



## Health Policy Briefing

December 23, 2022

### Omnibus Package Passes and the 117th Congress Adjourns

Congress passed a \$1.7 trillion year-end spending bill to wrap up legislative business for the 117th congress. The package, which funds the federal government through September 2023, passed the Senate on Thursday in a 68-29 vote. The House passed the spending bill on Friday largely along party lines by a vote of 225-201-1. House Republicans were not a part of the omnibus negotiations, arguing that government funding decisions should be pushed until January when the GOP retakes the majority. Republican Leader Kevin McCarthy (R-Calif.) met with Senate Republicans last week to request that they work more closely together next year to avoid the need to pass an omnibus package in the days leading up to Christmas. Congress also passed a continuing resolution funding the federal government through December 30 to provide time to enroll the omnibus package for President Joe Biden’s signature sometime next week.

The over 4,000 page, 12-bill omnibus appropriations [package](#) includes \$772.5 billion in nondefense funds (\$42.5 billion increase). The bill contains \$15.3 billion in bipartisan earmarks, covering 7,000 congressionally directed spending projects, and leaves in place the Hyde Amendment’s restrictions on federal funding for abortions. Funding in key health areas includes:

- **Labor-HHS-Education:** Total of \$209.9 billion (\$14.8 billion increase); \$47.5 billion for the National Institutes of Health (NIH); \$1.5 billion for the Advanced Research Projects Agency for Health (ARPA-H); \$9.2 billion for the Centers for Disease Control and Prevention (CDC); \$3.3 billion for the Assistant Secretary for Preparedness and Response, including \$950 million for the Biomedical Advanced Research and Development Authority, and \$965 million for the Strategic National Stockpile
- **Agriculture-Food and Drug Administration (FDA):** \$25.48 billion (\$355 million increase); \$3.5 billion in FDA discretionary funding for a total budget of \$6.6 billion including user fees
- **Military Construction-Veterans Affairs (VA):** \$135.2 billion in discretionary funds and \$168.6 billion in mandatory funds (\$34 billion combined increase); \$119 billion for veterans’ medical care (\$21.7 billion increase)

Health-related policy riders contained in the omnibus package include:

- Partial reduction of impending Medicare physician pay cuts – from nearly 4.47% to 2% in 2023 and 3.5% in 2024
- Waiving the 4% (\$36 billion) “pay-as-you-go” (PAYGO) sequester cut in Medicare spending resulting from the

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passage of the *American Rescue Plan Act*

- Extension of expiring Advanced Alternative Payment Model (AAPM) bonus payment at 3.5%
- Two-year extensions of COVID-era telehealth flexibilities, a rule allowing high-deductible health plans to offer telehealth appointments to subscribers who have not yet reached their deductible, and Acute Hospital Care at Home waivers
- Two-year extension of the Medicare-dependent hospital program and low-volume payment adjustment
- Pandemic preparedness provisions (based on measures from S. 3799, the *PREVENT Pandemics Act*) including provisions aimed at increasing federal coordination in response to disease outbreaks, and to require Senate confirmation of the CDC director
- Revisions to the FDA's accelerated approval pathway, providing the FDA with authority to require and set parameters for post-approval clinical trials to confirm a product's effectiveness, creating an expedited process to rescind approvals as well as a process for drug sponsors to appeal such decisions, a requirement for the FDA to provide an explanation when it does not require post-approval studies, and the establishment of an FDA coordinating council to ensure consistent use of the pathway across the agency
- Measures to increase clinical trial diversity (based on H.R. 6594, the *DEPICT Act*) through required diversity action plans, FDA workshops, and FDA reports on progress achieved on improving clinical trial diversity
- Increase of FDA's authority (based on the *Modernization of Cosmetics Regulation Act*) to strengthen oversight of cosmetics and their ingredients, requiring cosmetics manufacturers to register their facilities within one year
- Mental health and substance use disorder (SUD) provisions to make it easier for providers to prescribe and patients to access SUD treatment, including portions of S. 445, the *Mainstreaming Addiction Treatment Act*) as well as S. 586, the *NOPAIN Act*, to increase access to non-opioid therapies for outpatient surgical procedures
- Permanent extension of 12 months of postpartum Medicaid coverage to pregnant individuals
- Permission for states to resume Medicaid re-determinations on April 1, 2023, instead of July 1, 2023; the eligibility checks had been suspended in response to the COVID-19 pandemic
- Five years of financing for Puerto Rico's Medicaid program and permanent enhanced Medicaid funding for all other territories
- Five-year extension of the Children's Health Insurance Program
- Ban on federal development of a national patient identification system
- Authorization of ARPA-H within the NIH

