



Issues for the week ending September 22, 2023

Federal Issues

Legislative

Senate Committee Clears Maternal Health, Primary Care Bills

The Senate HELP Committee [passed](#) several bills health care bills on Thursday designed to improve infant and maternal health care, address workforce shortages in primary care, and reauthorize several public health programs.

- [S. 2840](#), the Primary Care and Health Workforce Act, reauthorizes several programs, including Community Health Centers; provides funding for expansion of the health care workforce; and addresses anticompetitive contract terms and off-campus provider billing.
- [S. 1573](#), the PREEMIE Reauthorization Act, would continue federal research, data collection, education and interventions to reduce preterm births and infant mortality through fiscal year 2028.
- [S. 2415](#), the Preventing Maternal Deaths Reauthorization Act, would continue federal support for state-based maternal mortality review committees and share best practices

In this Issue:

Federal Issues

Legislative

- Senate Committee Clears Maternal Health, Primary Care Bills
- House Hearings Focus on No Surprises Act & PBMs
- AHIP Highlights Potential of Artificial Intelligence and Need to Set Guardrails in Comments on Senate White Paper

Regulatory

- Mental Health Parity Proposed Rule Comment Period Extended to October 17
- CMS Reports Medicaid & CHIP Coverage for 500K Children & Families Will Be Reinstated
- White House Restarts Free COVID Test Kit Mailing Program
- ACIP Recommends New RSV Vaccine for Pregnant Persons
- CMS Releases Final Rule Simplifying Medicare Savings Program Eligibility and Enrollment

Industry Trends

Policy / Market Trends

with hospitals and other health care providers to prevent maternal mortality.

Although the Primary Care and Health Workforce Act garnered some bipartisan support, it was opposed by Sen. Bill Cassidy (R-LA), the top Republican on the committee, making it unlikely to have the votes to pass the full Senate. The other two bills, which were passed by the House Energy and Commerce Committee by a vote of 48-0 over the summer, have a good chance of being included in an end-of-year legislative package.

- **AHIP Hosts Briefing on Expanding Supplemental Benefits in Medicare Advantage**

House Hearings Focus on *No Surprises Act* & PBMs

Amid the continuing stalemate over government funding, House leaders postponed its planned vote on the [Lower Costs, More Transparency Act](#). This legislation includes provisions on transparency, PBMs, and hospital billing. However, we did see some health care action this week during key House hearings.

- On Tuesday, the Ways and Means Committee held an [oversight hearing](#) on implementation of the No Surprises Act (NSA) where Members heard from two provider groups, a community health advocate, an independent dispute resolution (IDR) entity and AHIP. The discussions centered on the volume of backlogged claims, lag time in final payments to providers and narrowing networks. Rep. Greg Murphy (R-NC) indicated he will be introducing legislation to address concerns around the timeliness of payment.
 - **AHIP highlighted their [recommendations](#)** to improve the federal IDR process in a way that protects patients and strengthens our health care system. **BCBSA also submitted a [statement for the record](#)** highlighting their continued commitment to support and strengthen the NSA to ensure a robust, transparent and predictable IDR process so patients are protected from higher costs in the long-term. BCBSA also underscored the need for complete and clear determination details from IDR entities to promptly pay claims to providers.
 - **Why this matters:** The NSA has protected Americans from 20 million surprise medical bills — about 1 million surprise medical bills a month. **However, multiple legal challenges** and a higher-than-expected number of submissions to the IDR process have made implementation of the law challenging for health plans.

