

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: Shutdown enters historic territory. Prescription drug costs emerge as a priority issue for the 116th Congress. Committee assignments are almost complete.

CONGRESS

- + **SHUTDOWN STALEMATE.** Over the past two weeks, the Democratic-controlled House has voted to fund the federal agencies affected by the shutdown. There have been short- and long-term continuing resolutions, omnibus packages and individual appropriations bills for each of the agencies. While the House is passing these bills, the President is holding steady in his demand for \$5.6 billion for construction of a border wall. Senate Majority Leader Mitch McConnell (R-KY) will not allow a vote on any measure that the President has said he will not support. As we are now in the longest shutdown in American history (today is day 28), there does not seem to be a path forward.
- + **COMMITTEE ASSIGNMENTS.** When a new Congress begins, as just happened, Committee assignments are typically made in the first few weeks. The 116th has been interesting to watch because the shift in power in the House resulted in a large number of new Democratic members. We have put together [this tracking](#) document to highlight new Committee members, as well as the confirmed Subcommittee Chairs and Ranking Members from the Senate and House health committees. We will update the tracking document as the final announcements are made.
- + **OVERSIGHT OF PRESCRIPTION DRUGS BEGINS.** Chairman of the Oversight and Government Reform Committee, Elijah Cummings (D-MD) sent letters to [12 drug companies](#) seeking information and documents related to drug pricing practices. Chairman Cummings also announced he will hold a series of related hearings, the first being on January 29, where the focus is expected to be on the impact of rising drug costs on patients. The witness list has yet to be released. This is going to be a long investigation by all indications.
 - o Representative Diane DeGette (D-CO), who was named Chair of the Energy and Commerce Oversight Subcommittee, also announced her intention to hold hearings and investigate the rising cost of insulin. This will be in coordination with the work emerging from the Oversight and Government Reform Committee, and comes on heels of a report the bipartisan House Diabetes Caucus (which she co-chairs) issued last year on the topic.

- + **MEDICAID EXTENDERS PASS SENATE.** The Senate passed a small package of short-term Medicaid program extensions ([H.R. 259](#)), including three months for the Money Follows the Person demonstration, which supports older adults and those with chronic illnesses in transitioning back into the community. The bill was passed by the House on January 8, and is now headed to the President for his signature. The President is expected to approve the measure.

ADMINISTRATION

- + **SECRETARY AZAR VISITS THE HILL.** Secretary of the Department of Health and Human Services Alex Azar is making the rounds to new and returning legislators. This week he visited with the new Chairman of the House Oversight and Government Reform Committee, Elijah Cummings (D-MD), to discuss the Administration's priorities, as well as targeted prescription drug policies. He also met with Senate Finance Committee Republican members to discuss prescription drug pricing policies.
- + **INJUNCTION ON ADMINISTRATION'S BIRTH CONTROL RULE.** A federal judge blocked two rules from the Administration that would have expanded the number of employers that could refuse to cover contraception under their health plans for religious reasons. The ruling effectively blocks nationwide implementation of the rule, which was set to go into effect Monday. This is the Administration's second attempt at this rulemaking, as the first rule in 2017 was blocked by multiple courts after organizations sued on the grounds that the Administration did not allow for public comment. It is unclear what the Administration will do next, but an appeal is likely.
- + **ADMINISTRATION RELEASES MARKETPLACE PROPOSED RULE.** The Centers for Medicare and Medicaid Services (CMS) issued a [proposed rule](#) for the ACA marketplaces for 2020. The regulation sets out the benefit and payment guidelines for insurers participating in HealthCare.gov and state-exchanges. The rule came just days after some insurers wrote urging CMS to release information so that they could plan for the 2020 coverage year. Many rules are backlogged at the Office of Management and Budget as a result of the shutdown, making the release of this rule particularly notable.
- + **CMMI RELEASES UPDATED MA VBID MODEL AND PART D MODEL.** The Center for Medicare and Medicaid Innovation released [updates to the Medicare Advantage Value-Based Insurance Design \(MA VBID\) model](#) and a new [Part D Payment Modernization model](#). The MA VBID model builds on an existing initiative that began in 2017, affording participating plans additional flexibility and participation in all 50 states for the 2020 plan year. CMS simultaneously released the [evaluation report](#) for the first year of the VBID model. The New Part D model takes effect for the 2020 plan year. This voluntary, 5-year program will require selected participating Part D plans to take on greater risk for spending in the catastrophic phase of Part D in return for additional flexibility, including rewards and incentives designed to lower the cost of Part D drugs. The model intends to create incentives for Part D plans, patients and providers to choose drugs with lower list prices.

OTHER

- + **MEDPAC RECOMMENDS OVERHAUL OF HOSPITAL VALUE-BASED PROGRAMS.** The Medicare Payment Advisory Committee (MedPAC), which advises Congress on Medicare payment policy, will recommend consolidating and replacing the existing three value-based payment programs. The new program would be called the Hospital Value Incentive Program, or HVIP, and would eliminate the penalties in the current programs and provide bonus payment for high performing facilities. This new program was first outlined in MedPAC's June 2018 report, but this year the commission discussed and voted on more detailed recommendations. The consolidated program would need to be enacted by Congress. Congressional action on quality programs seems unlikely in the immediate term.

NEXT WEEK'S DOSE

The shutdown continues and the House will most likely cancel its scheduled recess. Look for the Senate to make a decision on that today.

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