

HALL RENDER'S THIS WEEK IN WASHINGTON - DECEMBER 9, 2019

HOUSE AND SENATE PANELS ANNOUNCE SURPRISE BILLING FIX

On December 8, leaders from the Senate Health, Education, Labor, and Pensions ("HELP") and House Energy and Commerce committees announced an agreement on surprise billing legislation. The proposal is intended to end surprise billing of patients by creating a new system of dispute resolution that includes arbitration. Congressional staff noted that final details of the bill are still being worked out and the bill text will be released soon.

The legislative package was introduced by HELP Chairman Lamar Alexander (R-TN), Energy and Commerce Chairman Frank Pallone (D-NJ) and Ranking Member Greg Walden (R-OR), who said it is aimed at lowering health care costs. Notably, ranking member of the HELP Committee, Sen. Patty Murray (D-WA), has not endorsed the deal yet but is working with other members to address outstanding concerns.

This bipartisan, bicameral agreement also addresses other health policy matters, such as drug pricing transparency policies. It raises the purchasing age for tobacco to 21 and provides \$20 billion for community health centers over five years. The bipartisan and bicameral nature of the agreement raises the chance that Congress will pass the measure before the end of the year, even with the extremely tight timeline.

SENATE FINANCE DRUG PRICING BILL RE-INTRODUCED, CONTAINS HEALTH EXTENDERS

The Senate Finance Committee unveiled an [updated version of their bipartisan drug pricing bill](#) on December 6. Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR) wanted to release the updated legislation ahead of the House's vote this week on the Democratic majority's drug pricing legislation ([H.R. 3](#)). White House officials signaled on Friday that they will support Senate Finance's measure. The revamped bill bumps down cost-sharing requirements in Medicare Part D from 25 percent to 20 percent and would allow patients to spread their costs over the calendar year. It also directs insurers to offer a cap on the amount of out-pocket-costs that a beneficiary has to pay in any one month, amongst many other changes.

The new version also tacks on more than a dozen broader health care extenders to fund critical, expiring health care programs. On Medicaid Disproportionate Share Hospital ("DSH") payments, the legislation delays scheduled disproportionate share hospital payment reductions for two years followed by implementing payment reductions of \$8 billion for each of fiscal year 2022 through 2025. It also includes reporting requirements on Medicaid non-DSH supplemental payments, Medicaid shortfall and third party payment improvements, and a GAO study and report on uncompensated care costs. Additionally, the legislation extends the Community Mental Health Services Demonstration program for two years and adds eleven new states to the demonstration.

A detailed list of health extenders contained in the legislation can be found [here](#).

HOSPITALS DROP ANOTHER LAWSUIT ON HHS REGARDING TRANSPARENCY RULES

Hospital groups, including the American Hospital Association and the Federation of American Hospitals, along with individual health systems sued the Trump Administration over the latest transparency rules released last month. The lawsuit challenges CMS's final rule mandating that hospitals disclose their privately negotiated rates with commercial health insurers. Filed in the U.S. District Court for the District of Columbia, the lawsuit claims HHS doesn't have the authority to force hospitals to publish secret rates they've negotiated with insurers. It also argues the rules, set to take effect in 2021, violate the First Amendment. One complaint of the rule is that the provisions would be extremely costly to implement. Proponents of the transparency rule state that the new rules shed light on confusing pricing schemes and help patients find lower-cost care. Similar rules have been proposed for health insurers, but they have not yet been finalized.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Scott Peters (D-CA) introduced [H.R. 5357](#) to amend the Public Health Service Act to authorize a pilot program to develop, expand and enhance the commercialization of biomedical products.

Rep. Suzan DelBene (D-WA) introduced [H.R. 5333](#) to amend Title XVIII of the Social Security Act to ensure prompt coverage of breakthrough devices under the Medicare program.

Rep. Linda Sanchez (D-CA) introduced [H.R. 5326](#) to amend Titles XVIII and XIX of the Social Security Act to prohibit skilled nursing facilities

and nursing facilities from using pre-dispute arbitration agreements with respect to residents of those facilities under the Medicare and Medicaid programs.

Rep. Lucy McBath (D-GA) introduced [H.R. 5321](#) to amend the Public Health Service Act to expand, enhance and improve public health data systems.

Sen. Todd Young (R-IN) introduced [S. 2986](#) to amend part A of Title XI of the Social Security Act to establish an interagency council on social determinants of health.

Rep. Kurt Schrader (D-OR) introduced [H.R. 5304](#) to amend Title XXVII of the Public Health Service Act to require health plan oversight of pharmacy benefit manager services.

Rep. Buddy Carter (R-GA) introduced [H.R. 5281](#) to amend Title XIX of the Social Security Act to improve transparency and prevent the use of abusive spread pricing and related practices in the Medicaid program.

NEXT WEEK IN WASHINGTON

As Congress is winding down its last two weeks of work, lawmakers are trying to cram an entire session of work into these final days. This includes nailing down a shutdown-averting spending bill, a prescription drug bill and a major trade deal. Also, the packed schedule includes the widely anticipated vote to impeach President Donald Trump. With only two weeks left before current funding expires, appropriators are hoping to finalize work on all 12 spending bills and pass them by December 20 to avoid another stopgap measure or possible government shutdown. Unless a deal comes together very soon, lawmakers have warned that there likely won't be enough time to accomplish this before the holiday recess.

For more information, please contact:

- [John Williams III](#) at (202) 370-9585 or jwilliams@hallrender.com;
- [Andrew Coats](#) at (202) 370-9587 or acoats@hallrender.com;
- [Abby Kaericher](#) at (202) 780-2989 or akaericher@hallrender.com; or
- Your regular Hall Render attorney.

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