- Rep. Lloyd Doggett (D-TX) raised concerns over soaring health care costs and private equity companies taking advantage of the independent dispute resolution process. AHIP explained that, according to data published by CMS, most providers taking advantage of the IDR process are large, private equity backed firms.
- The question & answer session at the hearing focused on the following:
 - Whether health insurers were making the required timely payments required by the No Surprises Act following an arbitration decision;
 - The impact on health insurer networks and whether insurers were dropping network contracts and relying on arbitration;
 - The impact of the repeated litigation and repeated stops and starts of the IDR process; and,
 - Trends leading to IDR requests being concentrated in certain states with certain private equity backed providers.
- Also on Tuesday, the House Energy and Commerce Health Subcommittee held a legislative [hearing](#), which featured discussion regarding 25 bills on wide variety of topics, including Medicare coverage for innovative devices and technologies, PBMs and drug issues. Members expressed concern about a recent GAO report which found that, in some cases, plan sponsors receive more in rebates than they pay for drugs, but do not use these savings to reduce premiums for Medicare beneficiaries. PBMs were also discussed during Tuesday’s House Oversight and Accountability Committee [hearing](#) on “The Role of Pharmacy Benefit Managers in Prescription Drug Markets Part II: Not What the Doctor Ordered.”

AHIP Highlights Potential of Artificial Intelligence and Need to Set Guardrails in Comments on Senate White Paper

AHIP submitted [comments](#) in response to Senate Health, Education, Labor and Pensions (HELP) Committee Ranking Member Bill Cassidy’s (R-LA) [white paper](#) on artificial intelligence (AI), entitled *Exploring Congress’ Framework for the Future of AI: The Oversight and Legislative Role of Congress Over the Integration of Artificial Intelligence in Health, Education, and Labor*.

Why this matters: AHIP’s response underscored the need for a risk-based approach to AI oversight that protects consumers without stifling innovation. AHIP emphasized the potential of AI but recognized the need to set guardrails to protect consumers and mitigate bias. AHIP recommend potential legislative efforts focus on promoting appropriate governance, transparency, explainability, privacy, and mitigation techniques through adherence to industry and federal standards.

Read AHIP’s full comments [here](#).

Federal Issues

Regulatory

Mental Health Parity Proposed Rule Comment Period Extended to October 17

On August 3, the Departments of Health and Human Services, Labor, and the Treasury released a [proposed rule](#) and [technical release](#) related to the implementation of the Mental Health Parity and Addiction

Equity Act (MHPAEA). Last week, the Departments [announced](#) a 15-day extension of the comment period. **Comments on the proposed rule and technical release are now due October 17.**

CMS Reports Medicaid & CHIP Coverage for 500K Children & Families Will Be Reinstated

The Centers for Medicare & Medicaid Services (CMS) [released](#) a “Preliminary Overview of State Assessments Regarding Compliance with Medicaid and CHIP Automatic Renewal Requirements at the Individual Level, as of September 21, 2023,” detailing the results of the August 30, 2023 [letter](#) from CMS to states concerning how states are conducting ex parte reviews for Medicaid enrollees going through eligibility redetermination.

Why this matters: In the [press release](#), CMS reports 30 states reported having the systems issue causing eligibility determinations to be conducted at the household level, rather than at the individual level. As a result, the 30 states were required to pause procedural terminations for impacted people, and nearly 500,000 children and other individuals who were improperly disenrolled from Medicaid or CHIP will regain their coverage. The summary details which states have the household ex parte systems issue, the affected population(s), and the estimated number of affected individuals in each state.

White House Restarts Free COVID Test Kit Mailing Program

Starting September 25, households can request 4 free tests through [COVIDTests.gov](#). The Biden Administration is [reopening](#) the public health emergency-era program as COVID-19 hospitalizations have continued rising, passing 20,000 for the first time since March. The Biden administration expects to secure about 200 million tests for this renewed testing effort.

ACIP Recommends New RSV Vaccine for Pregnant Persons

The Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices (ACIP) [voted](#) 11-1 to recommend the RSV vaccine for pregnant people (RSVpreF) at 32 through 36 weeks gestation to pass protection against RSV on to their babies.

The Committee voted to:

- Recommend the Maternal RSV vaccine for pregnant people during 32 through 36 weeks gestation, using seasonal administration, to prevent RSV lower respiratory tract infection in infants.
- Approve the Vaccines for Children (VFC) resolution for the RSV maternal vaccine.

The recommendation applies to use of the of the Abrysvo (Pfizer) vaccine. The US Food and Drug Administration (FDA) [voted](#) on August 21, 2023 to approve Abrysvo (Pfizer) for pregnant people at 32 to 36 weeks' gestation.

