



## McDermottPlus Check-Up: May 14, 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:** The Administration endorsed waiving intellectual property protections for coronavirus (COVID-19) vaccines and announced a new program that will reimburse providers for vaccine administration fees.

### Congress

- + **Palm secures confirmation as Brooks-LaSure advances on slim margins.** The Department of Health and Human Services (HHS) now has a second-in-command following a 61-37 Senate vote to confirm [Andrea Palm](#) as Deputy Secretary. Palm will step into a key operational role within the administration, helping execute the policy priorities laid out by President Biden and HHS Secretary Xavier Becerra. Just a day after the Senate confirmed Palm, Senate Majority Leader Chuck Schumer also advanced Chiquita Brooks-LaSure's nomination to the post of Centers for Medicare and Medicaid Services (CMS) Administrator, but did so with the narrowest of margins on 51-48 procedural vote. While Brooks-LaSure is expected to be confirmed with a final vote prior to the Senate's next recess on May 28, her confirmation has been a proxy battle over the Biden Administration's revocation of Texas' Section 1115 Medicaid Waiver. Another perceived slight could further undermine support and compromise her nomination.

### Administration

- + **Biden Administration directs HHS to begin enforcing LGBTQ discrimination claims.** Returning to an Obama-era policy, the Biden Administration announced it would reinstate protections under Section 1557 of the Patient Protection and Affordable Care Act (ACA). That section and accompanying regulations outline that an individual "shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds prohibited" on the basis of sex, race, color, national origin, age or disability. While widely expected after the President issued a day-one [Executive Order](#) on gender protections, it is unclear exactly how the Administration intends to effectuate this policy change, leaving the door open for litigation on issues of religious freedom and administrative procedure.

### Quick Hits

- + Seventy-seven Members of Congress sent a [letter](#) to Secretary Becerra urging the distribution of remaining money in the Provider Relief Fund and requesting an extension beyond the June 30 deadline to spend the money.
- + The [Senate Health, Education, Labor and Pensions Committee](#) held a hearing on federal updates on COVID-19 vaccinations and public health guidance. The [House Energy and Commerce Committee](#) held a hearing with HHS Secretary Becerra on the President's fiscal year (FY) 2022 budget for the department.
- + The FDA [authorized](#) Pfizer's mRNA COVID-19 vaccine for use in children ages 12 to 15, which was previously authorized only for individuals 16 and older. The CDC also announced new



[guidance](#) that permits fully vaccinated individuals to take off masks while outside or inside non-crowded areas.

- + A group of bipartisan House lawmakers introduced the [Improving Seniors' Timely Access to Care Act \(H.R.3173\)](#), which would address prior authorization practices by health plans that result in delayed access to a care.
- + Facing an inspection backlog from COVID-19, the FDA [estimates](#) that it will only reach a 27% completion rate for domestic inspections of drug manufacturing facilities in 2021.
- + The ACA special enrollment period opened by President Biden in January and extended through August has garnered over [1 million](#) new enrollees.
- + CMS released [guidance](#) in a letter to State Medicaid Directors to help them access additional Federal Medical Assistance Percentage funding to support home and community-based services under the American Rescue Plan.
- + The White House [announced](#) a \$7 billion investment in public health workforce development under the American Rescue Plan.

## M+ Resources

- + In April, CMS released the FY2022 Inpatient Prospective Payment System proposed rule. Take a look at our [key takeaways](#) from the proposed policy changes.
- + Last week, a bipartisan group of 50 Senators, led by Senator Brian Schatz (D-HI), introduced the [Creating Opportunities Now for Necessary and Effective Care Technologies \(CONNECT\) for Health Act of 2021](#), which attempts to address the post-pandemic Medicare telehealth landscape. Our summary of the key provisions of the CONNECT for Health Act is available [here](#).

**NEXT WEEK'S DIAGNOSIS:** The [Senate Appropriations](#) Committee will look at the CDC budget proposal for FY2022. The [Senate Finance](#) will examine lessons learned from COVID-19 healthcare flexibilities, while the [Senate Judiciary](#) Committee will hold a hearing on hospital consolidation concerns. [Senate Homeland Security](#) will hear testimony on securing the nation's medical supply chain. The House Committee on [Oversight and Reform](#) will hold part three of a series on unsustainable drug pricing.

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