# THIS WEEK IN WASHINGTON – DECEMBER 14, 2018

## CONGRESS TACKLES MULTIPLE HEALTH PROVISIONS THIS WEEK

The standstill on progress over finalizing the remaining fiscal year 2019 spending bills has given Congress the opportunity to advance some outstanding health care measures. This week, the House of Representatives passed legislation including the ACE Kids Act to allow state Medicaid programs to use a home health model for coordinating care for children with medically complex conditions. Another provision in the legislation would level civil monetary penalties against drug manufacturers who knowingly misclassify drugs under the Medicaid Drug Rebate Program. On Tuesday, the Senate passed a measure renewing an emergency medical services for children program (S. 3482). On Wednesday, the Senate passed a House-sponsored bill (H.R. 1222) reauthorizing research on congenital heart disease, as well as legislation boosting efforts to combat Alzheimer's disease (S. 2076).

Also on Tuesday, House Ways and Means Republicans introduced measures seeking to relieve Medicare administrative burdens on health care providers and increase access to care in rural areas. Legislation introduced includes:

- R. 7248, the Reducing Administrative Burden and Becoming Increasingly Transparent Act, introduced by Rep. Kenny Marchant (R-TX), gives Medicare providers a dependable vehicle to submit comments to CMS every year on how to reduce administrative burden in each Medicare payment system.
- R. 7253, the Remove Extraneous Measures that Obstruct Value and Efficiency (REMOVE) Act, introduced by Rep. Jason Smith (R-MO), codifies all measure removal factors for hospital and post-acute care quality measures.
- R. 7247, the Incentivizing Shared Risk in Medicare Advantage Act, introduced by Chairman Brady and Energy and Commerce Member Rep. John Shimkus (R-IL), clarifies that a Medicare Advantage organization may establish a waiver process to exempt physicians that engage in financial risk arrangements with the plan.
- R. 7249, the Better Prior Authorization Notification Act, introduced by Rep. Tom Reed (R-NY), requires notification to providers and beneficiaries that will be impacted by prior authorization.
- R. 7250, the Prior Authorization Improvement Act, introduced by Reps. Mike Kelly (R-PA) and Brett Guthrie (R-KY), requires a study on the feasibility of existing technologies that can help streamline and reduce the burden of prior authorization requests in MA.
- R. 741, the Rural Hospital Regulatory Relief Act of 2017, introduced by Rep. Lynn Jenkins (R-KS), permanently extends the application by CMS of an instruction against the enforcement of certain physician supervision requirements with respect to outpatient therapeutic services in critical access hospitals and small rural hospitals.
- R. 5507, the Critical Access Hospital Relief Act, introduced by Rep. Adrian Smith (R-NE), repeals the 96-hour physician-certification requirement for inpatient critical access hospital services under Medicare.

Unfortunately, the path forward for this legislation is unclear as Congress will likely spend the remainder of its time this year focused on passing funding bills to avoid a partial government shutdown, which is currently scheduled to take place on December 21.

## AZAR AND ALEXANDER PREVIEW HEALTH CARE ISSUES FOR 2019

On Wednesday, a series of health-focused conversations was conducted in Washington with Department of Health and Human Services ("HHS") Secretary Alex Azar, Senate Health, Education, Labor and Pensions ("HELP") Chairman Lamar Alexander (R-TN), Sen. Tim Kaine (D-VA), who is a member of the Senate HELP Committee, and Rep. Seth Moulton (D-MA). Chairman Alexander did not specifically discuss any legislation that might be introduced in 2019, but he offered some broad areas of interest such as “making the system more of a market” through eliminating barriers to innovation and helping people understand the prices they pay for health care. Secretary Azar said HHS will continue to focus on lowering drug prices and tackling the nation's opioid epidemic. He said the department will continue to use the Administration's blueprint to lowering drug prices as its roadmap. Sen. Kaine indicated that he believes a lack of focus by the administration is the biggest risk to the Affordable Care Act.

