

Senate Finance Committee

The President's Fiscal Year 2020 Budget

March 14, 2019

10:15 AM 215 Dirksen

Purpose

The purpose of this hearing was to hear from the Department of Health and Human Services (HHS) Secretary Alex Azar regarding President Trump's budget request for the department and its agencies for fiscal year (FY) 2020.

Members Present

Chairman Grassley, Ranking Member Wyden, Senators Cornyn, Stabenow, Cantwell, Carper, Daines, Whitehouse, Brown, Hassan, Thune, Lankford, Casey, Cassidy, Menendez, Cortez Masto, Young, Scott, and Cardin

Witnesses

The Honorable Alex Azar, Secretary, U.S. Department of Health and Human Services

Opening Statements

Chairman Grassley said that it is Congress' duty to decide how to fund government programs, and it should consider the President's recommendations. Funding for HHS is particularly important, as the programs the department oversees touch the lives of millions of Americans. The President's budget aims to tackle a number of pressing challenges including the opioid epidemic, child welfare, and the cost of prescription drugs. The budget serves as a reminder that Congress needs to act to make sure that Medicaid and Medicare are around for future generations. Legislative heavy lifting must be done in a bipartisan manner to ensure lasting solutions.

Ranking Member Wyden said that the Trump administration has an inexhaustible supply of destructive health care ideas that will hurt the American people. For example, the administration's policy on Medicaid work requirements has led to thousands of people losing coverage in Arkansas. The administration also continues to attack the Affordable Care Act (ACA) and protections for preexisting conditions. They have allowed for junk insurance plans to get into the market. Scam artists are now free to sell plans that don't cover the care that people need. The plan to block grant Medicaid is a surefire way to create a nationwide crisis of nursing home closures. On the campaign trail, the President went after the pharmaceutical companies. But now, the budget does nothing to get manufactures to lower their prices. The family separation policy has caused tremendous harm to thousands of children, and the abuse allegations are very troubling. The administration has also taken actions to allow religious discrimination in the foster care system which is worrisome.

Testimony

Sec. Azar said that HHS has delivered record new and generic drug approvals, new affordable health insurance options, and signs that the trend in drug overdose deaths is beginning to decline. The budget proposes \$87.1 billion in FY 2020 discretionary spending

for HHS. It's important to note that HHS had the largest discretionary budget of any non-defense department in 2018, which means that staying within the caps set by Congress has required difficult choices. The President's budget supports a number of important goals for HHS. First, it proposes reforms to help deliver Americans patient-centered, affordable health care, giving states necessary flexibility while maintaining fiscal responsibility and protecting those with preexisting protections. Second, the budget strengthens Medicare by extending the program's solvency for eight years. The proposed changes would discourage hospitals from acquiring smaller practices just to charge Medicare more. The budget also addresses overpayment to post-acute care providers. It also takes on drug companies that are profiting off of seniors by reforming the Part D program to lower out-of-pocket costs and create incentives for lower list prices. There are many areas of common ground on drug prices. This committee has done important work in this area. Thanks to legislation on pharmacy gag clauses, pharmacists can now work with patients to get them the best deal on their medications. Today, HHS will publish new data on price increases from 2016 to 2017 on drugs paid for by Medicare and Medicaid. These data shed light on the kind of abusive behavior the budget and the drug pricing blueprint seek to address. Finally, the budget fully supports HHS strategy to combat the opioid epidemic, and invests in other public health priorities such as fighting infection disease.

Questions and Answers

Chairman Grassley asked what the agency is doing to make sure states know about the Family First Act. **Sec. Azar** said that HHS is conducting regional listening sessions, national webinars, requests for comment, and individual meetings with local welfare leaders. **Chairman Grassley** asked how many states are participating. **Sec. Azar** said he will provide that in writing.

Chairman Grassley asked if HHS will extend the grandmother insurance plans for as long as possible. **Sec. Azar** said that HHS does not want to do anything to add to the disruption caused by the ACA. The grandmother plan policy is currently under review. **Chairman Grassley** asked if HHS will continue to work with Congress on the issue of privacy surround genomic data. **Sec. Azar** said absolutely. It is important to make sure security policies stay current with emerging threats.