## House Reauthorizes Childhood Cancer Research Bill, Passes Reproductive Health Resolution

The House of Representatives passed the *Childhood Cancer STAR Reauthorization Act* (S. 4120) by voice vote last week. The legislation would reauthorize \$30 million annually from fiscal year (FY) 2024 through 2028 for cancer research and tracking programs at the National Institutes of Health and the Centers for Disease Control and Prevention. The programs were first established in 2018 by the *Childhood Cancer STAR Act*. The initial authorization expires at the end of FY 2023. The bill, which cleared the Senate by unanimous consent on December 20, will now be sent to President Joe Biden to be signed into law. The House also adopted a non-binding resolution (H.Res. 1493) last week to reaffirm "the well-established authority of the Food and Drug Administration to approve, license, grant authorization for, or clear reproductive health products." The resolution underscores that this authority preempts state and local efforts to limit access to reproductive health products. The measure was introduced by Rep. Mondaire Jones (D-N.Y.).

## Spanberger Urges DEA, FDA to Act on Adderall Shortage

Rep. Abigail Spanberger (D-Va.) has sent a [letter](#) to the Drug Enforcement Administration (DEA) and Food and Drug Administration (FDA) asking the agencies to address the ongoing shortage of Adderall and other ADHD treatments. The letter describes the increased demand for the medication following the waiving of in-person requirements for prescribers in response to the COVID-19 pandemic, resulting in persistent shortages. "Patients who rely on Adderall to function daily deserve a comprehensive federal response to ensure access to their medications," Spanberger writes.

## Jeffries Taps DelBene as DCCC Chair

Incoming House Minority Leader Hakeem Jeffries (D-N.Y.) announced that Rep. Suzan DelBene (D-Wash.) will serve as chair of the Democratic Congressional Campaign Committee (DCCC) for 2024. His decision was ratified by the full Democratic caucus on Thursday. Reps. Ami Bera (D-Calif.) and Tony Cardenas (D-Calif.) had also sought the position. The previous chair of the DCCC, Rep. Sean Patrick Maloney (D-N.Y.), lost his seat in New York's 17th congressional district last month. The House Democratic caucus adopted an amendment last month that allows leadership to appoint the chair of the DCCC instead of the position being elected by the full caucus.

## House Dems Approve Roster of Ranking Members

Democrats in the House of Representatives approved their full roster of committee ranking members last week:

- Administration: Joe Morelle (N.Y.)
- Agriculture: David Scott (Ga.)
- Appropriations: Rosa DeLauro (Conn.)
- Armed Services: Adam Smith (Wash.)
- Budget: Brendan Boyle (Pa.)
- Education & Labor: Bobby Scott (Va.)
- Energy & Commerce: Frank Pallone (N.J.)
- Ethics: Susan Wild (Pa.)
- Financial Services: Maxine Waters (Calif.)
- Foreign Affairs: Gregory Meeks (N.Y.)
- Homeland Security: Bennie Thompson (Miss.)
- Judiciary: Jerrold Nadler (N.Y.)
- Natural Resources: Raúl Grijalva (Ariz.)
- Oversight & Reform: Jamie Raskin (Md.)
- Rules: Jim McGovern (Mass.)
- Science, Space & Technology: Zoe Lofgren (Calif.)
- Small Business: Nydia Velázquez (N.Y.)
- Transportation & Infrastructure: Rick Larsen (Wash.)
- Veterans' Affairs: Mark Takano (Calif.)
- Ways & Means: Richard Neal (Mass.)

H.R.9638 – 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: Schakowsky, Janice D. [Rep.-D-IL-9]; Committees: House - Ways and Means; Energy and Commerce

H.R.9630 — To amend the Immigration and Nationality Act to expand availability of H-1B non-immigrant visas, and for other purposes. Sponsor: Krishnamoorthi, Raja [Rep.-D-IL-8]; Committees: House - Education and Labor; Judiciary

H.R.9624 — To end the epidemic of gun violence and build safer communities by strengthening Federal firearms laws and supporting gun violence research, intervention, and prevention initiatives. Sponsor: Johnson, Henry C. “Hank,” Jr. [Rep.-D-GA-4]; Committees: House - Judiciary; Ways and Means; Energy and Commerce

S.5327 — A bill to establish the National Task Force on the Response of the United States to the COVID-19 Pandemic. Sponsor: Feinstein, Dianne [Sen.-D-CA]; Committees: Senate - Health, Education, Labor, and Pensions

S.5325 — A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to develop best practices for the establishment and use of behavioral intervention teams at schools, and for other purposes. Sponsor: Cornyn, John [Sen.-R-TX]; Committees: Senate - Health, Education, Labor, and Pensions

S.5322 — A bill to authorize the collection of supplemental payments to increase congressional investments in medical research, and for other purposes. Sponsor: Warren, Elizabeth [Sen.-D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.5314 — A bill to improve the operation of the Organ Procurement and Transplantation Network. Sponsor: Young, Todd [Sen.-R-IN]; Committees: Senate - Health, Education, Labor, and Pensions

