

House Committee on Energy and Commerce

The Fiscal Year 2021 HHS Budget and Oversight of the Coronavirus

February 26, 2020

1:00 pm, 2123 Rayburn House Office Building

Purpose

The purpose of the hearing is to examine the funding allocated to HHS in the administration's Fiscal Year 2021 budget, and investigate its impact on public health programs. Additionally, the hearing serves to inform members of Congress about the current state of coronavirus.

Members Present

Subcommittee Chairwoman Eshoo, Subcommittee Ranking Member Burgess, Chairman Pallone, Ranking Member Walden, Representatives Engel, Upton, Matsui, Shimkus, Sarbanes, Guthrie, Lujan, Griffith, Schrader, Bilirakis, Kennedy, Bucshon, Cardenas, Brooks, Welch, Carter, Ruiz, Long, Dingell, Blunt-Rochester, Barragan, Kuster, Kelly, Castor

Witnesses

Panel I

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

Panel II

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

Anthony S. Fauci, M.D., Director, National Institute for Allergy and Infectious Diseases, National Institutes of Health

The Honorable Stephen M. Hahn, M.D., Commissioner of Food and Drugs, U.S. Food and Drug Administration

The Honorable Robert Kadlec, M.D., Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services

Robert R. Redfield, M.D., Director, Centers for Disease Control and Prevention

Opening Statements

Chairwoman Eshoo said that confusion is the enemy of preparedness. The administration's lack of coordination is on full display and has led to uncertainty in the market. It is crucial for the government to speak with clarity and authority. It appears as if the administration does not have an overall plan to address the seriousness of the coronavirus or protect healthcare workers. The United States has the most sophisticated medical infrastructure in the world. The lack of preparedness does not come from a lack of resources but rather a lack of decisive action from the administration. The president's budget takes money away from key public health programs.

Ranking Member Burgess said that this hearing is of utmost importance. The administration has made a strong commitment to strengthening healthcare while reducing the associated costs. This can be seen by observing the administrations action on kidney health, and the SUPPORT Act. Other important programs and policies receiving increased funding through the president's budget include the maternal child health block grant, the health resources and services administrations' Maternal Health in America Initiative and

the 340B drug program. Unfortunately, coronavirus poses a significant threat the lives of Americans. However, the Trump administration has taken important steps in addressing the escalating situation.

Rep. Pallone said that the President's budget proposal directly contradicts the vision for healthcare pitched by the administration. The 2021 budget proposal slashes crucial funds from public health programs and provides states with the opportunity to take away health insurance from eligible beneficiaries. It is unbelievable that the Trump administration would attempt to slash the Medicaid budget. President Trump said that he would never cut funding for Medicare and Medicaid, but that it clearly not true.

Rep. Walden said that it is a privilege to welcome The Honorable Azar to the committee. The administration has shown a dedication to addressing the rise of coronavirus. As cases begin to spread throughout the world, it is crucial to ensure that the United States is ready to deal with any challenges. Furthermore, it is very important that necessary information be made public. The American people deserve to know the truth about the coronavirus and be equipped with appropriate information.

Testimony

Panel I

Hon. Azar said that the President's Fiscal Year (FY) 2021 Budget is built around a vision for HHS and a vision for American healthcare. The budget proposes \$94.5 billion in discretionary budget authority and \$1.3 trillion in mandatory funding. President Trump's Executive Order on Improving Price and Quality Transparency in American Healthcare to Put Patients First directs HHS to make healthcare prices transparent, laying the foundation for a patient-driven and value-based health system. The budget delivers on President Trump's promise to bring down the high cost of drugs and reduce out-of-pocket costs for American consumers by pursuing policies that align with the four pillars of the President's American Patients First Blueprint: increased competition, better negotiation, incentives for lower list prices, and lowering out-of-pocket costs. Additionally, the budget continues to implement the President's Executive Order on Protecting and Improving Medicare for Our Nation's Seniors, building on those aspects of the program that work well, while also introducing market-based approaches to Medicare reimbursement. The Administration seeks to protect and reform Medicare with proposals that strengthen fiscal sustainability and deliver value to patients. Finally, the budget supports rural communities through programs such as the Rural Communities Opioids Response Program and the Telehealth Network Grant Program at HRSA, which supports substance use prevention, treatment, and recovery services, and promotes telehealth technologies for healthcare delivery in rural communities.

Questions and Answers

Panel I

Chairwoman Eshoo asked if HHS requested \$1.25 billion in emergency funding for the Coronavirus from OMB. **Hon. Azar** said the total was \$2.5 billion. **Chairwoman Eshoo** asked what the funding will cover. **Hon. Azar** said the funding is to cover expenses that are

appropriate for FY 2020. **Chairwoman Eshoo** asked if the administration has finalized a proposal to end drug rebates for middle men in Medicare. **Hon. Azar** said no. **Chairwoman Eshoo** asked if the administration has finalized a proposal to implement international reference pricing. **Hon. Azar** said no. **Chairwoman Eshoo** asked if the administration has finalized a proposal to require drug manufacturers to include the list price in commercials. **Hon. Azar** said yes, but drug manufacturers sued. **Chairwoman Eshoo** asked if Hon. Azar supports direct negotiations in H.R. 3. **Hon. Azar** said no. Even the Grassley-Wyden drug bill is having trouble in the Senate. **Chairwoman Eshoo** asked if Hon. Azar supports capping price hikes beyond inflation. **Hon. Azar** said that that is a part of the Grassley-Wyden package in the Senate, the administration supports it.

