

## Federal Issues

### Legislative

#### Sequestration Relief Signed into Law

Last week, President Biden signed into law legislation providing relief from Medicare sequestration cuts. The legislation extends the suspension of the 2% across-the-board Medicare payment cuts through the end of 2021.

The U.S. House passed H.R. 1868 by a vote of [384 to 38](#)—after [U.S. Senate action](#) during late March. Senator Casey (D-PA) and 17 members of Pennsylvania's U.S. House delegation supported the legislation.

Absent Congressional action, the cuts were scheduled to resume on April 1, 2021. The Centers for Medicare & Medicaid Services (CMS) instructed Medicare Administrative Contractors (MAC) to hold all claims with dates of service on or after April 1, 2021, until the legislation was enacted into law.

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CMS has [instructed](#) MACs to:

- Release any previously held claims with dates of service on or after April 1; and
- Reprocess any claims paid with the reduction applied.

In addition to the relief from sequestration cuts, the law makes technical changes to the Rural Health Clinic (RHC) provisions included in the Consolidated Appropriations Act (CAA), by extending to December 31, 2020, the certification date that would trigger capped payment rates for provider-based RHCs. Provisions in CAA established the payment rate for provider-based RHCs certified after December 31, 2019, would be capped at \$100 per visit beginning April 1, 2021.

The new law also includes Medicare-enrolled RHCs located in hospitals with fewer than 50 beds, as well as RHCs that have submitted applications for Medicare enrollment as of December 31, 2020.

The legislation will avert cuts which have an annual impact of nearly \$200 million for Pennsylvania hospitals.

For insurers, the CMS April Medicare Advantage payment to plans included a 2% cut. To compensate, the May payment will include a “true-up” that will backfill for the cut in the April payments. CMS was also temporarily holding Medicare Fee-for-Service claims from providers and will start to pay these claims now that the moratorium is extended.

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## **House Passes Rx Bills**

The House passed bipartisan prescription drug bills previously passed by the Senate that will now head to President Biden’s desk for his signature.

- The [Advancing Education on Biosimilars Act of 2021](#) would help provide patients and health care providers with greater information about biologics and biosimilars by requiring the Food and Drug Administration (FDA) to establish a public website with educational materials, including what products are interchangeable, as well as how to report any adverse events.
  - The [Ensuring Innovation Act](#) clarifies that five-year new chemical entity eligibility is only available for drugs containing **no** active component that has previously been approved in the United States. This bill aims to help reduce drug costs and improve access to more affordable generic drugs by ensuring that market exclusivity, which can delay generic drugs from entering the market, is only made available to truly innovative products.
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## Hearings on the Hill

On Wednesday, the House Energy and Commerce Subcommittee on Health held a legislative [hearing](#) titled “*An Epidemic within a Pandemic: Understanding Substance Use and Misuse in America.*” During the hearing, lawmakers considered 11 different bills and heard testimonies from policy experts in the public and private sectors. Panelists testified about several pieces of legislation enacted by Congress to combat the opioid epidemic and the implementation of these laws, how the COVID-19 pandemic has impacted people suffering from substance use disorders and next steps in response to the opioid crisis.

On Thursday, the House Education and Labor Subcommittee on Health, Employment, Labor and Pensions held a virtual [hearing](#) titled “*Meeting the Moment: Improving Access to Behavioral and Mental Health Care.*” The hearing focused on solutions for ensuring equitable access to behavioral health care and included testimony from clinicians and policy experts. Notably, during the hearing, witnesses and lawmakers alike praised telehealth flexibilities granted by Congress and the Centers for Medicare & Medicaid Services (CMS) in response to the COVID-19 pandemic and urged lawmakers to extend these flexibilities beyond the pandemic.

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## Senate Holds Confirmation Hearing for Chiquita Brooks-LaSure

The Senate Finance Committee held a nomination hearing for President Biden’s nominee for Administrator for the Centers for Medicare and Medicaid Services (CMS), Chiquita Brooks-LaSure.

**Why this matters:** CMS oversees programs including Medicare, Medicaid, CHIP, and the state and federal health insurance marketplace. CMS will be a critical agency as President Biden and Congressional Democrats discuss ways to expand health insurance coverage. Some Democratic leaders have proposed lowering the Medicare eligibility age while others have argued for a public option. The Senate Finance Committee will look to vote to confirm Brooks-LaSure as early as this week as Democrats aim to pass expansive infrastructure legislation, including to-be-detailed “social infrastructure”.

