



U.S. SENATE COMMITTEE ON FINANCE

Hearing to Consider the Nominations of Andrea Joan Palm to be Deputy Secretary of Health and Human Services and Chiquita Brooks-LaSure to be Administrator of the Centers for Medicare and Medicaid Services

Thursday, April 15 at 9:30 AM, 215 Dirksen Senate Office Building

PURPOSE

The purpose of this hearing is to consider the nominations of Andrea Joan Palm to be the Deputy Secretary of Health and Human Services (HHS) and Chiquita Brooks-LaSure to be the Administrator of the Centers for Medicare and Medicaid Services (CMS). Andrea Joan Palm and Chiquita Brooks-LaSure put forth intended health care commitments and priorities on behalf of the Administration.

KEY TAKEAWAYS

- Telehealth proliferation, particularly during the COVID-19 pandemic, required multi stakeholder coordination. Members and witnesses expressed support for the continuation of telehealth advances as well as concerns over cybersecurity threats.
- COVID-19 highlighted health care access issues, particularly regarding rural health care and racial health disparities.
- The witnesses stated plans for greater integration of behavioral health and mental health into HHS and CMS policy strategy.
- The increasing cost of prescription drugs remain a main concern among policymakers and constituents alike.
- Both witnesses and members stated a desire to collaborate with various stakeholders in a bipartisan manner.

MEMBERS PRESENT

Chairman Ron Wyden, Ranking Member Mike Crapo, Senators Tammy Baldwin, Robert Menendez, Debbie Stabenow, Maria Cantwell, Bill Cassidy, Michael F. Bennet, Thomas R. Carper, Chuck Grassley, Benjamin L. Cardin, Sherrod Brown, Bob Casey, John Thune, Sheldon Whitehouse, Maggie Hassan, Steve Daines, John Cornyn, Mark R. Warner, Catherine Cortez Masto, and Elizabeth Warren.

WITNESSES

Andrea Palm

Of Wisconsin, To Be Deputy Secretary
United States Department of Health and
Human Services

Chiquita Brooks-LaSure

Of Virginia, To Be Administrator
Centers for Medicare and Medicaid
Services

OPENING STATEMENTS

Chairman Wyden (D-OR) stated that Congress has come together to consider two important health nominations. Chiquita Brooks-LaSure has been nominated for the position of Administrator of the Centers for Medicare and Medicaid Services (CMS). She served on the Committee of Ways and Means and the Office of Budget and Management. She has helped to develop key portions of the Affordable Care Act (ACA) and implement the law. Chairman Wyden stated that she is well-versed in Medicare and Medicaid policy. Andrea Palm has been nominated for the position of Deputy Secretary of Health and Human Services of Health and Human Services (HHS). She has served as Secretary of the Wisconsin Department of Health Services, a \$12 billion agency. She has led efforts to improve insurance coverage. Sen. Wyden stated that in the modern health care shift from acute care to chronic care, the nation must now address chronic and costly health conditions as well as integrating education and treatment for mental and behavioral health. Oregon has taken this issue on through the Medicaid Crisis Assistance Helping Out On The Streets (CAHOOTS) program, which additional states have expressed interest in. In addition, Chairman Wyden stated health inequality and rising drug prices are top priorities.

Ranking Member Crapo (R-ID) stated the importance of these leadership roles within the HHS. He said that these roles must carefully evaluate how the organizations are to use the policy tools at their disposal to address key health care issues: fostering innovation to improve care and efficiency and ensuring access to innovative and appropriate reforms within Medicare and Medicaid. COVID has reinforced the need to evaluate the system of health care delivery and assess what lessons could be learned. Ranking Member Crapo expressed a need to work in a bipartisan manner, noting that reconciliation does not afford for bipartisan agreement. He stated that expanding Obamacare premiums to everyone would be expensive for all. He presented priorities as being allowing states to use waivers, supporting innovation in benefit design, and supporting collaboration and innovation for drugs. Operation Warp Speed demonstrated the possibilities of the type of innovation possible with cross collaboration. He stated anticipation to working with witnesses and members to address these issues. He reemphasized the importance of considering market incentives and bipartisan action, though unilateral decision may seem politically expedient.

