



McDermottPlus Check-Up: September 10, 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 committees initiate reconciliation proposals, including key healthcare items. Department of Health and Human Services (HHS) releases drug-pricing plan. President Biden significantly expands vaccine mandates in the public and private sectors.

Congress

- + **Key Health Committees Released Legislative Recommendations for Reconciliation.** The House Ways and Means Committee (W&M) released legislative language on the first set of their health proposals and began the markup process Thursday, September 9 continuing through Friday, September 10. W&M will soon release legislative language for the additional topics in their jurisdiction, such as taxes, in advance of ongoing markups next week. In what has been released so far, the language includes a phased-in approach for dental, hearing and vision benefits to Medicare. The W&M text would wait until 2028 to add dental benefits, including preventive and routine services with 20% cost sharing and major services with 50% cost sharing (phased in through 2032), while deferring to state law on the types of providers allowed to offer these services. It adds vision benefits in 2022, including vision exams and limited payments for glasses and contact lenses. Finally, it would add hearing services and prescribed, non-over-the-counter hearing aids in 2023. The language also [proposed](#) two new Health Professions Opportunity Grant programs aimed at increasing the workforce for allied health professionals (e.g., licensed practical nurses, certified nursing assistants) in mental and maternal health fields. The W&M text also outlined measures that increase oversight of skilled nursing facilities' staffing ratios and cost reporting while establishing grant programs for training long-term care workers as well as support for area agencies on aging and elder justice programs.

E&C also [put forward text](#) outlining the key provisions of their committee's reconciliation package. On healthcare, the provisions include the drug pricing reforms laid out in H.R. 3 (the Democrats' major drug pricing legislation), which allows Medicare to negotiate drug prices, tie drug prices to inflation and cap Part D premiums at \$2,000 per beneficiary. The proposal also extends negotiation to the commercial market. The E&C text also includes a \$190 billion proposal for investment in home and community-based services (HCBS), much lower than initially sought by the Biden Administration. It also includes several Medicaid reforms. First, to close the "Medicaid coverage gap," the E&C package would expand Affordable Care Act (ACA) premium tax credits to below 100% of the federal poverty level in 2022 through 2024 and reduce cost sharing for these individuals as well. It would then establish a federal Medicaid program by 2025 in states that have not yet expanded their programs under the ACA. The E&C proposal would also provide funds for states to create reinsurance programs or other direct efforts to lower health insurance premiums and deductibles. In addition, it would permanently extend the Children's Health Insurance Program (CHIP); require continuous twelve-month coverage for children in Medicaid and CHIP; and make permanent one full year of postpartum Medicaid coverage for pregnant women. The bill also includes \$15 billion in new investments for pandemic preparedness and \$3 billion to establish the Advanced Research Projects Agency for Health (ARPA-H), which is



intended to support breakthrough research in medicine and health. E&C proposals also included provisions analogous to W&M's addition of dental, hearing and vision benefits to Medicare.

House committee markups are scheduled to be completed next week. Then, work will begin behind the scenes to package them into one bill for consideration in the House. Timing of that vote is uncertain, but the target is to complete this by the September 27 agreed upon date to consider it in tandem with the bipartisan infrastructure package. It is important to note that there is still no public Congressional Budget Office score for this package, nor is it clear that all provisions will be able to survive the Senate Parliamentarian's scrutiny under the confines of the Byrd rule. There is still a long way to go in this process.

Administration

- + **HHS Secretary Xavier Becerra Released Drug Pricing Proposal.** The [report](#) entitled "Comprehensive Plan for Addressing High Drug Prices: A Report in Response to the Executive Order on Competition in the American Economy" was directed by President Biden's [Executive Order 14036](#), "Promoting Competition in the American Economy" (the Competition EO). The EO identified a lack of competition as a key driver for problems across economic sectors, including the pharmaceutical industry. While not binding on Congress, the recommendations in the report could be influential in the development of drug pricing legislation. Key legislative proposals include price negotiation for drug prices in Medicare Parts B and D, with these negotiated prices extended to the commercial market. The report also recommends banning Medicaid spread pricing, prohibiting "pay-for-delay" agreements between drug companies and capping out-of-pocket costs for Part D beneficiaries. HHS also recommended administrative actions that included the development of value-based purchasing models for Parts B and D and implementation of two of the U.S. Food and Drug Administration's competition plans. These non-legislative recommendations, which the Biden Administration can carry out through regulatory and executive action, could be implemented regardless of the outcome of reconciliation negotiations.
- + **President Biden Launched Expansive COVID-19 Vaccination Requirements.** Under the new Executive Orders and the "Path out of the Pandemic: President Biden's COVID-19 [Action Plan](#)," all federal [workers](#) and [contractors](#) and more than 17 million healthcare staff working in facilities will be required to get vaccinated under forthcoming regulations from CMS or face enforcement action. The Administration had previously required federal workers to attest to vaccination, or be regularly tested, and wear masks if they did not. At this time, it is unclear how the Administration will ensure compliance with these expansive regulations. In a separate rule, the Administration will require that all businesses with 100 or more employees ensure that their workers are fully vaccinated or require regular testing. Overall, the six-part plan includes strategies aimed at vaccinating more individuals, increasing the use of mitigation efforts like testing and masking, and ensuring continued economic recovery. An interim final rule from CMS implementing the healthcare requirements is expected in October, while the employer rule will need to be promulgated by the Occupational Safety and Health Administration (OSHA).

Quick Hits

- + Biden Administration [announced](#) the distribution of \$452 million in American Rescue Plan Act funds for state-based reinsurance waivers.



- + The Federal Trade Commission [issued](#) a tentative September 15 open meeting agenda to include discussion on health apps and vertical merger guidelines.
- + McDermottPlus' Value Based Care Coalition joined 16 other national healthcare organizations in [encouraging](#) HHS to leverage alternative payment models to improve disparities in patient outcomes.
- + CMS Administrator Chiquita Brooks-LaSure [reflected](#) on her first 100 days and mapped out a strategic vision for the nation's leading health care agency in a blog post this week.
- + Following his emergency declaration last week to help mobilize federal resources to affected areas, President Biden called on Congress to appropriate \$24 billion in supplemental funds for Ida and concurrent natural disasters.
- + Rodney Whitlock was featured on a recent "An Arm and A Leg" [podcast episode](#), "The wild backstory of a tiny but crucial Obamacare provision (ft. David Axelrod)." Rodney revisits the failed courtship of Senator Chuck Grassley that almost tanked the ACA—and how the battle over the ACA "broke America."

M+ Resources

- + We are back in the [Breakroom](#) this week with Debbie Curtis and Rodney Whitlock to discuss the tight timeline for Congressional committees to work on the bipartisan infrastructure deal.

NEXT WEEK'S DIAGNOSIS: Markups for the Democrats' reconciliation package continue in the House. The second surprise medical billing rule is expected to be published soon.



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

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