Ranking Member Mike Crapo (R-ID) highlighted Sec. 1332 and 1115 waivers as essential tools to states to which Brooks-LaSure stated she would be willing to work with Senators to improve waiver coordination. Similar to the Becerra nomination hearing, Brooks-LaSure stated she wanted to take lessons learned from COVID-19 and work with Congress to make such telehealth measures permanent. Other topics included prescription drug pricing reform and related bipartisan drug pricing legislation and implementation of the No Surprises Act.

### Chiquita Brooks-LaSure Bio:

- Brooks-LaSure began her career in the Office of Management and Budget in the White House, where she was a program examiner and lead Medicaid analyst during the Clinton and Bush administrations.
  - Worked as a staffer for Democrats on the House Ways and Means Committee and assisted with the passage of several health care laws; facilitated negotiations between the Senate and the Obama administration on the ACA and helped enact the Medicare Improvements for Patients and Providers Act of 2008.
  - In the Obama administration, Brooks-LaSure served as director of coverage policy at HHS and later as deputy director for policy at the Center for Consumer Information and Insurance Oversight within CMS, where she helped implement ACA coverage and insurance reform policy provisions.
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## Federal Issues

### Regulatory

#### IRS Clarifies ACA Tax Credit Treatment for 2020

The Internal Revenue Service (IRS) issued guidance that clears up how individuals who receive advance payments of premium tax credits (APTCs) for tax year 2020. The guidance is in response to the American Rescue Plan Act's hold harmless protections for people who may have underestimated their income when they applied for 2020 coverage (due to job loss, reduced hours, for example) but who may have received unexpected sources of income like unemployment benefits or essential worker hazard pay. The guidance informs affected taxpayers, who may have already filed their 2020 tax returns that they will not need to repay any otherwise excess tax credit amounts. To operationalize the guidance, the IRS plans to process tax returns without requiring the usual Form 8962 in which individuals reconcile their income. Further, individuals who have already filed will not need to refile a tax return and they will be reimbursed for any excess tax credits repaid to the federal government.

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#### Coronavirus Updates

- The Centers for Disease Control and Prevention (CDC) reported about 5,800 “breakthrough” COVID-19 cases among the millions of Americans who are fully vaccinated, totaling far less than 1% of fully vaccinated people. Out of the recorded breakthrough cases, about 7% resulted in hospitalization, and about 1% of people who contracted it after being vaccinated died. The breakthrough COVID-19 infections reported to the CDC were out of more than 75 million fully vaccinated individuals in the U.S., occurring in less than 0.008% of fully vaccinated people. Hospitalizations have occurred in 0.0005% of all full vaccinations and deaths in almost 0.0001%.
- The Food and Drug Administration (FDA) and the CDC recommended an immediate pause in the use of Johnson & Johnson's coronavirus vaccine after six people developed a rare and severe type of blood clot after receiving the shot. The CDC and FDA will further review the cases and assess their potential significance.
- Regeneron announced its monoclonal antibody therapeutic, REGEN-COV, reduced the risk of symptomatic COVID-19 infections by 81% in a Phase 3 trial. The report also found the antibody cocktail seemed to reduce the length of symptomatic COVID-19 infections. Currently, Regeneron's therapeutic is only being used for people who are already infected. Regeneron said it will ask the FDA to expand the emergency-use authorization for REGEN-COV to include prevention of COVID-19 in people who have been exposed to the virus but have not yet been vaccinated.
- HHS's Office of the Assistant Secretary for Planning and Evaluation (ASPE) released an [issue brief](#) on the characteristics of homebound adults. ASPE found approximately 1.6 million adults 65 years of age and over may have trouble accessing the COVID-19 vaccine because they are homebound. Additionally, more than half of these this population face at least one additional barrier, such as living alone or lacking technology to register for a vaccination appointment. ASPE concludes in-home vaccination programs and initiatives are needed to reach the vulnerable, homebound populations.
  - Understanding the challenges to vaccinate at-risk seniors, in March the White House, AHIP and BCBSA [announced](#) the Vaccine Community pilot initiative. The initiative aims to

vaccinate more than 2 million seniors in the most vulnerable communities. Earlier this month, the State of Illinois, AHIP and BCBSA [announced](#) a partnership as an extension of the initiative. These initiatives are designed to connect health plan members with access to state, local, and provider-sponsored vaccine sites, provide those seniors with assistance in scheduling and accessing those appointment and following up to assure where additional doses are needed, they are received. Additionally, several AHIP and BCBSA member plans have worked with local officials and the aging and disability network to develop and implement programs specifically designed to deliver vaccine to people who are homebound leveraging the support of home health, community paramedicine, and other local providers.