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Chairman Lamar Alexander also said he plans to have the committee spend next year working on legislation to address high health care costs and is soliciting legislative and regulatory proposals from health policy experts by March on ways to accomplish that effort. Alexander and his panel's ranking Democratic member, Sen. Patty Murray (D-WA), led five informational hearings this year that probed the health care cost problem. A legislative focus on health care costs could include a focus on prescription drug prices, as well as a much broader scope, such as surprise billing and price transparency.

**FARM BILL PLOWS THROUGH RURAL HEALTH ISSUES**

Congress passed a farm bill conference report this week with strong bipartisan support in a 386-47 vote in the House of Representatives on Wednesday following an 87-13 vote in the Senate on Tuesday. The president is expected to sign the bill as early as next week. One of the health-related provisions included in the measure is renewal of the federal nutrition support program, which does not include the expanded work requirements for the food stamp program that was requested by House Republicans. The measure also authorizes $82 million for distance learning and telemedicine. The package offers grants for rural emergency medical services and creates a rural health liaison office within the Department of Agriculture.

The grant provision clarifies that rural hospitals do qualify for loans or loan guarantees. The conference report states, "The managers emphasize the necessity that USDA work with rural hospitals to improve their financial health as a part of a refinancing agreement." The provision requires rural hospitals seeking refinancing to meet the Department of Agriculture's financial feasibility and adequacy of security requirements. Conferees did not accept a House provision offering $65 million in funding to aid the development of agricultural association health plans.

**HHS ISSUES RFI ON HIPAA PRIVACY RULE IMPROVEMENTS**

HHS issued a Request for Information ("RFI") seeking input on how the Health Insurance Portability and Accountability Act ("HIPAA") Rules, especially the HIPAA Privacy Rule, could be modified to further the goal of promoting value-based health care. This is not surprising as top health officials have expressed an interest in addressing whether privacy rules get in the way of care coordination. Stakeholders have expressed interest in changing the privacy rule because they claim current guidelines make it harder to care for patients who need multiple specialists to deal with complex needs, such as if they suffer from a substance use disorder.

**HEALTH-RELATED BILLS INTRODUCED THIS WEEK**

Rep. Sam Johnson (R-TX) introduced H.R. 7305 to amend Title XVIII of the Social Security Act to clarify payment rules for manual wheelchairs under part B of the Medicare program.

Rep. Bill Foster (D-IL) introduced H.R. 7295 to amend the HITECH Act to allow an individual to obtain a copy of such individual's protected health information at no cost in certain circumstances.

Sen. Robert Casey Jr. (D-PA) introduced S. 3751 to amend Title XVIII of the Social Security Act to expand the use of telehealth services for remote imaging for chronic eye disease.

Rep. Susan Brooks (R-IN) introduced H.R. 7272 to amend Titles XVIII and XIX of the Social Security Act to promote the ability of individuals entitled to benefits under part A or enrolled under part B of the Medicare program and individuals enrolled under a state plan under the Medicaid program to access their personal medical claim data, including their providers, prescriptions, tests and diagnoses, through a mobile health record application of the individual's choosing.

**NEXT WEEK IN WASHINGTON**

Fears of a partial government shutdown loom as negotiations on the seven remaining fiscal year 2019 spending bills remain far apart. The House is scheduled to be out of session until Wednesday of next week, which leaves less than 48 hours to reach a deal or extend current funding that expires after December 21. Majority Leader Kevin McCarthy (R-CA) has cautioned members that they may need to come back Monday and Tuesday for a last-minute session on funding bills. Were a partial shutdown to take place, the health agencies exposed by the current funding bill are the FDA and Indian Health Service. HHS and CMS were funded by Congress in September.

**THIS WEEK IN WASHINGTON IN HISTORY**

**2000, 18 years ago this week**: Al Gore concedes defeat in the presidential election against George W. Bush, following weeks of legal battles over recounting vote in Florida.

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**1815, 203 years ago this week**: President James Madison presents a trade agreement to Congress to regulate commerce with Great Britain. The commerce agreement secured America's autonomy on the high seas, but, more importantly, it signified Britain's acceptance of America as a separate nation with the will and capacity to defend its interests.

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