Ranking Member Burgess asked how HHS is using the pandemic influenza plan as a guide in preparing for the coronavirus outbreak. **Hon. Azar** said the pandemic influenza plan is foundational to how HHS operates today. The plan continually informs actions taken by HHS staff.

Chairman Pallone asked if the department has conducted an analysis to determine the effects on individuals with pre-existing conditions in the event that the ACA is struck down in court. **Hon. Azar** said the ACA would be replaced. **Rep. Pallone** asked if the department has conducted an analysis to determine the effects on premiums in the event that the ACA is struck down in court. **Hon. Azar** said that all contingency plans depend on what the final court decision is. There are many possible outcomes. **Rep. Pallone** asked if the department has a contingency plan in the event that the ACA is struck down in court. **Hon. Azar** said that it depends on the politics at the time and depends on what provisions the court decides to strike down.

Ranking Member Walden asked if the administration opposes H.R. 3. **Hon. Azar** said yes. **Rep. Walden** asked if the administration supports H.R. 19. **Hon. Azar** said yes. **Rep. Walden** asked if the administration supports capping insulin prices. **Hon. Azar** said yes.

Rep. Engel asked if the secretary can commit to delivering on the Presidents promise to negotiate drug prices. **Hon. Azar** said there are many provisions in H.R. 3 that the president supports. However, the legislation needs to be bipartisan to have any chances of reaching the president's desk.

Rep. Upton asked if the request for \$2.5 billion represents a floor. **Hon. Azar** said yes. The request was made for at least \$2.5 billion for FY 2020. **Rep. Upton** asked if any of the dollars are going to be used for regional quarantines. **Hon. Azar** said no. **Rep. Upton** asked if any of the Americans with coronavirus had received the flu vaccine. **Hon. Azar** said he was not sure.

Rep. Matsui asked how HHS plans to obligate funds provided by Congress to help states prepare for eventual participation in the Excellence demonstration. **Hon. Azar** said that SAMHSA is now accepting application for these grants. **Rep. Matsui** asked if HHS has weighed the restrictions on supplemental payments against the adequacy of base payments. **Hon. Azar** said HHS is currently receiving feedback from stakeholders and will work with states to address challenges.

Rep. Shimkus asked if HHS is studying ways to improve DNA identification. **Hon. Azar** said he is not sure, but will follow up after the hearing. **Rep. Shimkus** asked if the administration supports Medicare part D reform. **Hon. Azar** said yes and that the Grassley-Wyden bill achieves this reform.

Rep. Sarbanes asked if when formulating the budget proposal to remove FDAs tobacco oversight authority, staff spoke with or met with lobbyists from the tobacco industry. **Hon. Azar** said he cannot speak for others, but he did not meet with lobbyists.

Rep. Guthrie asked how HHS is implementing parts of the SUPPORT Act and if HHS conducts oversight on how the funds are being used. **Hon. Azar** said there is a SUPPORT Act implementation team. **Rep. Guthrie** asked how HHS is implanting the Bold Infrastructure for Alzheimer's Act. **Hon. Azar** said there will be multiple funding opportunities available in FY 2020. **Rep. Guthrie** asked if HHS has a point person who coordinates corrective action related to cyber security throughout the department. **Hon. Azar** said yes, it is the Chief Information Officer.

Rep. Lujan asked if it is true that states could turn Medicaid into a block grant, beyond the expanded population. **Hon. Azar** said he does not believe that is the case, but will talk with the CMS administrator. **Rep. Lujan** asked if Hon. Azar will take actions to block the block grants if they interfere with vulnerable population. **Hon. Azar** said he does not believe that it interferes with vulnerable populations.

Rep. Griffith asked if the administration has plans to introduce accountability measures for PBMs. **Hon. Azar** said yes. **Rep. Griffith** asked if H.R. 3 is unconstitutional. **Hon. Azar** said he has not spoken with a lawyer about that. **Rep. Griffith** asked what the administration has done to address the over prescribing of opioids. **Hon. Azar** said that via the CDC the administration has put out guidance on appropriate prescribing patterns.

Rep. Schrader asked if the administration will commit to improving the Medicare Advantage program. **Hon. Azar** said yes. **Rep. Schrader** asked if it is concerning that the fiscal impact of MFAR is unknown. **Hon. Azar** said he is not familiar with the impact analysis. HHS is currently taking feedback from stakeholders on the rule.