S.5312 — A bill to direct the Administrator of the Federal Aviation Administration to enter into appropriate arrangements with the Health and Medicine Division of the National Academies of Sciences, Engineering, and Medicine to provide for a report on the health impacts of air traffic noise and pollution, and for other purposes. Sponsor: Warren, Elizabeth [Sen.-D-MA]; Committees: Senate - Commerce, Science, and Transportation

S.5303 — A bill to amend the Employee Retirement Income Security Act of 1974 to allow health marketplace pools to be deemed an employer under section 3(5) of such Act for purposes of offering a group health plan or group health insurance coverage, and for other purposes. Sponsor: Paul, Rand [Sen.-R-KY]; Committees: Senate - Health, Education, Labor, and Pensions

S.5302 — A bill to amend the Internal Revenue Code of 1986 to increase the limitations on contributions to health savings accounts, and for other purposes. Sponsor: Paul, Rand [Sen.-R-KY]; Committees: Senate - Finance

S.Res.875 — A resolution declaring racism a public health crisis. Sponsor: Brown, Sherrod [Sen.-D-OH]; Committees: Senate - Health, Education, Labor, and Pensions

S.5336 — A bill to reauthorize the Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act; Sponsor: Bennet, Michael F. [Sen.-D-CO]; Committees: Senate - Health, Education, Labor, and Pensions

S.5348 — A bill to amend title 38, United States Code, to expand access to the Veterans Community Care Program of the Department of Veterans Affairs to include certain veterans seeking mental health or substance-use services and toxic-exposed veterans, and for other purposes; Sponsor: Daines, Steve [Sen.-R-MT]; Committees: Senate - Veterans' Affairs

S.5350 — A bill to enact a transit ban if the order issued under sections 362 and 365 of the Public Health Service Act (42 U.S.C. 265 and 268) is terminated; Sponsor: Lankford, James [Sen.-R-OK]; Committees: Senate – Judiciary

S.5354 — A bill to assess, prevent, prepare for, respond to, recover, and mitigate biological threats by establishing the One Health Security Council; Sponsor: Gillibrand, Kirsten E. [Sen.-D-NY]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.9644 — To require the Secretary of Health and Human Services to award a contract to an eligible nonprofit entity to establish and maintain a health care claims database for purposes of lowering Americans' health care costs, and for other purposes; Sponsor: Beyer, Donald S., Jr. [Rep.-D-VA-8]; Committees: House - Energy and Commerce; Ways and Means; Oversight and Reform; Education and Labor; Armed Services

H.R.9655 — To amend the Social Security Act to establish a Medicare for America health program to provide for comprehensive health coverage for all Americans; Sponsor: DeLauro, Rosa L. [Rep.-D-CT-3]; Committees: House - Ways and Means; Energy and Commerce; Judiciary; Natural Resources; Education and Labor; House Administration

H.R.9657 — To prohibit the use or declaration of a public health emergency with respect to abortion, and for other purposes; Sponsor: Hern, Kevin [Rep.-R-OK-1]; Committees: House - Energy and Commerce

H.R.9658 — To amend title XVIII of the Social Security Act to establish a new criterion for the nonapplication of site-neutral payments to long-term care hospitals under the Medicare program; Sponsor: Hern, Kevin [Rep.-R-OK-1]; Committees: House - Ways and Means

H.R.9661 — To direct the Secretary of Veterans Affairs to conduct certain outreach to legacy participants in the program of comprehensive assistance for family caregivers of the Department of Veterans Affairs, and for other purposes; Sponsor: Kim, Andy [Rep.-D-NJ-3]; Committees: House - Veterans' Affairs

H.R.9689 — To direct the Secretary of Health and Human Services, acting through the Deputy Assistant Secretary for Women's Health, to create educational materials with respect to covered disorders for elementary and secondary school students, and for other purposes. Sponsor: Williams, Nikema [Rep.-D-GA-5]; Committees: House - Education and Labor; Energy and Commerce

H.R.9687 — To authorize the collection of supplemental payments to increase congressional investments in medical research, and for other purposes. Sponsor: Welch, Peter [Rep.-D-VT-At Large]; Committees: House - Energy and Commerce

H.R.9679 — To increase the number of manufacturers registered under the Controlled Substances Act to manufacture cannabis for legitimate research purposes, to authorize health care providers of the Department of Veterans Affairs to provide recommendations to veterans regarding participation in federally approved cannabis clinical trials, and for other purposes. Sponsor: Gaetz, Matt [Rep.-R-FL-1]; Committees: House - Energy and Commerce; Judiciary; Veterans' Affairs

H.R.9676 — To expand and improve the programs and activities of the Department of Health and Human Services for awareness, education, research, surveillance, diagnosis, and treatment concerning rare diseases and conditions. Sponsor: Carson, Andre [Rep.-D-IN-7]; Committees: House - Energy and Commerce