

Senate Finance Committee

The President's Fiscal Year 2021 Budget

February 13, 2020

9:30AM, 215 Dirksen Senate Office Building

Purpose

The purpose of this hearing is to discuss the President's Fiscal Year 2021 Budget and the changes that it would pose.

Members Present

Chairman Grassley, Ranking Member Wyden, Senators Portman, Stabenow, Carper, Menendez, Cardin, Hassan, Cornyn, Casey, Roberts, Whitehouse, Cassidy, Warner, Brown, Daines, Lankford, and Cortez Masto

Witnesses

The Honorable Azar, Secretary, United States Department of Health and Human Services

Opening Statements

Chairman Grassley said he sent two classified letters to the intelligence community components help bridge the gap between the Office of National Security and the IC counterparts. The right and left hands work together for the taxpayers. 9/11 may not have happened if we had more cooperation between the intelligence people. He concluded that HHS has many important challenges, and some are long standing such as prescription drugs and some with little notice such as coronavirus. Congress can work together in a bipartisan way and they are hoping to achieve this today.

Ranking Member Wyden said that the President's healthcare agenda rips scores of new holes in the safety net that vulnerable Americans are sure to fall through, such as Medicaid. The Administration is trying to do something that they could not get Congress to do – block grant Medicaid. It was a policy that was debated in this same room and it did not go anywhere. He said it is a horrible policy that would hurt a lot of people. Now the President is trying to push the Medicaid block grants on the states and even gave it a name, "The Healthy Adult Opportunity." He said this is the end of the safety net for Americans. Medicaid pays for 2 out of 3 nursing home beds in America. Growing old is a lot of money in America. He takes this issue very personally. This safety net is for the real-life possibilities like medical emergencies. Protecting people is what Medicaid is all about. The President's Budget is code for big Medicaid cuts and the consequences are dangerous and personal. The President has also tried to throw the entire Affordable Care Act out and that would be devastating. He showed a picture of one of his constituents with cystic fibrosis whose family relies on this protection. He touched on the President's efforts on prescription drug pricing. Forcing big pharma to post prices on TV, have rebates to go directly to patients, tied drug prices abroad to drug prices in the United States and all of these things have failed. He hopes that we can find a way to make this work for the American people.

Testimony

The Honorable Azar said drug overdose rates have begun to decline for the first time in over 2 decades. It has been a record year for generic drug approvals from FDA. And Historic drops in Medicare Advantage, Medicare Part D, and insurance exchange premiums. People are at the center of healthcare and America's system is affordable, personalized, and puts patients in control. That is what the vision of this budget is. The healthcare reform from the President's perspective is to put the patients first. The budget endorses bipartisan and bicameral drug pricing legislation which is supported by many Members of this Committee. These reforms will extend the life of the hospital insurance trust fund by at least 25 years. The budget tackles issues such as maternal mortality and rural health crisis (including expansion of telehealth). The budget increases investments an opioid crisis including the state response programs which HHS has focused on providing medicated assisted treatments. The budget requests \$716 million to expand implementation of the President's initiative to end the HIV epidemic in America, using the evidence-based tools HHS has at their Department. Coronavirus has been at the top priority list for the Secretary as approximately 15 cases have been confirmed in the United States. There are many questions about this virus still. This budget is to update and advance what works better for Americans not just spends more.