Ranking Member Wyden said that 7 million fewer people have insurance today than before the President was elected, and for the first time in a decade, the rate of uninsured children has gone up. He asked how that can support the President's promise that everyone would do better under his leadership. **Sec. Azar** said that the President wants everyone to have affordable health care, and the administration has taken steps to lower costs and increase affordable options. **Ranking Member Wyden** asked why the administration wants to turn back the clock and allow short-term limited duration (STLDI) plans that do not have to cover preexisting conditions. **Sec. Azar** said that STLDI plans were expressly allowed under the ACA. People need to go in with their eyes open, which is why the plans have warnings. But what someone considers "junk" can be a lifeline to someone else.

Sen. Cornyn asked what sort of security standards Congress should insist upon for organizations that conduct government funded research. **Sec. Azar** said that HHS welcomes any partnership with Congress on this issue. NIH has been working on developing security standards, but it should be an ongoing discussion. **Sen. Cornyn** asked what HHS is doing on kidney innovation.

Sec. Azar said that there has been too little innovation in recent years. There should be a focus on increasing home dialysis, and especially on transplantation. Right now, the financial incentives are towards dialysis rather than transplants. **Sen. Cornyn** asked what Congress can do to encourage more competition with biosimilars. **Sec. Azar** said he is very concerned about the evergreening of patents.

Sen. Stabenow asked what HHS is doing with respect to the demonstration and grant programs that are part of the Excellence in Mental Health and Addiction Treatment Act. **Sec. Azar** said that HHS supports efforts to increase access to behavioral health treatment. The budget contains \$150 million for SAMHSA to continue the grant program, and HHS looks forward to working with Congress on this legislation.

Sen. Cantwell asked if the “Netflix” model that Washington State is considering for Hepatitis C drugs represents a productive use of market forces. **Sec. Azar** said he is excited about innovative models like that. **Sen. Cantwell** said Washington looks forward to continuing to work with HHS on developing market-based models to lower costs.

Sen. Carper asked for Sec. Azar’s reaction to eliminating rebates for PBMs, implementing value-based arrangements, and increasing pricing transparency industry wide as methods to lower drug costs. **Sec. Azar** said that he agrees with all of those proposals. **Sen. Carper** asked if there will be any unintended consequences of implementing the rebate rule. **Sec. Azar** said that the rebates to PBMs can be used to subsidize premiums for everybody. But that denies access to the discounts for the sick people who go to the pharmacy for medication. It’s possible that average premiums could increase by three to five dollars a month, but HHS believes that the benefit of the discounts will outweigh the costs. **Sen. Carper** asked if costs to the government will increase as a result of this policy. **Sec. Azar** said that the estimates range from \$100 billion in savings to \$200 billion in cost. It is difficult to predict human behavior. He believes premiums will not go up and the government will save money. **Sen. Carper** asked if Sec. Azar supports the elimination of rebates in the private health insurance market. **Sec. Azar** said yes, because if rebates are eliminated, list prices will come down.

Sen. Daines asked how the Children’s Bureau is working with agencies like SAMHSA to coordinate implementation of the Family First Act. **Sec. Azar** said that the legislation has been a dramatic improvement to the foster care system. **Sen. Daines** asked how HHS is addressing the meth crisis. **Sec. Azar** said that the budget proposes \$4.8 billion to fight the opioid crisis, which is also used broadly to treat substance use disorder. **Sen. Daines** asked how HHS will ensure that all allegations against Indian Health Service (IHS) employees are thoroughly investigated. **Sec. Azar** said that the recent sexual abuse scandal by an IHS pediatrician is unacceptable. OIG is conducting an investigation to make sure it never happens again. **Sen. Daines** said that he will be introducing the Jobs Act, which will make needed reforms to the TANF program including bolstering work requirements to help more families move out of poverty.