Sen. Baldwin (D-WI) introduced witness Andrea Palm. Sen. Baldwin highlighted Ms. Palm's accomplishments in rolling out testing, contact tracing, and vaccination programs in the state of Wisconsin, during her time as Secretary of the Wisconsin Department of Health and Human Services. Sen. Baldwin affirmed that her background collaborating with multiple stakeholders in advancing health care for rural, urban, and suburban residents demonstrate the tremendous benefit of Ms. Palm's confirmation.

Sen. Menendez (D-NJ) introduced witness Chiquita Brooks-LaSure. Sen. Menendez highlighted Ms. Brooks-LaSure's deep expertise in Medicare and Medicaid policy,

working on the development of the ACA as well as her experience in the OMB and Ways and Means Committee. Additionally, Ms. Brooks-LaSure has experience in the private sector advising clients in understanding regulatory and policy issues. Sen. Menendez stated that along with being a highly qualified nominee for the role, Ms. Brooks-LaSure will set the historic precedent as being the first African-American woman to serve as Administrator of CMS, if confirmed.

TESTIMONY

Ms. Andrea Palm thanked the Committee for the opportunity to testify as President Biden’s nomination for the role of Deputy Secretary of HHS. Ms. Palm spoke of her experience growing up in Star Lake, NY – a small community of 100 residents – where she learned the importance of working together to get things done. She stated her background beginning her career as a social worker and case worker for children and families shaped her objectives to change the system through public service and policy. Thus, her career has been spent in health policy. During her time in Senate, she worked on the Health Information Technology for Economic and Clinical Health (HITECH) Act, the Affordable Care Act as well as taking part in negotiations surrounding the 21st Century Cures Act. She highlighted the bipartisan nature of her work and her dedication to topics such as telehealth services and delivery improvement. Ms. Palm stated that during her time serving Wisconsin, she led strong statewide COVID testing and contact tracing initiatives, intentionally reaching rural communities. She stated Wisconsin is among the top states in COVID vaccination roll out. She emphasized her dedication to mitigating COVID effects by supporting President Biden’s ambitious goals in further implementing the provisions of the American Rescue Plan (ARP), assisting with the ramp up of vaccination rates, and providing additional support for the people hit hardest by the pandemic. She stated additional goals to strengthen Medicare and Medicaid programs, integrating initiatives for mental health and substance use treatment into the system, and repositioning the nation as the global leader in research and innovation.

Ms. Chiquita Brooks-LaSure thanked the Committee for the opportunity to testify as President Biden’s nomination for the role of Administrator of CMS. Ms. Brooks-LaSure stated the impact of beginning her work in the Office of Management and Budget (OMB), then CMS focusing on Medicaid and the CHIP budget on her path in health policy. Notably, after the events of 9/11, she took on the role of focusing on improving coverage for dislocated workers impacted by the attacks. This bipartisan effort to ensure needed health care for Americans shaped Ms. Brooks-LaSure’s health policy stated “philosophy” as she was able to work with the Ways and Means Committee as well as HHS and CMS to expand coverage to 20 million Americans. She said her commitment is to ensure support for patients, families, and providers, including those who face the negative effects of health inequity. She stated priorities to maintain Medicare solvency for current and future beneficiaries, improve quality by lowering health care costs and expanding access, and improve access to innovative therapies and procedures. She noted that innovations

are only as valuable as their accessibility to patients. She stated her dedication to communities of color.