Questions and Answers

Chairman Grassley asked the Secretary can speak to the proposal in the budget to reduce prescription drug costs and the notation cost of \$135 billion in reduced spending and his thoughts on how this is helpful. **Hon. Azar** said this package is bipartisan and it helps control list prices increases and decrease out-of-pocket spending by patients, especially seniors. It also fixes the incentives in the Part D program to allow negotiations against big pharma. He doesn't understand why big pharma is not supporting it as these are important reforms. This saves money for seniors and he believes that these are some of the best reforms that they can work on together. **Chairman Grassley** asked how the Administration plans to build rural health delivery models, leverage technology, and create appropriate rural provider payment. **Hon. Azar** said that on of these initiatives is to stop rural hospital closure. The Department would ask Congress to allow critical access hospitals in rural areas to voluntarily convert to emergency hospitals. This would mean that do not have to comply with the regulatory requirements of also offering inpatient beds. Telehealth and telemedicine advancement has been emphasized as well. Increasing flexibility would allow these hospitals to convert also. **Chairman Grassley** asked what steps HHS is taking to be more active role in providing oversight when it comes to organ transplants. **Hon. Azar** said that the oversight is limited by statue to protect independence of the organ allocation policies but he is willing to work on the issues.

Ranking Member Wyden asked why HHS should be in the business of telling women which doctors they can and cannot see. **Hon. Azar** said that they have left it up to the states on what providers offer services, they have not determined this themselves.

Ranking Member Wyden asked if it was correct that the President's budget reduces Medicaid spending by \$920 billion dollars. **Hon. Azar** said the President's budget has changes to Medicaid that would actually result in an increase. Right now, it is 5.4% per year which is twice of the average pay increase a worker experiences in a year. The budget

reflects 3.1% increase every year which would actually put the budget in line with what workers make. **Ranking Member Wyden** asked if it was correct if the President's budget reduces the net Medicare spending by \$450 billion. **Hon. Azar** said again, Medicare spending is growing by 7.3% per year and the rate of growth would be reduced to 6.3% by making common sense changes that organizations like MACPAC have suggested.

Sen. Portman asked if the Secretary can speak to the CBO skepticism in cost savings and if he can work with them. **Hon. Azar** said that he struggles with their actuaries on how they do the calculations. He said that it is time to covert this from being a grant program with the lack of predictability to a state option and he is happy to keeping working with them on that. **Sen. Portman** asked if the Secretary would be willing to work with Congress to provide more input into their legislation and technical assistance. **Hon. Azar** said yes and that the budget includes more transparency to help the patients make informed choices.

Sen. Stabenow asked if the Secretary would express some of the results that have come from the Excellence of Mental Health and Addiction Treatment Act. **Hon. Azar** said that the Certified Community Behavioral Health Clinics Program has already served over 24,000 individuals since August 2019. Results show that services are more convenient, more frequent appoints, and expanding overall access to care and the FY 2021 budget allows that.

Sen. Carper asked if the Secretary and the President supports the Finance Committee's bipartisan bill to reduce drug prices. **Hon. Azar** said this is one that fits the bill and that he thinks that this bill is necessary. **Sen. Carper** asked if the Secretary agrees with the concerns that drug companies have with this legislation and if drug companies can continue to innovate under the Finance Committee's bill. **Hon. Azar** said he fundamentally disagrees with the notion that the inflation penalty provisions that are in the Grassley-Wyden bill constitutes price caps or price controls. These are reasonable restrictions on price restrictions. As long as incentives are in the system, these increases will continue. He also said that drug companies can still innovate. **Sen. Carper** asked how the President plan to protect Americans with pre-existing conditions if the ACA is shot down in the courts. **Hon. Azar** said the President has made it clear that he will not sign legislation to replace the ACA if it does not have adequate protections for those with pre-existing conditions.

Chairman Grassley asked if another way to say it was, since taxpayers pay \$138 billion for Medicare drugs that the Grassley-Wyden bill would just be capping the subsidy that is given to the pharmaceutical companies. **Hon. Azar** said yes it does. The Grassley-Wyden legislation actually changes the dynamic. Right now, the middle men who run these drug plants have every incentive to jack up list prices because it raises the senior to the catastrophic phase where the government pays most of the cost and the Grassley-Wyden legislation fixes that.

