

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: All about the budget. Medicaid work requirements back in the spotlight. Recess awaits.

CONGRESS

- + **AZAR MAKES THE ROUNDS.** Secretary of the Department of Health and Human Services (HHS) Alex Azar testified in front of three different committees this week on the Administration's Proposed Fiscal Year 2020 budget. The hot topics were prescription drug pricing, opioids, proposed cuts to Medicare and Medicaid, and on-going immigrant family separation at the border. As predicted, Democrats criticized the proposed cuts and continued to hammer Azar on actions on family separation. Read our hearing summaries for [Energy and Commerce](#), [House Appropriations](#) and [Senate Finance Committees](#).
- + **PRESCRIPTION DRUG LEGISLATION CONSIDERED.** The House Energy and Commerce Health Subcommittee held a legislative [hearing](#) examining seven bills related to lowering the cost of prescription drugs. Discussion focused on how to combat patent abuses, including misuse of the Risk Evaluation and Mitigation Strategies system and pay-for-delay settlements. Of note, some Republicans raised concerns about the [CREATES Act of 2019](#), which seeks to end the practice of brand name drug manufacturers withholding samples to prevent generic competition. This legislation has generally enjoyed bipartisan support and was seen as likely for legislative action on prescription drug prices this year. This hearing may have thrown a little cold water on that outlook. Read our hearing [summary here](#).
- + **DEMOCRATS LAUNCH INVESTIGATION ON STLDI.** The House Committee on Energy and Commerce Democrats [launched](#) an investigation into Short-Term, Limited Duration Insurance (STLDI) plans. STLDI plans are exempt from Affordable Care Act rules governing plans sold on the individual market, including rules on pre-existing condition exclusions, lifetime and annual limits, and minimum coverage standards. The Trump Administration has expanded availability and maximum coverage period of these plans. The Committee sent letters to 12 insurance companies and brokers requesting documents and information relating to the marketing, underwriting process, applicant materials and coverage denials for STLDI plans.
- + **HEALTH IT GETS ITS DAY IN HELP.** The Senate Health, Education, Labor and Pensions Committee announced a [hearing](#) for March 26 on two proposed rules related to health information technology (IT). The [Centers for Medicare and Medicaid Services \(CMS\)](#) and the [Office of the National Coordinator for Health IT](#) each issued proposed regulations

last month relating to interoperability, information blocking and transparency. The CMS proposed rule also includes a request for information on interoperability and health IT adoption in post-acute care settings, and the role of patient matching in interoperability and improved patient care. Witnesses have not yet been announced, but Administration officials are expected to be among those asked to testify.

ADMINISTRATION

- + **PRESIDENT RELEASED PROPOSED FY 2020 BUDGET.** The White House released its FY 2020 budget proposal which outlines the Administration's priorities for the upcoming fiscal year. Secretary Azar was on the Hill this week defending the budget, which includes a requested \$87.1 billion in discretionary spending for HHS. This is a 12 percent decrease from the 2019 estimated level. The Administration's annual budget should be viewed as a messaging tool, since many of the legislative policies are unlikely to move forward. With a Democrat-controlled House of Representatives, legislative proposals almost certainly will not become law. An exception to that general rule may occur where there are proposals categorized in the budget as legislative but where the Administration has some authority to move forward with regulatory action on the topic. Proposals categorized as regulatory should be monitored closely, however, and could be implemented in some cases. Check out our [key proposals to watch](#) for more information.
- + **MEDICAID WORK REQUIREMENTS BACK IN COURT.** This week, District Judge James Boasberg heard two separate arguments on Medicaid work requirements. Medicaid work requirements have been approved by the Trump Administration in seven states and implemented in three (Arkansas, Indiana and New Hampshire). The first court argument is on Arkansas's Medicaid work requirement waiver. [Data](#) has shown that, in 2018, over 18,000 beneficiaries were disenrolled from Medicaid for failing to comply with the requirements. The second argument relates to Kentucky's Medicaid work requirement waiver. Kentucky's work requirement waiver was initially blocked by Judge Boasberg. However, the Trump Administration approved a second version of the waiver, which is now being challenged. Kentucky's work requirements are scheduled to take effect on July 1, 2019.
- + **CMS PUBLISHES GUIDANCE ON 1115 WAIVER EVALUATIONS.** On March 14, CMS [published tools and guidance](#) for states on how to monitor and evaluate the 1115 waivers that implement work requirements, require monthly premiums, implement premium assistance programs, waive retroactive eligibility, or implement non-eligibility periods for failing to meet requirements. Additionally, CMS published monitoring and evaluation guidance and tools for states that are implementing substance use disorder 1115 waivers, such as those waiving the Medicaid Institution for Mental Disease exclusion. States are required to monitor and evaluate 1115 demonstration waivers. These new tools are intended to support states in meeting these evaluation requirements.
- + **ADMINISTRATION FILLS OPENINGS ON PRESIDENTIAL ADVISORY COUNCIL ON HIV/AIDS.** The Trump Administration filled nine openings on the Presidential Advisory Council on HIV/AIDS with appointees that include pharmaceutical executives, providers, academics and a patient advocate. The panel is expected to craft policy implementing the

President's efforts to eradicate HIV. The panel has been mostly vacant since December 2017, when some panel members resigned in protest and President Trump removed other members.

- + **CMS UPDATES DRUG SPENDING DASHBOARDS.** CMS [updated](#) its drug spending [dashboards](#) with data for 2017. The dashboards show average spending per dosage unit for prescription drugs in CMS programs and track the change in average spending per dosage unit over time. According to CMS, from 2013 to 2017, drug spending grew at an average annual rate of 10.6 percent in Medicare Part D, 10.0 percent in Part B and 14.8 percent in Medicaid.

NEXT WEEK'S DOSE

- + A welcome week-long recess for lawmakers starts. Looking forward a few weeks, Senate Finance Committee leaders Chuck Grassley (D-IA) and Ron Wyden (D-OR) announced that five pharmacy benefit managers will testify on April 3. Will there be more fireworks than the CEO hearing?

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

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