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Health Policy Update – February 8, 2022

Congress Looking at Another Stopgap Funding Bill, Build Back Better Legislation Remains Stalled, Concerns Raised with Califf's Nomination

Moving into February, lawmakers have made little progress on a range of legislative issues that have been on the docket since the start of the new year. Congressional Democrats have yet to decide how they're going to move forward with the Build Back Better Act – President Biden's signature domestic spending bill – in light of Senator Joe Manchin's (D-WV) continued opposition. Meanwhile, government funding is set to lapse on February 18. While talks continue between top appropriators, lawmakers have yet to agree on a common framework or topline budget number. The House is expected to vote on a stopgap funding bill this week to give lawmakers more time to finalize a longer-term omnibus spending bill.

Healthcare providers are urging lawmakers to make sequestration relief a component of the upcoming spending bill. While a looming series of Medicare cuts was averted last December, the first of several are set to resume in April with a 1% across-the-board cut to all providers. Stakeholders, which include the American Hospital Association as well as specialty provider organizations, argue that the circumstances of the pandemic continue to pose challenges to an already strained healthcare system.

In related news, President Biden's nominee to lead the FDA could be in trouble as a number of lawmakers from both parties have expressed their skepticism in recent days. While his nomination passed out of committee with bipartisan support in January, he has also attracted bipartisan opposition over his track record on opioids, ties to the pharmaceutical industry, and his support for the FDA's recent decision to ease access to abortion medication. Last week, Dr. Califf held a series of meetings with lawmakers and made additional ethics-related commitments including a pledge that he would not work in the healthcare industry for at least four years following his tenure at FDA. Given the opposition from some Democratic senators and the temporary absence of Senator Ben Ray Lujan (D-NM) who is recovering from a recent stroke, Dr. Califf may need as many as six Republican votes.

Telehealth Extension Bill Introduced in Senate, The Network Joins Stakeholders in Urging Congress to Take Action on Telehealth

On Monday, February 7, Senators Catherine Cortez Masto (D-NV) and Todd Young (R-IN) introduced legislation that would extend the temporary Medicare payment flexibilities for two years after the end of the COVID-19 public health emergency. The Telehealth Extension and Evaluation Act would also require a large study on telehealth utilization, cost, quality, and impact on health equity. The bill would require an interim report on the study within one year and a final report 18

months after passage. The bill is intended to prevent a sudden end to the temporary COVID-related telehealth flexibilities while also collecting data to inform permanent legislation.

In contrast, the Telehealth Extension Act, introduced in December by House Ways and Means Health Subcommittee Chair Lloyd Doggett (D-TX), would permanently remove the originating site and geographic restrictions on telehealth and implement permanent fraud prevention measures including audits, requiring providers to use their National Provider Identifier Number when billing, and requiring in-person appointments for high-cost durable medical equipment and major laboratory tests.

The introduction of the Senate bill comes after hundreds of healthcare stakeholders, including The Network, sent a letter to Congressional leadership asking for a legislative solution that facilitates a pathway to comprehensive permanent telehealth reform.

“Virtual care is now a fundamental part of the U.S. health care system, and it will improve patient access to high-quality care well beyond the COVID-19 pandemic,” the letter reads. “Many underserved communities that historically have had limited access to specialty care can now beam in top specialists in neurology, oncology, neonatology, and other critical specialties to help save lives and treat critically ill patients.”

On a related note, a group of healthcare providers affiliated with the American Telemedicine Association (ATA) is launching a new group – ATA Action – that will be specifically focused on making the pandemic-era telehealth waivers permanent. So far, the group has more than 20 members, large and small, and plans to work closely with its parent organization on public policy issues.

To read more about the Senate Telehealth Extension and Evaluation Act, CLICK HERE.

To read more about the House Telehealth Extension Act, CLICK HERE.

To view the Stakeholder letter, CLICK HERE.

To learn more about ATA Action, CLICK HERE.

Biden Administration Relaunches Cancer Moonshot

Last week, President Biden announced his Administration was re-launching the Cancer Moonshot project, which he personally oversaw while serving as Vice President in the Obama Administration. As part of a multipronged effort to strengthen prevention, screening, and research, the Administration seeks to reduce the cancer death rate by 50 percent over the next 25 years. First Lady Jill Biden is expected to be heavily involved in the project, encouraging Americans to undergo screenings missed during the COVID-19 pandemic—an important part of reducing cancer deaths.

The Cancer Moonshot relaunch will also include the following:

- Re-establish White House leadership by appointing a Cancer Moonshot coordinator in the Executive Office of the President.

- Form an interdepartmental “Cancer Cabinet” comprised of HHS, VA, DOD, DOE, USDA, EPA and several other subagencies to establish and make progress on Cancer Moonshot goals.
- Issue a “Call to Action” on cancer screening and early detection. This effort will focus on delayed screening due to COVID-19, screening access and equitability, and the timely study and evaluation of multicancer detection tests.
- Host a White House Cancer Moonshot Summit bringing together oncology stakeholders all working to “end cancer as we know it.”
- Launch a website allowing patients and cancer stakeholders to submit ideas, stories, and action for how they plan to take part in the Cancer Moonshot mission.

Last March, Biden met with a group of bipartisan lawmakers at the White House to discuss investments in cancer research and treatment. However, the renewed initiative does not yet include any additional funding, and the $1.8 billion provided by Congress in 2016 only has about $400 million remaining.

However, supporters of the decision argued that the move was necessary given the limited The Cancer Moonshot project is also expected to be aligned with the administration’s ongoing push to establish an independent healthcare research and innovation agency, ARPA-H. Funding for the agency is currently a part of the broader Cures 2.0 legislation that is making its way through Congressional committees. The House Energy & Commerce Committee’s Subcommittee on Health held a hearing on ARPA-H today.

To read a White House Fact Sheet on the Cancer Moonshot, CLICK HERE.

To view the E&C Committee hearing, CLICK HERE.

More Manufacturers Limit 340B Drugs Through Contract Pharmacies, Safety Net Hospitals Cry Foul

In late January, Pfizer became the latest pharmaceutical company to limit 340B discounts through contract pharmacies, joining other major manufacturers such as AbbVie Inc., Amgen Inc., Bristol Myers Squibb who have recently adopted a similar policy. Pfizer’s announcement brings the total number of manufacturers limiting 340B discounts to at least 13. The manufacturers claim the restrictions are necessary to prevent misuse of the 340B program and allege that using contract pharmacies allows providers to claim duplicate discounts.

A survey released by the advocacy group 340B Health found that the restrictions are costing safety net hospitals millions of dollars in savings. Critical access hospitals alone reported losing an average of 39% of the contract pharmacy savings they would have seen from the program, with other larger 340B hospitals lost about 23% of their community pharmacy savings. The hospitals claim these losses could force them to reduce or eliminate services and support.

The dispute over the 340B program has most recently ended up in federal court. In December 2021, The Biden Administration appealed a federal judge’s ruling which found the limits on contract pharmacies are permitted after the Health Resources and Services Administration’s (HRSA) attempted to fine manufacturers for implementing the restrictions.

To read more about the issue & view the 340B Health survey, CLICK HERE