Sen. Menendez asked if the Secretary was one of the name defendant's in Texas vs. the U. S. **Hon. Azar** said yes. **Sen. Menendez** asked if it was true that this Administration has taken the position that it will not defend the ACA in court and support striking down the

entire legislation. **Hon. Azar** said the position of the Justice Department is that the individual mandate is unconstitutional and that as a result, the other provisions are not severable from that individual mandate. **Sen. Menendez** asked what the plan was if the courts decide to strike it down tomorrow. **Hon. Azar** said the litigation still has a long way to proceed. **Sen. Menendez** asked why the Administration is waiting when millions of Americans are relying on this coverage. **Hon. Azar** said they are waiting for the final judgement of the final court of authority. The process is very long. **Sen. Menendez** asked what mechanism in the Office of Refugee Resettlement used to identify and track children affected by the Migrant Protection Protocols (MPP). **Hon. Azar** said HHS and ORR have no role in determining the MPP.

Sen. Cardin asked for the Secretary's help in making sure that pharmaceutical managers are protecting patients and to speak about the drug shortages issue. **Hon. Azar** said that he has a little of good news. CMS is working through an interagency agreement with HRSA to hire a Chief Dental Officer. In terms of shortages, there are several proposals in the budget that would help. One is to enhance FDA's ability to assess critical manufacturing infrastructure.

Sen. Hassan asked the Secretary how the Department can align with the budget cuts in Medicaid for treatment and recovery, given their support for this previously. **Hon. Azar** said the CBO analysis is broader to allow more budget to work together to find solutions within the budget. One of these solutions can be fixing perverse incentives. **Sen. Hassan** asked if there are specific elements in the budget that provide protections to those with pre-existing conditions. **Hon. Azar** said that the President will not sign something that does not provide the adequate care to those individuals.

Sen. Cornyn asked what the consequences would be if Medicare for All became the Law of the Land. **Hon. Azar** said that it would be devastating for America's seniors. Quality of care and accessibility of care would suffer. **Sen. Cornyn** asked if the Secretary would recommend the President to support his bill on ending patent thickets on drugs. **Hon. Azar** said that he is not familiar with that piece of legislation particularly and would get back to him on that. **Sen. Cornyn** asked for the Secretary to continue to work with states and leadership to protect the safety. **Hon. Azar** said yes.

Sen. Casey asked how to justify the cuts in Medicaid as the Secretary of HHS. **Hon. Azar** said that these proposals actually fix the perverse incentives that the current program has. He also stated that nothing in the budget proposes to change mandatory eligibility categories of traditional Medicaid.

Sen. Roberts asked about when Kansas can see a new model from CMS that allows hospitals to convert to emergency hospitals without inpatient beds. **Hon. Azar** said the big change is what the Senator mention about the conversion of the hospitals but that would require legislation. **Sen. Roberts** asked if the Secretary could explain the decision making in inclusion of the policy of certification requirements would have 0 budget impact and

now it says not available. **Hon. Azar** said that they are continuing to work on this to make sure providers are spending more time with their patients.

Sen. Whitehouse asked if Administrator Verma knows that sharp differences in the wage index and Medicare payments between nearby hospitals are a bad thing. **Hon. Azar** said he shares the concerns.

Sen. Cassidy asked about the idea to carve out the important, but rarely used antibiotics from DRG and putting them into Medicare Part B -making sure the accountability with the Stewardship Program was there as well. **Hon. Azar** said that he hit the nail on the head with the economic market issue. Wanting pharmaceutical companies to create drugs that will be rarely used. Appropriately, but rarely. The Department needs to properly use their tools to look into this. **Sen. Cassidy** asked about the budget allowing individuals to continue coverage while they are adjudicated for six months and not a year in regards to addressing the mental illnesses issue that this population struggles with. **Hon. Azar** said that he is happy to work with the Senator to take this issue further.

Sen. Warner asked if the Secretary can help limit the impact that affect individual states. **Hon. Azar** said that they will also work with states as they are partners in the program. **Sen. Warner** asked about the consumer rights and privacy protections, and how they can get this right. **Hon. Azar** said that he hears the concerns with interoperability rules and that they are working to protect patients' information and has been the center focus.