Sen. Whitehouse asked why HHS reimbursement cuts have targeted Rhode Island hospitals. **Sec. Azar** said that he appreciates the concern. HHS is seeking comment on revision to the wage index system. **Sen. Whitehouse** asked if HHS will work with him to develop a waiver program for end of life care. **Sec. Azar** said yes.

Sen. Brown asked if Sec. Azar will commit to reducing nicotine in cigarettes to non-addictive levels. **Sec. Azar** said absolutely. **Sen. Brown** asked if HHS will continue efforts to eliminate menthol cigarettes and flavored cigars. **Sec. Azar** said yes. HHS just announced a proposed ban on flavored cigars. **Sen. Brown** asked if HHS will move forward with the effort to reduce flavoring in e-cigarettes. **Sec. Azar** said yes. **Sen. Brown** asked what the term “able-bodied adult” means in the context of the administration’s Medicaid work requirement proposal. **Sec. Azar** said it is a commonsense definition, consistent with the work requirement waivers that have been implemented by states. **Sen. Brown** asked if the definition includes individuals suffering from addiction. **Sec. Azar** said it should not. **Sen. Brown** asked if the definition would include a woman who gave birth less than three months ago. **Sec. Azar** said he can respond to these questions in writing.

Sen. Hassan asked if Congress can count on HHS support as they work to address the issue of surprise billing. **Sec. Azar** said yes. **Sen. Hassan** asked how much addressing the opioid crisis will cost over the next ten years. **Sec. Azar** said that he cannot estimate that cost. **Sen. Hassan** asked if the funding in the budget is adequate to address the problem. **Sec. Azar** said yes. The country is making progress, but it will be a long fight. **Sen. Hassan** said that the budget slashes programs that are critical to combatting this crisis. She asked how Sec. Azar can defend this proposal. **Sec. Azar** said the goal of the reforms to Medicaid is to allow states to customize their programs to serve the populations that need it most.

Sen. Thune asked what steps HHS is taking to improve care at IHS facilities. **Sec. Azar** said HHS has prioritized the IHS budget. It invests \$5.9 billion in funding for IHS that includes a focus on quality improvement, recruiting, and safety.

Sen. Lankford asked what the status is of the proposed DIR rule. **Sec. Azar** said that HHS is working on finalizing the rule. **Sen. Lankford** asked if OIG is conducting a study on this issue. **Sec. Azar** said yes. **Sen. Lankford** asked Sec. Azar to clarify his thinking on the 340B program. **Sec. Azar** said that HHS has asked for increased regulatory authority for HRSA to oversee the 340B program. Right now, HHS cannot regulate the program, and it needs the ability to ensure appropriate oversight and transparency. HHS has also asked for a user fee, so that the entities that benefit from the program actually fund the oversight. Finally, HHS has asked that entities taking advantage of the 340B program live up to their commitment to deliver charity care to individuals by not sharing the savings from the reimbursement reduction with them unless they perform at least 1 percent charity care. **Sen. Lankford** said that 1 percent is an exceptionally low threshold. He asked what percentage of providers out there cannot meet that threshold right now. **Sec. Azar** said that he does not have that data, but he fears there are some. **Sen. Lankford** said it would be concerning if providers that claim to be performing charity care cannot hit a 1 percent threshold. He said that the budget proposes extending free generic and biosimilar coverage for low-income patients in the Part D program. He asked if it would make sense to extend this to Part B as well. **Sec. Azar** said that he has not studied that question, but HHS wants to encourage competition by biosimilars. **Sen. Lankford** asked how HHS will seek to address the misaligned financial incentives in this area. **Sec. Azar** said that right now, physicians are incentivized to prescribe higher price drugs. HHS is looking closely at this issue.

Sen. Casey asked if HHS is involved in negotiations with any states regarding block granting Medicaid or implementing per capita caps. **Sec. Azar** said that HHS has discussions with states who have asked about these options. **Sen. Casey** asked if Sec. Azar will commit to inform Congress when those conversations take place, and to make any documents public. **Sec. Azar** said making that information public would violate HHS' ability to work effectively with states.