QUESTIONS AND ANSWERS

Chairman Wyden (D-OR) said a significant topic to focus on is the importance of Section 1332 State Innovation waivers to ensure innovation on the state level. These waivers, given that they operate within the essential consumer protection guardrails, are embedded in the Affordable Care Act (ACA). He states that some states have interest in developing a public option and aggregating Medicare and Medicaid dollars to move toward single payer approach at the state level, while other states based on conservative ideas have interest in advancing conservative approaches within the consumer protection guardrails. Chairman Wyden asked the witness given the years working closely with states, how the witness would consider authority regarding both progressive and conservative approaches at the state level. Ms. Brooks-LaSure stated agreement that state level innovations are important, and many rely on these waivers. The role of the federal government is in granting waivers, yet the government must know what the rules are and ensure that standards are met. If confirmed, Ms. Brooks-LaSure states that CMS would have an open door for states interested in pursuing new ideas, and CMS would do so with consistency and fairness. Chairman Wyden asked whether a priority would be to issue guidance in a timely manner to account for state variance in philosophy. Ms. Brooks-LaSure affirms this, and acknowledges the importance of doing so as states run on timelines, and budgets rely on this.

Ranking Member Crapo (R-ID) stated that he is a huge advocate of Medicare Advantage. We have seen the proliferation of telehealth and remote patient monitoring, and we have found strategies that work regarding these. Ranking Member Crapo asked Chiquita Brooks LaSure about her plans on assisting the continuation of these strategies after the pandemic. She stated that she agrees that this has been an opportunity for telehealth and remote patient monitoring advances. She looks forward to working with the Committee on how to continue the value of these services. She expressed desire to work to look at what CMS's authority is and how to bring those lessons past this pandemic and build upon these improvements.

Sen. Stabenow (D-MI) stated the importance of addressing mental health issues and addiction. 41% of American adults are struggling with anxiety and depression up from 11% pre pandemic. These issues will continue to linger after the pandemic. Sen. Stabenow asked witnesses to talk about their experience in dealing with and addressing behavioral health issues. Ms. Palm stated that bipartisan work is necessary to make improvements in behavioral health, and the focus should be on putting patients at the center of health care policy. Ms. Brooks-LaSure stated that increasing the number of providers is an important issue, and telehealth programs are a potential way of addressing this issue, specifically within areas that are hard to reach. She stated that another goal is to help CMS coordinate better with HHS at large. Mental health parity is another issue of

intended focus. Sen. Stabenow expressed interest in working with witnesses on the topic of securing funding for children through CHIP and Medicaid funding.

Sen. Cantwell (D-MI) stated the COVID pandemic has allowed for the proliferation of telehealth, and broadband access is a key priority. Sen. Cantwell asked about witnesses' thoughts on the issue of reimbursement levels for telehealth services and whether they should be set at the same 100% rate. Ms. Brooks-LaSure stated this is an important issue and a topic that she would continue to investigate. Sen. Cantwell stated that this is an area with large projected savings. Ms. Palm stated that she would work on this issue as well to potentially allow reimbursement at the same level, ensuring access to these services.

Sen. Cassidy (R-LA) said his main concern is centered around the issue of dual eligibles. He stated that though the U.S. spends a lot of money on the dual eligible population, there are "miserable" outcomes. The ACA attempted to address duals, but this did not work. There are lessons to be learned in this lack of alignment, and Sen. Cassidy posed this as a question to both witnesses. Ms. Brooks-LaSure stated an interest to look at the evaluation in states like Minnesota with success, but there is a larger need to coordinate in long term care and hospitalizations. This may need legislation and an evaluation of the continuum of long term care populations. Sen. Cassidy asked about the issue of dual eligible churn. Ms. Palm stated that the priority is to make available the best choices for seniors and ensure that these are transparent and optimal.

