



McDermottPlus Check-Up: August 27, 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: House passes rule for budget resolution and infrastructure. U.S. Food and Drug Administration (FDA) grants first COVID-19 vaccine approval to Pfizer-BioNTech.

Congress

- + **House Rule Advanced Senate Budget Agenda and Set Date for Bipartisan Infrastructure Vote.** The rule, which passed Tuesday on a party-line vote of 220-212, deemed the Senate's Democratic budget passed by the House and set September 27, 2021 as the anticipated date for a full House vote on the Senate's bipartisan infrastructure package. Passage of the Democratic budget resolution by both the House and the Senate allows work to proceed on the up to \$3.5T bipartisan reconciliation bill. The action starts in the House where Democrats will now begin to translate President Biden's "Build Back Better" plan into actual legislation making significant investments in childcare, healthcare, and education. Anticipated healthcare policies include the addition of dental, hearing and vision benefits to Medicare; permanent extension of Affordable Care Act subsidies enacted under the American Rescue Plan; closing the Medicaid coverage gap for states that have yet to expand their Medicaid programs; and new investments in home and community-based services. Democrats have not yet spelled out how they will pay for these policies, though drug pricing reform, tax policy changes, and other health policy changes are all expected to be major sources for offsets. House committees intend to start working on their sections of the reconciliation bill as soon as September 2 with a goal of wrapping up by September 15. This timetable would allow the House to bring the reconciliation bill to the House floor for a full vote by September 27. Adhering to this timetable will be important for the Speaker because House Progressives remain insistent that Congress pass the reconciliation bill before passing the bipartisan infrastructure package. That means September 27 is the effective deadline for getting reconciliation onto the House floor so the two bills (i.e., the \$3.5T soft infrastructure bill and the Bipartisan Infrastructure Bill) can be considered at the same time. While House committees work to draft the legislation, there are also ongoing discussions with Senate Democrats in an effort to align policy as much as possible before House members vote on the reconciliation bill at the end of next month.

Administration

- + **FDA Approved Pfizer-BioNTech COVID-19 Vaccine.** The agency's full marketing approval of Comirnaty (the vaccine's brand name) on Monday was the first granted to a COVID-19 vaccine. The FDA has authorized Pfizer's vaccine for emergency use since December 2020. The announcement comes less than a week after the White House issued a vaccine mandate for nursing home employees and announced that booster shots would be available starting September 20, 2021. Public health officials and policymakers are hopeful that full FDA approval will spur a new wave of vaccinations among hesitant individuals as the Delta variant surges. This announcement comes alongside the Centers for Medicare and Medicaid Services' announcement that it will increase reimbursement for COVID-19 shots administered in the home (including assisted living facilities) by \$35 per dose. On Wednesday, Moderna filed for full approval of its COVID-19 vaccine under the brand name Spikevax, while Pfizer filed for full approval of its



vaccine for booster shots amid mounting evidence that they may be needed as early as six months after completing the initial doses.

States and Courts

- + **Supreme Court Stops Biden Administration Eviction Moratorium Extension.** The [decision](#) came Thursday night mere weeks after the Centers for Disease Control and Prevention issued a new halt on evictions set to end on October 3. The CDC's order extending moratorium came amid significant pressure from Progressive Democrats in the House following the expiration of the previous moratorium on July 31. The CDC stated the ban on evictions was part of a public health effort to stop rising community transmission of the COVID-19 Delta variant in areas of high spread. Upon review, the Supreme Court stated that while this a desirable end, it could not permit a government agency to do so through unlawful means. The opinion stated that the moratorium was an extreme overreach of authority into private agreements between landlords and tenants and allowed an interpretation to the CDC's authority that was virtually limitless. Justices Breyer, Kagan and Sotomayor dissented, arguing that the extraordinary circumstances created by the pandemic called for an expansive interpretation of the authority the law gives to the CDC. This ruling comes just days after the Biden Administration [announced](#) additional efforts to assist with eviction protection and rent relief through Departments and agencies outside the CDC. Nonetheless, this decision significantly limits further executive action and opens the door for mass evictions nationwide, unless Congress intervenes.

Quick Hits

- + This week, the White House held a Virtual Conversation on Health Systems, Providers, and the COVID-19 Vaccination Effort. McDermottPlus' Mara McDermott discussed the commitment of [Value Based Care Coalition](#) members' focus in the areas of outreach, education, and access to increase vaccinations and uptake in our communities. Watch her panel discussion [here](#).
- + The Departments of Labor, Treasury and Health and Human Services released [updated](#) FAQs on implementation of price transparency regulations and the No Surprises Act. The updates included a six-month delay of the Transparency in Coverage Final Rule until July 1, 2022.
- + The Centers for Medicare and Medicaid Services [reported](#) that Accountable Care Organizations in the Medicare Shared Savings Program saved Medicare \$1.9 billion for 2020.

M+ Resources

- + On this week's [Breakroom Podcast](#), Aaron Badida, Debbie Curtis and Rodney Whitlock discuss what to expect next now that the House has solidified a fall agenda for Congress.



NEXT WEEK'S DIAGNOSIS: The House and Senate are both in recess next week, but committees may begin markups on legislation for reconciliation as early as September 2.



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.