Sen. Cassidy asked Sec. Azar to clarify what has happened as the result of Arkansas implementing Medicaid work requirements. **Sec. Azar** said that approximately 18,000 individuals did not comply with the requirement. There is churn like this in state Medicaid programs all the time. And only 1,000 of those 18,000 people appealed their disqualification. Only 1,452 people reapplied for Medicaid when the open enrollment period came around again. That seems like a fairly strong indication that the rest of the people who left the program did so because they got a job that provides insurance. **Sen. Cassidy** asked what CMS is doing to deploy a "blue button" app that will show patients what their cost-sharing responsibility is for a procedure or prescription. **Sec. Azar** said that the app would give patients access to Medicare claims information, and ideally patients will know what they can expect to pay before getting to the pharmacy. **Sen. Cassidy** asked if the service will extend beyond just drugs. **Sec. Azar** said that he would like to move towards that goal.

Sen. Menendez asked if Sec. Azar was aware of children being separated from their families beyond the 2,800 that the administration has disclosed. **Sec. Azar** said that the Office of Refugee Resettlement (ORR) always receives children that have been separated due to legal or safety concerns. HHS is working with the court to meet its requirements. **Sen. Menendez** asked what HHS is doing to ensure that families are reunified. **Sec. Azar** said that nearly every child put in HHS care is placed with a relative. He is not aware of any cases where a parent is not connected with their child. **Sen. Menendez** asked if CDC is conducting gun violence research. **Sec. Azar** said that Congress would need to fund that research.

Sen. Cortez Masto asked what policies in this budget will make up for the more than 10 percent increase in the number of rural Nevadans without health insurance if the ACA is repealed. **Sec. Azar** said that that the budget proposes instituting a state-based grant program that would give states tremendous flexibility in how to care for their populations. **Sen. Cortez Masto** said that Nevada has already evaluated the Graham-Cassidy proposal, and it does not work for their state.

Sen. Young asked what the administration is doing to increase kidney transplantation. **Sec. Azar** said that HHS is working on updating policies to allow more organs to be eligible for transplant. They are also working on strengthening programs for living donors. **Sen. Young** asked if there's anything Congress needs to do. **Sec. Azar** said that Congress should make sure that there aren't any statutory provisions that are getting in the way of supporting living donors. **Sen. Young** asked if HHS has the necessary systems in place to evaluate organ procurement organization (OPO) performance and enforce decertification where appropriate. **Sec. Azar** said that HHS regularly surveys OPOs to ensure compliance with regulations. But if there are places where those processes should be improved, HHS would be happy to work with Congress. **Sen. Young** recommended that HHS change the performance metrics used to evaluate OPOs.

Sen. Scott asked if HHS has the tools and authority needed to leverage new and innovative payment models for drugs that can cure conditions like sickle cell disease. **Sec. Azar** said that there may be a cure for sickle cell in the next five years. But right now, the system is not well designed to develop million dollar curative therapies. He would like to work with Congress to change that. **Sen. Scott** said that the proposed DSH cuts could have a catastrophic impact on states like South Carolina. He hopes that HHS will reevaluate the model it is using to distribute those cuts.

Sen. Cardin said that the cuts to Medicaid and Medicare are outrageous. He asked what HHS' rationale was for the funding cut to NIH. **Sec. Azar** said that the cuts were difficult, and they were the result of the overarching budget environment. The administration is working within the caps set by Congress. HHS had to cut 12 percent across its discretionary budget, and NIH is the largest part of the discretionary budget.

Ranking Member Wyden said that he is concerned about the religious discrimination in the foster care system taking place in South Carolina. He asked if placing a Jewish child in a Christian home, which teaches that childhood that what they believe is wrong, is the best placement for that child. **Sec. Azar** said that HHS does not support any restriction on the placement of children. These children need to find homes, and HHS supports as many providers as possible being engaged. And faith-based providers are the bedrock of some of the most difficult child placements.