Sen. Menendez (D-NJ) stated that in March of last year COVID overtook the state of NJ, yet the shut downs helped save lives. But there were no systems in place for those who rely on HCBS to continue to access care in such a situation. Scarcity of protective equipment meant lack of access for the necessary gear for providers. Fortunately, ARP enhanced FMAP for these services. Sen. Menendez asked if each witness will work with states to swiftly roll out information on how states can spend increased FMAP for HCBS. Both Chiquita Brooks-LaSure and Andrea Palm responded yes. Sen. Menendez asked witnesses how to improve the issue of representation within clinical trials and large scale decreases in screenings and routine consultations related to COVID. Ms. Brooks-LaSure agreed strongly that this is an important issue along with addressing the COVID-related decrease in screenings and routine treatments. Ms. Palm expressed intention to work with all channels and partners available, including HHS, HRSA, SAMSHA to reach the people and ensure necessary care.

Sen. Bennet (D-CO) said despite ACA passage, coverage and affordability still remains an issue, particularly among children. Sen. Bennet asked witnesses whether they are committed to expanding access to quality care for children. Both witnesses agreed. Sen. Bennet asked witnesses on their commitment to support the implementation of ACE Kids Act as well as the No Surprises Act. Both witnesses stated commitment on these issues.

Sen. Carper (D-DE) stated that community health centers serve as a significant source of health care delivery, especially with the COVID vaccinations. This opens the possibility

for further leverage in other areas of health care to address health disparities, and he posed this question of how to do so. Ms. Palm shared that partnership in her experience has been critical. Behavioral health and the ability to work with and support providers in that space is critical. She stated that dental care is a critical access issue, specifically within rural areas, and there are opportunities to leverage community health centers and partners in that area. Sen. Carper stated that a messaging campaign is necessary highlighting the importance of a vaccination program. He asked whether this is a program that witnesses support. Ms. Brooks-LaSure agreed that this awareness is important to ensure that patients understand that vaccines are free and safe. Sen. Carper stated that drug prices are an access problem and restated that innovation is only as valuable as it is accessible. He asked what the witnesses' roles would be with respects to lowering prescription drug costs. Ms. Brooks-LaSure stated that she would support the innovation, while making sure it is available for all.

Sen. Grassley (R-IA) said that a priority is to lower prescription drug prices. His introduced legislation proposes an out of pocket cap for costs to seniors. Sen. Grassley stated that the prospect of gaining the required bipartisan votes to pass this bill is favorable. He asked whether there is interest in the Administration to work on lowering prescription drug costs and working to enact bipartisan legislation. Ms. Brooks-LaSure stated that a majority of conversations on the health policy priorities among members include the interest in drug pricing. Sen. Grassley inquired about the commitment to renewing rural health care, and the witnesses both affirmed their commitment. Sen. Grassley said that another issue of priority is the threat posed by China and the government's disregard of intellectual property (IP). Ms. Palm stated that regarding IP, she intends to reassert leadership in technology and innovation to push health care forward and looks forward to working with the senator.

Sen. Cardin (D-MD) asked witnesses whether they were committed to using every resource available to address the health disparities and make fundamental changes in the health care system. Ms. Palm stated intention to integrate this in all the work the Department does. Sen. Cardin stated the importance of a field dental officer, and Ms. Brooks-LaSure affirmed a commitment to focus on Medicaid and CHIP dental services.

Sen. Brown (D-OH) thanked witnesses and members for raising the issue of dental health and reemphasizes the importance of the topic for his constituents. He stated that institutional racism has had a significant effect in the access and delivery of health care, and he is committed to creating and strengthening Medicare and Medicaid initiatives as tools to improve population health outcomes. Sen. Brown stated that one topic that he has looked at recently is the growing gulf in traditional Medicare and Medicare Advantage. In recent years, Congress and HHS have expanded the scope of benefits available to those in Medicare Advantage plans but not to those in traditional Medicare plans. He stated that this exhibits 20 years of essentially privatization efforts. Sen. Brown asked whether witnesses will work with the senator to ensure all Medicare beneficiaries have access to the same benefits and out of pocket protections. Both Ms. Brooks-LaSure and Ms. Palm answered yes. Additionally with regards to health care for children, the

Children's Hospitals Graduate Medical Education bolsters the education for pediatric medical training. Sen. Brown asked whether witnesses would work to prioritize (CHGME). Both Ms. Brooks-LaSure and Ms. Palm answered yes.

