laboratories in certain other foreign nations; Sponsor: Stewart, Chris [Rep.-R-UT-2]; Committees: House - Foreign Affairs

S.5249 — A bill to amend title XVIII of the Social Security Act to encourage participation in advanced payment models; Sponsor: Barrasso, John [Sen.-R-WY]; Committees: Senate – Finance

S.5251 — A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, to promote mental wellness and resilience and heal mental health, behavioral health, and psychological problems through age and culturally appropriate community programs, and award grants for the purpose of establishing, operating, or expanding community-based mental wellness and resilience programs, and for other purposes; Sponsor: Markey, Edward J. [Sen.-D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.5254 — A bill to provide for the publication by the Secretary of Health and Human Services of physical activity recommendations for Americans; Sponsor: Brown, Sherrod [Sen.-D-OH]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.9525 — Making continuing appropriations for fiscal year 2023, extending various health programs, and for other purposes; Sponsor: Roy, Chip [Rep.-R-TX-21]; Committees: House - Appropriations; Budget

H.R.9532 — To direct the Secretary of Defense to establish a comprehensive initiative for brain health, and for other purposes; Sponsor: Bacon, Don [Rep.-R-NE-2]; Committees: House - Armed Services

H.R.9546 — To identify and address barriers to coverage of remote physiologic devices under State Medicaid programs to improve maternal and child health outcomes for pregnant and postpartum women; Sponsor: Frankel, Lois [Rep.-D-FL-21]; Committees: House - Energy and Commerce

H.R.9559 — To amend title XVIII of the Social Security Act to extend the pass-through period for certain devices; Sponsor: Schneider, Bradley Scott [Rep.-D-IL-10]; Committees: House - Energy and Commerce; Ways and Means

H.R.9565 — To address the health of cancer survivors and unmet needs that survivors face through the entire continuum of care from diagnosis through active treatment and posttreatment, in order to improve survivorship, treatment, transition to recovery and beyond, quality of life and palliative care, and long-term health outcomes, including by developing a minimum standard of care for cancer survivorship, irrespective of the type of cancer, a survivor's background, or forthcoming survivorship needs, and for other purposes; Sponsor: Wasserman Schultz, Debbie [Rep.-D-FL-23]; Committees: House - Energy and Commerce; Ways and Means; Education and Labor

S.5266 — A bill to reauthorize the program for infant and early childhood mental health promotion, intervention, and treatment; Sponsor: Kaine, Tim [Sen.-D-VA]; Committees: Senate - Health, Education, Labor, and Pensions

S.5268 — A bill to direct the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, to take certain steps to increase clinical trial diversity, and for other purposes; Sponsor: Menendez, Robert [Sen.-D-NJ]; Committees: Senate - Health, Education, Labor, and Pensions

S.5272 — A bill to amend title XVIII of the Social Security Act to expand access to psychological and behavioral services; Sponsor: Brown, Sherrod [Sen.-D-OH]; Committees: Senate - Finance

S.5276 — A bill to prohibit the limitation of access to assisted reproductive technology, and all medically necessary care surrounding such technology; Sponsor: Duckworth, Tammy [Sen.-D-IL]; Committees: Senate - Health, Education, Labor, and Pensions

S.5284 — A bill to improve the public health response to addressing maternal mortality and morbidity during the COVID-19 public health emergency; Sponsor: Warren, Elizabeth [Sen.-D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.5285 — A bill to extend the residential treatment program for pregnant and postpartum women pilot program, and for other purposes; Sponsor: Lujan, Ben Ray [Sen.-D-NM]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.9571 — To amend title II of the Public Health Services to provide clarity with respect to coverage of claims against health care practitioners providing health professional volunteer services at community health centers during declared emergencies; Sponsor: Barr, Andy [Rep.-R-KY-6]; Committees: House - Energy and Commerce

H.R.9572 — To direct the Secretary of Health and Human Services to enter into an arrangement with the National Academies of Sciences, Engineering, and Medicine to conduct a comprehensive study on the health care impacts of the use of kinetic impact projectiles in the United States, and for other purposes; Sponsor: Beatty, Joyce [Rep.-D-OH-3]; Committees: House - Energy and Commerce

H.R.9577 — To amend title XVIII of the Social Security Act to expand access to psychological and behavioral services; Sponsor: Chu, Judy [Rep.-D-CA-27]; Committees: House - Energy and Commerce; Ways and Means

H.R.9584 — To improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; Sponsor: Hudson, Richard [Rep.-R-NC-8]; Committees: House - Judiciary; Energy and Commerce

H.R.9594 — To amend title XVIII of the Social Security Act to provide benefits under the Medicare program for first responders at the age of 57; Sponsor: Panetta, Jimmy [Rep.-D-CA-20]; Committees: House - Ways and Means; Energy and Commerce

H.R.9595 — To extend the temporary order for fentanyl-related substances; Sponsor: Pappas, Chris [Rep.-D-NH-1]; Committees: House - Energy and Commerce; Judiciary

H.R.9597 — To create a coordinated domestic wildlife disease surveillance framework for State, Tribal, and local governments to monitor and respond to wildlife disease outbreaks to prevent pandemics, and for other purposes; Sponsor: Porter, Katie [Rep.-D-CA-45]; Committees: House - Natural Resources; Agriculture; Energy and Commerce

H.R.9602 — To improve the public health response to addressing maternal mortality and morbidity during the COVID-19 public health emergency; Sponsor: Underwood, Lauren [Rep.-D-IL-14]; Committees: House - Energy and Commerce; Education and Labor; Natural Resources