

McDermottPlus Check-Up

McDermott+Consulting is pleased to introduce the McDermottPlus Check-Up, your regular update on health care policy from Washington, DC.



This Week's Diagnosis: With midterms less than one month away, it is relatively quiet around Washington, DC. The Senate completed its work on Thursday and now joins the House in recess until after the midterm elections.

CONGRESS

- + **SENATE FAILS TO OVERTURN SHORT TERM PLANS RULE.** The Senate voted on a Democratic-led resolution to reverse new regulations that would allow the sale of short-term, limited duration plans for up to a year (as opposed to the previous three-month limit). The vote ended in a 50-50 tie, with Senator Susan Collins (R-ME) being the only Republican to vote in favor of the measure. The Trump Administration issued a veto threat on the measure. We expect the issue of Affordable Care Act-coverage alternatives, including short-term limited duration plans and association health plans, to continue to be a hot topic after the midterm elections given the prominence of the issue in many congressional campaigns.
- + **FOCUS ON MATERNAL MORTALITY.** For the past several years, more [reports](#) and [studies](#) have been published drawing attention to shockingly high maternal mortality rate in the United States. These reports and the attendant media attention, have drawn the attention of legislators. The House Energy and Commerce Committee held a [hearing](#) at the end of September on existing data collection requirements and areas for improvement and efficiencies. This week, a bipartisan group of Senators wrote a [letter](#) to Department of Health and Human Services Secretary Alex Azar asking for a strategy to reduce maternal mortality rates in the US, including for enrollees in Medicaid and the Children's Health Insurance Program. The letter contains specific questions and seeks feedback from the Secretary by November 1. The Committee hearing and letter show that there is bipartisan focus on this issue and policymakers are willing to put pressure on the Administration.
- + **SENATOR GRASSLEY SENDS LETTER TO FTC ON HOSPITAL CONTRACTING PRACTICES.** The Chairman of the Senate Judiciary Committee, Chuck Grassley (R-IA), sent a [letter](#) to the Federal Trade Commission (FTC) seeking an assessment of potentially anticompetitive contracting practices between insurers and hospital systems in the US deliberately designed to prevent consumers' access to quality, lower cost care. Grassley cites a recent *Wall Street Journal* report alleging that "[d]ominant hospital systems use an array of secret contract terms to protect their turf and block efforts to curb health-care costs. ... Other terms allow hospitals to mask prices from consumers, limit audits of claims, add extra fees and block efforts to exclude health-care providers based on quality or cost." Depending on the response from them FTC, this may result in hearings or legislative action.

Administration

- + **CMS ANNOUNCES BPCI ADVANCED PARTICIPANTS AND RELEASES MODEL EVALUATION FOR BPCI.** The Centers for Medicare and Medicaid Services (CMS) announced 1,547 new provider and supplier [participants](#) in the Bundled Payments for Care Improvement (BPCI) Advanced model. BPCI Advanced includes 29 inpatient clinical episodes and three outpatient clinical episodes. This cohort began participation in the model on October 1, 2018 and the model runs through 2023. CMS will provide a second application opportunity in January 2020. The BPCI Advanced model builds on lessons learned from the original BPCI model, which ended this year. CMS simultaneously released a [model evaluation](#) for BPCI showing that net Medicare spending increased due to reconciliation payments made to program participants exceeding the drop in fee-for-service payments. BPCI Advanced is the Administration's first advanced alternative payment model, allowing certain participants to qualify for the Quality Payment Program's five percent incentive payment.
- + **GAG CLAUSE BILLS SIGNED.** The President signed a pair of bills ([S. 2553](#) and [S. 2554](#)) that prohibit insurers from limiting the information shared by pharmacy providers to enrollees (also known as removing the "gag clause"). Pharmacy providers are now able to inform enrollees if there are cheaper options.

Next Week's Dose

- + With both chambers now out, staff will get some breathing room to catch up and do some lame duck planning. Also, we are still waiting for the President to sign the opioid legislation.

For more information, contact [Mara McDermott](#) or [Rachel Stauffer](#).

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