Sen. Casey (D-PA) stated that President Biden's American Jobs Plan calls for a bold investment in a great idea which is Medicaid home and community based services. President Biden has acknowledged what many believe to be true that care giving is a part of American infrastructure. Families need services and support to care for older family members, those with disabilities, and children. The proposal builds on the \$12.7 billion allotted in the American Rescue Plan. It will improve the lives of seniors and those with disabilities and increase wages for workers as well as increase jobs. America needs improvements in the home and community based services. Sen. Casey asks for a commitment from witnesses to work with Congress to secure the apt funding for HCBS aligned with the President's priorities. Chiquita Brooks-LaSure said yes. Andrea Palm agreed and states that it has been a priority to address the whole continuum of long term care and focus on modernizing and preparing for the needs of the future. She stated that she looks forward to working with the senator on this.

Sen. Thune (R-SD) stated that 340B is an enormously important program to hospitals in South Dakota and within the larger region that includes Iowa, Nebraska, and others. That program has been dysfunctional for some time now. Sen. Thune states that he has heard concerns from covered entities about actions taken by manufacturers in not reimbursing contract pharmacies and deciding to dispense with that, for which they have questionable authority. PBMs are imposing conditions for payment affecting the ability to provide robust community benefit. This has been a long standing issue. Congress supports the program in law. Entities designed to make it work are trying intentionally to undermine the program. Sen. Thune asked how the Department would respond to ensure covered entities are not harmed in that supply chain. Andrea Palm recalled that 340B was a focus and challenge during her time at HHS. She stated that it's a critical program for safety net providers and low income areas. She looks forward to making sure it works as it should be and looking into oversight and implementation that are important to implementing the intent for low income areas. Sen. Thune agreed that this is important and need to be protected.

Sen. Whitehouse (D-RI) emphasized the importance of delivery system reform as a top priority. He highlighted the issue of support for ACOs. He stated that two of the highest performing ACOs are located in RI, and ACOs are in a constant battle of defense from CMS seemingly "picking pocketing" before ACOs are able to attain the reward for their investment. ACO participation is shrinking, and Sen. Whitehouse stated that new models should actually get support for innovation in these delivery system reforms. He asked whether the witness will commit to working on this issue. Ms. Brooks-LaSure agreed and stated that it is important to make sure that the private sector stakeholders continue to innovate and are rewarded for this. Sen. Whitehouse stated that maintaining ample support for telehealth services is another key priority for his state.

Sen. Hassan (D-NH) emphasized the importance that patients get choice for care at home through HCBS. Sen. Hassan asked witness how as CMS administrator how the witness would work with states to better support HCBS to better ensure access to care. Chiquita Brooks-LaSure stated that a goal is to ensure care in the setting that makes sense for the patient, whether this means approving waivers or working with states to address these issues. She stated that she is looking forward to working on this issue. Sen. Hassan stated the imperative of health information exchanges (HIE) in the continual mitigation of COVID and asked how witnesses intend to leverage HIE tools. Ms. Palm stated this is a critical issue that HHS should lead in. The Department must focus on lessons learned and integrating the data to build solutions.

Sen. Daines (R-MT) highlighted the issue of the open border policy and its implications on public health and humanitarian issues. He stated that COVID has required a limit on number yet the true number has greatly exceeded this limit. Sen Daines asked witnesses whether the issue of open borders, particularly with regards to unaccompanied children would be a priority. Ms. Palm stated the safety and wellness of these children are important issues to address. Sen. Daines said \$23 billion in Provider Relief Fund (PRF) is allocated to support health care heroes and whether witnesses would support a request to deploy more of that allocated funding. Ms. Palm stated support for front line workers is a priority. Sen. Daines asked about plans to maintain compliance regarding the separate billing for abortion under the ACA. Ms. Brooks-LaSure stated she will meet the compliance and follow the law.

