Highmark's Weekly Capitol Hill Report

Issues for the week ending August 28, 2026

Federal Issues

Regulatory

Department of Homeland Security Proposes New Filing Fee for H-1B Visas

The Department of Homeland Security (DHS) Aug. 25 released a proposed rule that would establish a new $103,265 filing fee for cap-subject H-1B petitions. The proposed fee is separate from last year's $100,000 fee for all new H-1B visas established by a presidential proclamation and whose implementation is currently blocked by litigation in federal court. Comments on the proposed rule are due to DHS by Sept. 24.

H-1B Visa Background: H-1B visas are a temporary (non-immigrant) visa category that permits employers to file petitions for highly educated foreign-born professionals to work in "specialty occupations" that require at least a bachelors' degree. In general, H-1Bs are capped by statute; the current annual cap is 65,000.

The law also provides an exemption for an additional 20,000 visas for foreign professionals who graduate from U.S. institutions of higher learning with advanced degrees (masters' degree or doctorate). Individuals receiving H-1B visas via this pathway participate in a

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lottery selection process and are called “cap-subject” by DHS. However, there are also exemptions from these numerical caps, including for employees of higher educational institutions and their affiliated nonprofit groups. Hospitals and health systems often use this exemption pathway for H-1B petitions for physicians, and DHS refers to such petitions as being “cap-exempt.”

Last year, by presidential proclamation, the administration implemented a $100,000 filing fee for most cap-subject and cap-exempt H-1B visa petitions. The proclamation established the fee for one year, which expires on Sept. 21 unless the administration renews it. However, the implementation of the presidential proclamation was blocked by a federal court in July, and the federal government’s appeal remains pending.

DHS Proposed Rule: DHS’ proposed new filing fee of $103,265 would apply only to new H-1B cap-subject petitions and be payable at the time of filing. The new fee would not apply to cap-exempt H-1B visa petitions. DHS also proposes that the fee would be separate from any other fees established by presidential proclamation.

DHS indicates that the purpose of the new fee is to generate revenue to recover some of the costs for administering the lawful immigration system.

Why this matters: The H-1B visa is an important tool allowing hospitals and health systems to fill critical staffing needs across a variety of healthcare positions. This latest filing fee would hamper recruitment efforts, strain hospital staffing and reduce patient access to essential healthcare services, especially in rural and underserved areas. Hospitals continue to urge DHS to make healthcare professionals exempt from any additional fees to ensure continued access to timely, high-quality care for all communities.

DOL, HHS, and Treasury Issue FAQs on Health-Contingent Wellness Programs

On August 26, 2026, the U.S. Departments of Labor, Health and Human Services, and Treasury jointly released FAQs providing guidance on health-contingent wellness programs.

Why this matters: The FAQs were issued in response to questions raised in class-action lawsuits challenging tobacco surcharges applied through employer wellness programs. The guidance announces the departments will not take enforcement action against plans or issuers that provide wellness program rewards only prospectively rather than retroactively to the beginning of the plan year, unless retroactive rewards are otherwise provided. The FAQs also clarify if plan materials merely mention the availability of a health-contingent wellness program without describing its terms, plans and issuers are not required to disclose the availability of a reasonable alternative standard.

BCBSA Shares Recommendations on Medicare RFIs

BCBSA recently submitted comments on two separate RFIs that could shape Medicare policies impacting physician payments and beneficiary participation in clinical trials.

Why this matters: These RFIs provide BCBSA with the opportunity to share decades of expertise in the Medicare market and our commitment to sound, commonsense policies that maintain access to high-quality care while lowering costs for beneficiaries.

The details: BCBSA provided recommendations on:

- An RFI on the Patients First Act , a bipartisan bill from Reps. John Joyce, M.D. (R-PA), Greg Murphy, M.D. (R-NC), and Kim Schrier, M.D. (D-WA), that proposes structural reform to future Medicare physician payments.
    - **The response:** BCBA focused their recommendations on strengthening primary care, advancing value-based care, improving quality measurement, promoting care in lower-cost settings, and pursuing additional affordability-focused reforms.
    - BCBSA also highlighted opportunities to generate Medicare savings and improve beneficiary affordability.
- An RFI from HHS' Office of Inspector General (OIG) seeking input on whether changes to the federal anti-kickback statute are needed that could affect how clinical trial sponsors support patient participation.
    - **The response:** BCBSA's comments sought to ensure any new safe harbors enhance access to clinical trials while preserving strong safeguards against inappropriate inducements and patient steering.
    - They also recommend that OIG maintain alignment with existing Medicare Advantage marketing requirements.

BCBSA Weighs in on Proposed Medicare Drug Negotiation Rule

BCBSA recently responded to a proposed rule from CMS that would codify key policies governing the Medicare Drug Price Negotiation Program — significantly impacting Part D formulary administration, biosimilar competition and how negotiated prices are implemented for selected drugs.

Why this matters: The Blues are committed to ensuring Medicare beneficiaries have access to affordable prescription drugs while supporting a competitive pharmaceutical marketplace. BCBSA's comments reflect that commitment — aiming to ensure beneficiaries receive the savings Congress intended while preserving plan flexibility and encouraging long-term market competition to further drive beneficiary affordability.

The details: In the response, BCBSA recommended that CMS should:

- **Finalize its proposed approach** to fixed-combination products and set clear rules so minor product tweaks cannot be used to delay lower negotiated prices for beneficiaries
- **Implement biosimilar delay exceptions** with proper guardrails and transparency, so any delays lead to meaningful competition and savings for beneficiaries
- **Keep its current formulary review standards**, which give Part D sponsors the flexibility to steer patients to lower-cost generics and biosimilars, ensuring beneficiaries have access to equally effective treatments at reduced cost sharing

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CMS Updates

- **Departments Release New IDR Bi-Monthly Report:** CMS published a new IDR bi-monthly report. The report includes information on IDR program statistics and is intended to promote transparency into the implementation of the Federal IDR process. Data is now available through July 31, 2026.

  Why this matters: These reports are intended to provide information to update the public more frequently than the IDR Public Use Files (PUFs). The Departments will continue to release the IDR PUFs and supplemental tables in addition to the bi-monthly reports.

- **CMS Announces Delay in MA Provider Directory Attestation Deadline :** On Aug. 27, the Centers for Medicare & Medicaid Services (CMS) announced it was extending the deadline for Medicare Advantage (MA) organizations to complete the Contract Year 2027 provider directory attestation in the Health Plan Management System (HPMS) from Sept. 1, 2026 to Sept. 18, 2026. As part of this HPMS announcement, CMS stated “MA organizations should rely on their documented processes and reasonable, good-faith efforts to maintain accurate provider directory data.”

DOJ Announces National Fraud Enforcement Division

On Aug. 17, the Department of Justice (DOJ) officially announced the creation of the National Fraud Enforcement Division as part of a revamped, comprehensive approach to investigating and prosecuting fraud against taxpayer dollars and taxpayer-funded programs.

Why this matters: This division will handle criminal proceedings related to healthcare fraud, including those associated with health plans. DOJ also published the Fraud Division's enforcement priorities, which include an emphasis on targeting fraud related to telemedicine, Medicare and Medicaid, controlled substances, home health and hospice, and deceptive marketing.

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