

# McDermottPlus Check-up

*McDermott+Consulting is pleased to introduce the McDermottPlus Check-up, your regular update on healthcare policy from Washington, D.C.*



**This Week's Diagnosis:** It was a busy week in Washington, DC, as lawmakers returned to a packed agenda. Below is a summary of the key health care happenings this week:

## CONGRESS

- + **OPIOIDS: SENATE ACTION.** The Senate is inching closer to a bipartisan comprehensive opioids package that could see floor action as early as next week. While the House passed H.R. 6 and a few standalone opioid-related bills several months ago, progress has been slower in the Senate. The Senate is making modifications to H.R. 6 by adding bills that passed out of the Senate HELP, Judiciary and Finance Committees, and striking the more controversial and expensive provisions from the package. If H.R. 6 comes to the Senate floor, expect no amendments, and for negotiations with the House to continue.
- + **340B UNEXPECTED BIPARTISAN, BICAMERAL LETTER TO HRSA.** Last week, leaders of the four committees with jurisdiction over the 340B program sent a [letter](#) to the Health Resources and Services Administration (HRSA) encouraging the agency to utilize existing authority to issue guidance on several outstanding issues. The letter, a rare display of bipartisan, bicameral agreement on 340B, shows policymakers' continued interest in 340B. It also may be a sign that there is little appetite for legislative action on 340B in the coming months. Specifically, the letter focuses on administrative dispute resolution, civil monetary penalties against manufacturers and calculation of 340B ceiling prices.
- + **KAVANAUGH CONFIRMATION HEARING.** The Senate held several days of hearings on Judge Brett Kavanaugh, President Trump's nominee to fill the vacant seat on the Supreme Court of the United States. At the hearing, Kavanaugh faced tough questions from Democrats about the Mueller investigation, the future of the Affordable Care Act and the future of *Roe v. Wade*. Protesters interrupted the hearing multiple times. Despite the dramatic and contentious nature of the hearings, it is likely that Kavanaugh will be confirmed.
- + **E&C HEALTH SUBCOMMITTEE APPROVES HEALTH BILLS.** The following bills passed out of the Energy and Commerce Health Subcommittee and are expected to be considered by the full Committee in the coming weeks:
  - o [Advancing Care for Exceptional Kids Act](#), which provides enhanced federal matching for certain care coordination services in Medicaid;
  - o A [bill](#) to clarify the authority of state Medicaid Fraud and Abuse Control Units;

- A [bill](#) to extend the Money Follows the Person demonstration in Medicaid for five years;
  - A [discussion draft](#) to prohibit “gag clauses” in Medicare and private health insurance plans;
  - A [discussion draft](#) to codify the CMS-operated Healthcare Fraud Prevention Partnership;
  - A [discussion draft](#) to provide MedPAC with access to certain drug rebate information.
- + **W&M PASSES HEALTH BILLS.** The following bills passed out the Ways and Means Committee and work is expected to continue before bringing to the House floor:
- [H.R. 6662](#), Empowering Seniors’ Enrollment Decision Act of 2018, allowing non-deemed Medicare Cost Plan enrollees to take advantage of the special enrollment period offered to deemed Medicare Cost Plan enrollees;
  - [H.R. 6690](#), Fighting Fraud to Protect Care for Seniors Act of 2018, establishing a three-year pilot program to test the use of new technologies to strengthen Medicare program integrity;
  - [H.R. 6561](#), Comprehensive Care for Seniors Act of 2018, directing the Secretary of HHS to finalize proposed Program of All-Inclusive Care for the Elderly (PACE) regulations;
  - [H.R. 3635](#), Local Coverage Determination Clarification Act of 2017, improving the process through which Medicare Administrative Contractors make local coverage determinations, such as by requiring MACs to publicly post proposed LCDs online.

## Advisory Committees

- + **MEDPAC SEPTEMBER MEETING.** The Medicare Payment Advisory Commission (MedPAC) met this week on a variety of topics, including redesigning Medicare’s hospital quality and value programs, beneficiary enrollment in Medicare, aligning requirements for post-acute care; a mandated report on long-term care hospitals; and a required report on clinician payment. MedPAC is an advisory body that makes recommendations to Congress. The meeting materials, including slide presentations, are available [here](#).
- + **PTAC DISCUSSION OF PAYMENT MODELS.** The Physician Focused Payment Model Technical Advisory Committee (PTAC) [met to deliberate and vote on three models](#): acute unscheduled care model (AUCM), innovative model for primary care office payment, and an APM for improved quality and cost in providing home hemodialysis to geriatric patients residing in skilled nursing facilities. PTAC recommended the AUCM model to the U.S. Department of Health and Human Services (HHS) for implementation. PTAC was created by the Medicare Access and CHIP Reauthorization Act to review and recommend additional alternative payment models for HHS to test. HHS is not required to test the models PTAC recommends, and so far the agency has declined to adopt any of the PTAC recommended models. HHS Secretary Alex Azar and CMS Administrator

Seema Verma provided remarks at the meeting, praising the valuable input PTAC provides as the agency develops new models.

## Next Week's Dose

- + The Senate and House appropriators continue to plow through negotiations on the budget. Expect some committee and floor action in the coming weeks. Shutdown watch has begun, since the money stops flowing on September 30 and legislative days are very limited.

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