Sen. Brown asked for the Secretary's continued support in helping individuals getting better care for colorectal cancer and reducing the out-of-pocket costs that are associated. **Hon. Azar** said yes and thanks the Senator for bringing this issue to his attention and that it is now included in the budget. **Sen. Brown** asked why HHS has decided to step back from the efforts made on the issues regarding e-cigarettes and vaping. **Hon. Azar** said that the Department ended up at an even more aggressive posture than before by requiring the PMTA process. The PMTA deadline was February 6. **Sen. Brown** asked about the President's efforts to cut Medicaid budget. **Hon. Azar** referred back to the rate of growth in percentage per year and said that this was not meant to cut Medicaid, but there is a difference in rate of growth per year.

Sen. Hassan asked about transparency and anti-kickback settlements, regarding electronic health record companies displaying inaccurate information thus leading to over prescribing. **Hon. Azar** said he would like to learn more on this issue and work with her to hopefully reach a solution.

Sen. Daines asked if the Secretary can explain the out-of-pocket cap would affect the average senior in Montana. **Hon. Azar** said that these caps allow individuals to pay no more than a certain amount of money per month or per year no matter what their drug costs are. He also mentioned a catastrophic cap that would be an option. **Sen. Daines** asked about the importance of states and tribes to address their particular community needs when it comes to combating substance abuse and overdoses. **Hon. Azar** said that Senator Daines is

correct, it is important. And that the budget continues the policy recommendation where states have flexibility to address their particular community needs.

Sen. Lankford asked where the Healthy Adult Opportunity Initiative stands at this point.

Hon. Azar said that it has been pushed out to the states and that the Department is willing to work with states to move this further. This is optional for states. **Sen. Lankford** asked about the proposals regarding Part D generic tiering. **Hon. Azar** said that this proposal allows a more favorable tier to entice drug companies to give discounts to make these drugs more accessible. This would also lower cost-sharing for patients. **Sen. Lankford** asked about rural hospital relief and where that stands as of now. **Hon. Azar** said that the budget includes critical access hospitals electing to become emergency hospitals to allow more flexibility. There is also enhanced payment that they could be reimbursed at the emergency rate as well as a supplemental amount of payment. **Sen. Lankford** asked if there was a response about the case where the nurse was forced to participate in an elected-abortion against her wishes. **Hon. Azar** said that they have tried to resolve the situation that brings into compliance. The respective medical center refused to comply and then the Department had to issue a notice of violation and it is now a legal matter. The goal is to work with providers to get them to comply. **Sen. Lankford** asked about the regulation setting on e-cigarettes. **Hon. Azar** said there is no exact regulation on this but that can be something to look at.

Sen. Cortez Masto asked what happens to Indian Country if the ACA is repealed. **Hon. Azar** said that this budget includes an increase for this population by 10% since FY 2018. Something that he specifically thinks that quality is a major component and hopes that the potential HIS Director will work on this further. **Sen. Cortez Masto** asked if the budget includes Alzheimer's activity. **Hon. Azar** said that the states are given that flexibility but will get back to her on that.

Ranking Member Wyden asked how HHS can claim that they are trying to protect religious liberty of Americans. **Hon. Azar** said that protecting and respecting these liberties is baseline. However, discrimination laws are also enforced. There is a proposed regulation out that would require all grantees to comply with Supreme Court case law and require compliance with all discrimination laws. **Ranking Member Wyden** asked what is being done to address traditional Medicare and expand services. **Hon. Azar** said that if the government can get providers whether they are integrated systems or primary care facilities to actually assume total cost of care, the government can stop micromanaging. **Ranking Member Wyden** asked for a report about what the Department has done since they took office and the projects they plan to do in the next year that would be constructive.

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