During the meeting, ACIP reviewed safety and cost-effectiveness data on the vaccine. The economic analysis demonstrated that RSVpreF will improve health outcomes but could increase costs. The researchers suggested that with reasonable vaccine pricing and consideration of seasonal interventions – focusing on the RSV season of September through January – cost-effectiveness could be achieved. Pfizer

indicated that the vaccine would cost \$295 per dose. The manufacturers do not anticipate any delays with supply, and some expected it to be available as early as next week or early in October.

CMS Releases Final Rule Simplifying Medicare Savings Program Eligibility and Enrollment

The Centers for Medicare & Medicaid Services (CMS) released a final rule to streamline enrollment in Medicare Savings Programs (MSPs).

Background: MSPs are run by state Medicaid programs and cover Medicare premiums and, in most cases, cost-sharing for more than 10 million older adults and people with disabilities. The rule was proposed on August 31, 2022, as part of a comprehensive eligibility rule entitled, “Streamlining the Medicaid, Children’s Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Process” [CMS-2421].

Why this matters: Notably, the final rule will require automatic enrollment of Supplemental Security Income (SSI) recipients eligible for Medicare into the Qualified Medicare Beneficiary (QMB) MSP group (effective Oct. 1, 2024) and require states to use Low-Income Subsidy “leads” from Medicare Part D to facilitate enrollment of individuals into MSPs (effective April 1, 2026). **CMS estimates this rule will reduce Medicare premiums and out-of-pocket costs for 860,000 individuals by helping them enroll in MSPs.**

Next Steps: In its [press release](#), CMS notes this is the first of two final rules stemming from that proposed rule; the second final rule detailing remaining policies is anticipated to be released in 2024.

Industry Trends

Policy / Market Trends

AHIP Hosts Briefing on Expanding Supplemental Benefits in Medicare Advantage

Multiple leaders gathered to discuss the *Addressing Whole Health in Medicare Advantage Act*, newly introduced bipartisan legislation led by **Reps. Gus Bilirakis (R-FL)** and **Earl Blumenauer (D-OR)** that will expand supplemental benefits in Medicare Advantage that address health-related social needs, as well as a [new report](#) on uptake of Medicare Advantage supplemental benefits. Representing a diverse audience, the panelists were unified in how these supplemental benefits are helping people get and stay healthy and how expanding the eligibility criteria for Medicare Advantage supplemental benefits will help even more Americans improve their health.

The panel featured leaders from AHIP, Elevance Health, Mom’s Meals, and seniors with the Coalition for Medicare Choices (CMC). **Rep. Gus Bilirakis (R-FL)**, the lead sponsor of the *Addressing Whole Health in Medicare Advantage Act*, delivered opening remarks. Rep. Bilirakis highlighted the value of MA and its supplemental benefits:

“This commonsense legislation employs the basic principles of value-based health care. We must look at the big picture. It is impossible to improve the population health of communities without addressing the factors that contribute to poor health outcomes. Prevention, education, and access are essential components of effective health care programs such as Medicare. Allowing Medicare Advantage programs to tailor supplemental programs based upon these factors can both help save money in the long run and

more importantly improve patient outcomes for high risk seniors. This is not just a pragmatic approach, it is the right thing to do as we work to ensure all seniors receive the best possible care”

The panelists were also unified in how supplemental benefits that address health-related social needs in MA are helping people get and stay healthy and how expanding the eligibility criteria for these benefits will help even more Americans receive care for their health-related social needs.

With MA enrollees coming from [more diverse backgrounds](#) than enrollees in traditional Medicare, plans can use supplemental benefits to reduce health inequities. By keeping seniors and people with disabilities healthier, MA plans help to lower costs, reducing the burden on taxpayers as well as seniors. The Elevance Health report also found that supplemental benefits are being used by members who could greatly benefit from them: enrollees who used at least one supplemental benefit were more likely to live in areas with fewer resources, such as food deserts and areas with lower socioeconomic status.

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/>

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

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