Rep. Bilirakis asked how community health centers serve as a gateway to care for individuals with mental health and substance use disorder. **Hon. Azar** said they are the front line of defense in communities and help link individuals with care. Most of these centers provide mental health and substance use services. Furthermore, the care is usually culturally appropriate. **Rep. Bilirakis** asked if Hon. Azar would like to talk about insulin prices. **Hon. Azar** said that he misspoke when offering support to capping insulin prices. The administration does not have an official statement on that matter.

Rep. Kennedy asked if it is a success that nearly five million people will be forced off of their health insurance. **Hon. Azar** said individuals who come into the country should not be dependent on public welfare. **Rep. Kennedy** asked if Hon. Azar is aware that for the first time

in a decade the number of uninsured individuals has risen. **Hon. Azar** said the growth of the uninsured is due to the ACA pricing individuals out of the market. **Rep. Kennedy** asked if people have died due to the administration's opposition to Medicaid expansion. **Hon. Azar** said he is not aware of the evidence.

Rep. Bucshon asked what can be done to make sure the 340B program continues to provide patients with access to care, given its significant growth. **Hon. Azar** said that the program has grown from \$7 billion in pharmaceutical sales in 2012 to \$19.3 billion in 2017. The administration believes in the 340B program, but also believes that those savings need to make their way to patients, not just subsidizing hospitals. For instance, hospitals usually acquire their insulin at a very low price, but they don't have to pass those savings on to patients they are serving. That is why there have been proposed changes to Part B. **Rep. Bucshon** asked if more transparency in the 340B program could be part of the solution. **Hon. Azar** said yes. The administration supports transparency and also believes that participating hospitals should dedicate 1% of their work towards delivering charity care. **Rep. Bucshon** asked if HRSA needs more authority to address the program. **Hon. Azar** said yes.

Rep. Cardenas asked how eliminating reporting and data collection surrounding sexual orientation in the adoption process is beneficial. **Hon. Azar** said it would help streamline the adoption process.

Rep. Brooks asked if BARDA should anticipate a cut on funding. **Hon. Azar** said no.

Rep. Welch asked if insulin can be imported safely. **Hon. Azar** said since insulin is an injectable, it is expressly prohibited from being imported. The administration is not opposed to it in concept. **Rep. Welch** said the barrier is the statute, not concern within HHS. **Hon. Azar** said yes.

Rep. Carter asked if it is possible to see if rebates acquired by PBMs are being passed along to the insurance company that owns them. **Hon. Azar** said there is not enough PBM transparency. It is impossible to know where the rebates are going. **Rep. Carter** asked if it would help to have rebates at the point of sale. **Hon. Azar** said yes. **Rep. Carter** asked if HHS is doing everything within their authority to prepare for a coronavirus outbreak. **Hon. Azar** said yes.

Rep. Ruiz asked when determining appropriate housing for children in ORR custody, are grants given to for profit organizations with a history of child abuse. **Hon. Azar** said he cannot comment accurately on that.

Rep. Long asked how the rural health task force has helped to meet the healthcare needs in rural areas. **Hon. Azar** said that the rural health task force helped identify areas of significant need such as telehealth. **Rep. Long** asked how the competitive bidding program for durable medical equipment should be reformed. **Hon. Azar** said it should be moved from a single payment amount to paying suppliers on their own bid amounts. **Rep. Long** asked if CMS has collaborated with stakeholders in developing this rule. **Hon. Azar** said yes.

Rep. Dingell asked if reducing funding for the low income energy program will result in individuals going without heat. **Hon. Azar** said it will result in a change of 0.2%. **Rep. Dingell** asked if reduced funding for the NIH will result in limited funds for public health programs. **Hon. Azar** said no. **Rep. Dingell** asked if the US is facing a shortage of personal protective equipment. **Hon. Azar** said no.

Rep. Blunt-Rochester asked if there has been consideration of the fact that individuals could lose health insurance by enacting a policy that eliminates auto enrollment of zero premium insurance plans. **Hon. Azar** said he will submit an answer for the record.

Rep. Barragan asked what resources will be allocated to quarantines. **Hon. Azar** said the he would like to get the United States out of the federal quarantine business. It is expensive to maintain institutional quarantine. Furthermore, there is no evidence that there is a need to scale up quarantines. **Rep. Barragan** asked if HHS plans to quarantine Americans based solely on travel history. **Hon. Azar** said individuals who at some point in the last 14 days traveled through Wuhan would be placed under mandatory quarantine.

Rep. Kuster asked if Hon. Azar is aware that a 1332 guidance could raise the cost for Americans with preexisting conditions. **Hon. Azar** said no. **Rep. Kuster** asked if HHS can commit to not approve 1332 waivers that will interfere with protections for pre-existing conditions. **Hon. Azar** said yes.

Rep. Kelly asked if it is true that the budget allows states to provide an asset test on pregnant women on Medicaid. **Hon. Azar** said he was not aware but he will submit a written answer after the hearing.

Rep. Castor asked if HHS is conducting oversight on predatory practices taken by short term limited duration plans. **Hon. Azar** said no, that is subject to state insurance regulation.