- The Biden administration [announced](#) a \$1.7 billion investment in the country's pandemic response and ability to track COVID-19 variants. The funds, which stem from the American Rescue Plan, will go toward sequencing the genomes of coronavirus samples, creating six new genomic epidemiology centers, and building a national bioinformatics infrastructure to unify how sequencing data is shared and analyzed.

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## State Issues

### Delaware

#### Legislative

#### **Legislature Returns to Session; Health Care Bills Introduced**

The Delaware General Assembly returns this week to virtual sessions with several recently introduced bills related to health care on the agenda.

#### **Telehealth Access Preservation and Modernization Act of 2021**

[House Bill 160](#) continues and enhances Delawareans' access to telehealth and telemedicine services and, through the adoption of the Interstate Medical Licensure Compact, ensures that telehealth services can be provided through qualified medical practitioners in a streamlined and efficient pathway to licensure. This Act carries through many of the changes embodied in the COVID-19 telehealth legislation passed by the 150<sup>th</sup> General Assembly in 2020, which will otherwise expire on July 1, 2021.

#### **Mandate Proposed on Insulin Pumps**

[Senate Bill 107](#) requires that individual, group, State employee, and public assistance insurance plans provide coverage for a medically necessary insulin pump at no cost to a covered individual. Highmark is seeking clarity on whether this provision requires coverage of the insulin pumps at no cost *before* the deductible is met with no cost sharing, or after. We are also seeking clarification on whether it applies to replacement pumps, upgrades or additional pumps in a coverage year or over multiple coverage years.

#### **Codifying rate floor system for Medicaid reimbursement of Home Health-Care Services.**

[Senate Bill 109](#) requires that home health-care services for Medicaid long-term care services and support providers be reimbursed for services by Medicaid-contracted organizations at a rate equal to or more than the rate set by the Division of Medicaid and Medical Assistance for equivalent services. This rate floor system is currently used for reimbursement rates for home health-care nursing services paid for by Medicaid-contracted organizations.

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## State Issues

### New York

#### Legislative

#### Health Committee Advances Single Payer Bill

The Assembly Health Committee advanced the New York Health Act to the Codes Committee. The Act – which was passed by the Assembly in four prior sessions (last in 2018), but not in the Senate – would create a government run, single payer health plan for all New Yorkers. It would prohibit selling insurance coverage that duplicates any of the benefits in the Act.

Realities of Single Payer – a broad coalition of employer groups, chambers, brokers, health plans, and some providers – continues to point out the massive tax increases that would be required to pay for the Act, how it would negatively affect provider availability, and that 95% of New Yorkers are already insured. The Governor has opposed it in the past, noting the state’s fiscal condition and the operational difficulties of a state-run program. While it isn’t expected to pass, advocates will continue to promote it for the rest of the session.

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## Industry Trends

### Policy / Market Trends

#### HHS Estimates Significant Improvements in Access to Low and Zero Premium Plans as a Result of the American Rescue Plan

The Department of Health and Human Services (HHS) Office of the Assistant Secretary for Planning and Evaluation (ASPE) released a new [report](#), “*Access to Marketplace Plans with Low Premiums: Current Enrollees and the American Rescue Plan*”. This Issue Brief is the third in a series that examines the availability of zero- and low-premium health plans in HealthCare.gov states.

**Why this matters:** The American Rescue Plan (ARP) enhances and expands Marketplace premium tax credits under the Affordable Care Act. Among the nearly 8 million current HealthCare.gov enrollees, ASPE estimates 79% could find a zero premium health plan and 87% could find a low premium health plan under the ARP. Notably, availability of zero-premium and low-premium health plans in the silver metal tier increased 41 percentage points and 25 percentage points, respectively. Nearly half of current enrollees can now enroll in a zero-premium silver plan while 7 in 10 of current enrollees can enroll in a silver level plan for \$50 or less per month.

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The Pennsylvania General Assembly is in session April 19-21.

The Delaware Legislature is in session April 20-22.

The New York Legislature is in session April 19-21.

The West Virginia Legislature concluded session on April 10.

Congress

The U.S. House is in session April 19-22. The U.S. Senate is in session April 23.

**Interested in reviewing a copy of a bill(s)? Access the following web sites:**

Delaware State Legislation: <http://legis.delaware.gov/>.

New York Legislation: <https://nyassembly.gov/leg/>

Pennsylvania Legislation: [www.legis.state.pa.us](http://www.legis.state.pa.us).

West Virginia Legislation: <http://www.legis.state.wv.us/>

For copies of congressional bills, access the Thomas website – <http://thomas.loc.gov/>.

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