



## McDermottPlus Check-Up: July 30, 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:** Senate proceeds with \$1.2 trillion bipartisan infrastructure framework. House passed minibus appropriations bill with \$253 billion for Health and Human Services. President Biden announces new vaccine policies for federal employees.

### Congress

- + **Senate Moved Forward on Bipartisan Infrastructure Framework.** After several weeks of negotiation, Senators on Wednesday approved, by a vote of 67-32, a key procedural motion to begin debate on the bipartisan physical infrastructure package. The package does not have a healthcare focus, but the White House published a high-level fact sheet and summary indicating that it includes a \$55 billion investment in clean drinking water (the largest in American history), as well as \$65 billion to ensure every American has access to reliable high-speed internet—a key investment for telehealth proponents. The summary also highlights that the authors intend to offset some of the cost of the investments by delaying the Medicare Pharmacy Benefit Manager Part D rebate rule (\$49 billion), extending the mandatory sequester (\$8.7 billion), savings from reducing Medicare spending on discarded medications from large, single-use drug vials (\$3 billion), and repurposing COVID-19 relief funds (\$205 billion). While the relief funds are not reported to include money from the Provider Relief Fund, without a Congressional Budget Office score, the money available for health care providers could be tapped as a further offset.

The Senate is expected to vote on the bipartisan package next week. Majority Leader Chuck Schumer has indicated he wants to keep the Senate in for an additional week (until August 13th) to start the reconciliation process for the partisan "human infrastructure" package, which is likely to include a variety of health care provisions, such as home and community-based service (HCBS) funding, Medicare benefit expansion, Affordable Care Act subsidy expansion and prescription drug reform. The House adjourns today and will not return until mid-September, meaning the bipartisan package will likely not hit the President's desk until the fall. Further, Speaker Pelosi has noted that the bipartisan infrastructure bill will not be brought to the House floor for a vote until the Senate passes the partisan reconciliation package.

- + **House Passed Appropriations Minibus Ahead of Government Funding Deadline.** The House passed a seven-bill package that included \$253.8 billion to fund operations of the Departments of Labor, Health and Human Services and Education. Health and Human Services funding was directed to broad research initiatives, public health infrastructure (including data and surveillance), emergency preparedness, substance abuse, home and community-based service supports and several health equity initiatives across agencies. The total was 28% above FY 2021 funding levels, which the House Appropriations committee described as an historic increase. The House bill, which passed by a party-line vote of 219-208, will have to be reconciled with its Senate counterpart before being signed by President Biden. The current fiscal year ends on September 30, 2021, and final legislation is highly unlikely to be completed by then. Thus, a Continuing Resolution (CR) to keep the government funded could be necessary.



## Administration

- + **Biden Administration Proposed Rule to Incentivize Home Drug and Device Production.** In the first months of the COVID-19 Public Health Emergency, it became apparent that the U.S. medical product supply chain was vulnerable as a result of its reliance on foreign imports. The Biden Administration has responded through a number of executive measures, including a [“Buy American” Executive Order](#) and the establishment of a Made in America Office. This week, the [White House](#) announced a [proposed rule](#), “Federal Acquisition Regulation: Amendments to the FAR Buy American Act Requirements,” that would strengthen Buy American policies. This includes raising the domestic content threshold—the minimum percentage of a product that must be produced in America in order to qualify for purchase by the government with taxpayer money—from 55 to 70% through a phased increase. Additionally, the proposed rule outlines supply chain security and transparency requirements through price preferences and more extensive reporting requirements in federal contracting. Comments on the proposed rule are due September 28, 2021.
- + **White House Issued New Requirements for Federal Works in Response to Delta Variant Spread.** President Biden announced that the federal government will now [require](#) attestation of vaccination from all federal workers. Those who are not vaccinated or who do not attest will be required to wear masks, remain socially distant and be screened for COVID-19 at least once a week. This will apply to the more than 4 million employees of the federal government who are spread across the United States, with similar standards extended to federal contractors. The Administration has also asked state and local governments to offer monetary incentives for vaccinations funded by American Rescue Plan allocations and for school districts to help facilitate the vaccinations of students and teachers.

## Quick Hits

- + The [Partnership to Advance Virtual Care](#) and more than 400 organizations across industries signed-on to a [letter](#) urging Congress to advance permanent telehealth policies to ensure that telehealth gains are maintained post-pandemic.
- + Senators Michael Bennet (D-CO) and Kevin Kramer (R-ND) introduced the [Provider Relief Fund Deadline Extension Act](#), which could extend the deadline to spend funds to the end of the COVID-19 Public Health Emergency.
- + IRS processing delays lead CMS to [allow](#) consumers to continue receiving advanced premium tax credits if they did not file returns for 2021 and 2022.
- + U.S. Department of Health and Human Services [released](#) fall 2021 regulatory agenda.
- + Substance Abuse and Mental Health Services Administration [announced](#) \$250 million to 100 Certified Community Behavioral Health Clinics for substance abuse and mental health services.
- + The Centers for Medicare and Medicaid Services [released](#) the final Inpatient Rehabilitation Facility payment rule.



## M+ Resources

- + On this week's [Breakroom podcast](#), Meg Gilley and Sheila Madhani discuss updates to the telehealth regulatory and legislative landscape.

**NEXT WEEK'S DIAGNOSIS:** The Senate could pass the bipartisan infrastructure bill before the end of next week. The House is in recess until mid-September.



For more information, contact [Aaron Badida](#), [Mara McDermott](#), [Kristen O'Brien](#) and [Katie Waldo](#).

To subscribe to the McDermottPlus Check-Up, [click here](#).

McDermott+Consulting LLC is an affiliate of the law firm of McDermott Will & Emery LLP. McDermott+Consulting LLC does not provide legal advice or services and communications between McDermott+Consulting LLC and our clients are not protected by the attorney-client relationship, including attorney-client privilege. The MCDERMOTT trademark and other trademarks containing the MCDERMOTT name are the property of McDermott Will & Emery LLP and are used under license.