



McDermottPlus Check-Up: April 23, 2021

McDermott+Consulting is pleased to provide the McDermottPlus Check-Up, your regular update on health care policy from Washington, DC.



This Week's Dose: Democrats and Republicans in the House of Representatives reintroduced drug pricing packages similar to ones they championed in 2019 and 2020. The Biden Administration extended the coronavirus (COVID-19) public health emergency (PHE). The Administration also reversed a Texas Medicaid waiver, spurring Republican opposition to President Biden's nominee for Administrator of the Centers for Medicare and Medicaid Services (CMS).

Congress

- + **House Leadership Reintroduced Dueling Drug Pricing Packages.** Democratic leaders of the House Energy and Commerce, Ways and Means, and Education and Labor committees reintroduced the [Elijah E. Cummings Lower Drug Costs Now Act](#), which closely mirrors the version of the bill that passed the House in 2019. The bill would authorize Medicare to negotiate prices for certain drugs, cap out-of-pocket costs for Part D beneficiaries and require manufacturer rebates for certain drugs whose prices increase faster than inflation. The [Lower Costs, More Cures Act](#), reintroduced this week by Republican leaders of the same committees, also closely resembles the version from the 116th Congress and includes some bipartisan proposals, such as capping seniors' out-of-pocket drug costs and Part D benefit redesign. The Democrat-led bill should be considered the likely base for any drug pricing provisions that could be included in an upcoming infrastructure package. The prescription drug reforms included in the Democrats' bill generate significant savings that could be used to offset other spending priorities.
- + **CMS and HHS Nominations Advanced in the Senate.** The Senate Finance Committee voted 14 to 14 on the nomination of Chiquita Brooks-LaSure to be CMS Administrator. The vote deadlocked after the Administration revoked a Texas Medicaid waiver (see below), angering Senator John Cornyn (R-TX) and other Committee Republicans, many of whom indicated they had planned to vote for Brooks-LaSure before the waiver rescission. Senate rules allow the tied party-line vote to move forward with an extra procedural step, further delaying the process. The Committee also voted 20 to 8 to advance the nomination of Andrea Joan Palm to be Deputy Secretary of the US Department of Health and Human Services (HHS). Both nominees are expected to be confirmed by the full Senate.

Administration

- + **CMS Revoked Texas Medicaid Waiver.** Late last week, the agency [revoked](#) a 10-year Texas [1115 Medicaid waiver](#) approved in the final days of the Trump Administration that would have provided federal funding for the state's uncompensated care funding pool, which reimburses hospitals for caring for the uninsured. Though Medicaid advocates had criticized the waiver as a poor substitute for Medicaid expansion, CMS based its rescission on procedural grounds. In its decision letter, CMS states that Texas did not provide an adequate public notice and comment process or a sufficient basis for an exemption to the public notice and comment process. The Trump Administration also approved related waivers in Florida and Tennessee, two other non-expansion states. The Texas decision indicates that waiver reversals in other states may be coming.



- + **COVID-19 PHE Extended.** HHS Secretary Xavier Becerra [extended](#) the COVID-19 PHE effective April 21, 2021. The declaration is in effect for 90 days, though the Biden Administration has [said](#) that it will likely maintain the PHE through the end of the year and provide states 60 days' notice prior to termination. Among other things, the PHE declaration allows for the expanded use of telehealth, waivers of various Medicare and Medicaid requirements, and the 6.2% increase in the Federal Medical Assistance Percentage.

Quick Hits

- + Senators Elizabeth Warren (D-MA) and Chuck Grassley (R-IA) sent a [letter](#) urging X12, an expert panel that advises Medicare, to finalize a change to medical forms that would make it easier to track the use of implantable medical devices.
- + HHS [announced](#) \$80 million in grants for Marketplace Navigators for plan year 2022, and released the [2021 Marketplace Open Enrollment Report](#).
- + The White House [announced](#) that it is directing \$1.7 billion to genomic sequencing efforts to combat COVID-19 variants.
- + The Health Resources and Services Administration [announced](#) \$12.7 million in funding to address rural health disparities as part of the Rural Health Care Services Outreach Program.

M+ Resources

- + Our consultants discuss the Biden Administration's reversal of Texas' Section 1115 waiver and what it may mean for the Administration's Medicaid priorities on this week's episode of the [Health Policy Breakroom](#).

NEXT WEEK'S DIAGNOSIS: The House Energy and Commerce Health Subcommittee will hold a [hearing](#) on the lingering effects of COVID-19. The House Ways and Means Committee will hold a [hearing](#) on the future of telehealth. The Senate Health, Education, Labor and Pensions Committee will hold a [hearing](#) on the impact of the pandemic on mental health and substance use.

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