Sen. Cornyn (R-TX) said addressing China's infiltration of information systems as a rising cyber intelligence threat is significant. Additionally, the issue on the border of child trafficking poses a major health risk as well for these children. Sen. Cornyn asked whether it would be a priority to look over the issues surrounding refugee resettlement, specifically for children. Ms. Palm stated yes, the mission there would be to place children in safe and screened homes with guardians. Sen. Cornyn stated that the effectiveness of these placement efforts are questionable as 18% of wellness checks and phone calls are unanswered by refugee guardians. He presented reports from San Antonio HHS facility of alleged assault and shortage of staff and food. Ms. Palm stated that these allegations would be looked into and addressed by thorough investigation with a zero tolerance policy.

Sen. Warner (D-VA) highlighted the issue of the Medicare wage index and expressed that fixing the wage index would be a major improvement in supporting rural hospitals. Sen Warner asked whether witnesses are committed to working on this topic. Ms. Brooks-LaSure and Ms. Palm stated commitment. Sen. Warner highlighted the issue of diabetes, stating that 1 in 3 Americans and 631,000 Virginians have diabetes. Education efforts through CMS programs are limited as there is only one educator in the entire state. Telehealth is a method to support these programs across the state and nation. Telehealth has proved to be an efficient delivery model. Sen Warner asked whether witnesses would be willing to work with Congress to evaluate lessons learned on the topic of telehealth and how to work toward permanence of telehealth advances. Both witnesses confirmed

commitment to working on this issue and evaluating where certain flexibilities may be extended past the COVID pandemic.

Sen. Cortez Masto (D-NV) stated mental health and wellness has been hit hard due to the pandemic. There have been increased suicide rates in the state, particularly among the youth. Sen. Masto asked witnesses how they would address this issue. Ms. Palm stated she would leverage expertise across departments. She said this is an issue that requires great coordination. Sen. Masto emphasized the importance of telehealth and telemedicine to improve access to underserved communities.

Sen. Warren (D-MA) said COVID has increased the number of uninsured Americans, as the unemployment numbers have climbed. She asked whether witnesses saw challenges for the population under 65 who are uninsured, yet do not qualify for Medicare. Ms. Brooks-LaSure stated that eligibility is a challenge and that it is necessary to work to make sure that affordable options are available to those just under 65 as well. Sen. Warren stated that studies project that lowering the age of eligibility for Medicare would expand coverage to 23 million people, 2 million of which are uninsured. This is projected to additionally benefit the health system overall as these additional beneficiaries would be healthier in this risk pool. Sen. Warren asked whether this is a benefit to the witnesses. Ms. Brooks-LaSure stated that introducing healthier population into a risk pool is positive and stated that she would work to further Administration goals to expand coverage.

Chairman Wyden stated that in 2017 with the CHRONIC Care Act, the goal was to update the Medicare guarantee. This saw mixed results, performing well in telehealth and Medicare Advantage. Chairman Wyden posed the question to witnesses of what projected next steps are. Ms. Brooks-LaSure commended the work surrounding the CHRONIC Care Act. She is committed to working with the Committee to working on these issues. Chairman Wyden stated that drug pricing is a key issue area, highlighting the case study of insulin. Price gouging is a problem that results in a 12-fold increase of insulin, though the product has remained the same. Chairman Wyden stated proposed a potential loss of subsidies for pharmaceutical companies engaged in price gouging. He implored the Administration to pursue both Medicare Negotiation proposals as well as subsidy cuts in response to price gouging. He stated that among the topic discussed today, many are bipartisan, including issues surrounding telehealth, 1332 waivers, and drug pricing. He stated the hearing is adjourned.