

## Federal Issues

### Regulatory

#### **DEA Extends Telehealth Prescribing Through 2024**

For the second time, the Drug Enforcement Administration (DEA) has extended the COVID-19 flexibilities that have allowed clinicians to virtually prescribe certain medications through 2024.

The agency said it needs additional time to review 38,000 comments on proposed telehealth rules this year and feedback from two recent public listening sessions. The agency said it's balancing the flexibilities that improve access to care with the need for safeguards to prevent diversion of controlled substances prescribed via telehealth.

**Background:** The DEA and federal health agencies have been mulling updated changes to telehealth prescribing, taking into account flexibilities that allowed virtual prescribing without an in-person visit during the pandemic. DEA is working to develop new standards or safeguards by fall 2024, agency officials said.

The DEA has asked for feedback on allowing the prescription of certain controlled medications through telehealth when the prescribing practitioner has never conducted an in-person medical evaluation.

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This extension authorizes all DEA-registered practitioners to prescribe schedule II-V controlled medications via telehealth through December 31, 2024.

**Why this matters:** Hospitals and other organizations have raised concerns about a DEA proposal that would limit prescribing of certain FDA drugs for detoxification treatment (buprenorphine) based on a telehealth encounter to a 30-day supply and require an in-person visit for a refill.

Hospitals continue to support the use of telehealth to facilitate access to care, especially for patients with opioid use disorder and other behavioral health needs.

Additional information about the DEA's announcement is available [online](#).

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### **CMS Sends State Health Official Letter on Continuous Coverage in Medicaid and CHIP**

CMS sent a State Health Official Letter reminding states of their requirement under the Consolidated Appropriations Act of 2023 to provide one year of continuous eligibility for children in Medicaid and CHIP.

**Why this matters:** Starting Jan.1, 2024, states must provide 12 months of continuous eligibility to children under 19 years of age in both Medicaid and CHIP. When this requirement takes effect, states may only terminate children's coverage during the continuous eligibility period if they age out of the program, request a voluntary termination (or have a parent/guardian requests termination on their behalf), move out of the state, are deceased, or are found to have been erroneously determined eligible during the most recent application or redetermination.

Additionally, children may have CHIP coverage terminated if the child becomes eligible for Medicaid or the family fails to pay premiums or enrollment fees (at state option)

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### **CMS Announces 2024 Medicare Part A and Part B Premiums and Deductibles**

The Centers for Medicare & Medicaid Services (CMS) issued a [fact sheet](#) and pre-publication versions of three Federal Register notices announcing the CY 2024 [Part B premiums and deductibles](#), the [Part A](#)

[deductible](#), and the [Part A premium](#). The notices are scheduled to be published in the Federal Register on October 17.

**Highlights include:**

- The Part B monthly premium will be \$174.70 in 2024, an increase of \$9.80 from \$164.90 in 2023.
- The Part B deductible will be \$240 for 2024, a \$14 increase from the 2023 deductible.
- The Part A premium, paid by about one percent of beneficiaries, will be \$505 in 2024, compared to \$506 in 2023.
- The Part A deductible will be \$1,632 in 2024, compared to \$1,600 in 2023.

In the fact sheet, CMS notes “the increase in the 2024 Part B standard premium and deductible is mainly due to projected increases in health care spending and, to a lesser degree, the remedy for the 340B-acquired drug payment policy for the 2018-2022 period under the Hospital Outpatient Prospective Payment System.”

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**CMS Releases 2024 Medicare Advantage & Part D Star Ratings**

The Centers for Medicare & Medicaid Services (CMS) issued a [press release](#) and [fact sheet](#) providing information about Medicare Advantage (MA) and Medicare Prescription Drug plan CY 2024 Star Ratings. More detailed information is displayed in CMS Star Ratings tables and related technical notes available on the agency's [website](#).

MA plans with prescription drug coverage are rated on up to 40 unique quality and performance measures, while stand-alone drug plans are rated on up to 12 measures. CMS estimates that approximately 74% percent of MA enrollees with drug coverage are projected to be in plans with four or more stars in 2024, compared to 72% in 2023. The agency also indicates that 42% of MA-PDs that will be offered in 2024 earned four stars or higher for their 2024 overall rating, compared to 51% in 2023. The average enrollment weighted MA-PD Star Rating for 2024 is 4.04, compared to 4.14 in 2023.

The fact sheet also provides information on methodological and measure level changes for the 2024 Star Ratings. CMS states that “the change in distribution from 2023 to 2024 Star Ratings is influenced by changes in measure scores in both positive and negative directions based on contract performance and the introduction of Tukey outlier deletion as well as the addition of two new Part C measures (Transitions of Care and Follow-Up after Emergency Department Visit for People with Multiple High-Risk Chronic Conditions), adding back the Plan All-Cause Readmissions (Part C) measure after a substantive change in the measure specification, and retiring the Diabetes Care – Kidney Disease Monitoring (Part C) measure.”

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**FDA Announces New Digital Health Advisory Committee**

A new [Digital Health Advisory Committee](#) at the Food and Drug Administration (FDA) will focus on scientific and technical issues related to digital health technologies, the agency announced this week. The committee will seek to explore issues related to artificial intelligence and machine learning, digital therapeutics, wearables, and remote patient monitoring, among other digital health issues.

The FDA said the committee “should be fully operational in 2024.” The agency is soliciting nominations for industry representatives, consumer groups and voting members to the new committee, which will consist of 9 core voting members. Read the [announcement](#) from the FDA for more information on the committee.

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## State Issues

### New York

#### Regulatory

#### **Essential Plan Expansion Proposal Paused**

In a call last week, the Departments of Health (DOH) and Financial Services (DFS) updated stakeholders (HPA and other plan associations, Medicaid Matters, Greater New York Hospital Association, 1199, Community Services Society) on the state’s request to “pause” its 1332 waiver application – specifically, a pause to the state’s request to expand Essential Plan eligibility from 200% to 250% of the federal poverty level.

DOH had requested the pause in a [letter](#) sent late last month to the federal Treasury Department and Department of Health and Human Services after determining the state would not be able to implement the expansion by 1/1/24. DOH indicated it is working on a new addendum to the waiver application, which it hopes to submit at the end of October. The addendum will set a new target date of 4/1/24 for implementing of the expansion.

Both DOH and DFS acknowledged this will create midyear technical and implementation issues for plans and the state (e.g., IT, educating facilitators, notice to QHP members, etc.), and indicated the state will work with plans to address these issues.

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## State Issues

#### Regulatory

#### **Governor Shapiro Signs Executive Order Streamlining Mental Health & Substance Use Disorder Efforts**

**Governor Josh Shapiro** signed an [Executive Order](#) directing Commonwealth agencies to collaborate with mental health and substance use disorder stakeholders to streamline and improve the accessibility of mental health and substance use disorder (SUD) services across the Commonwealth.

**Why this matters:** The Council will develop and recommend to the Governor a statewide action plan to address any gaps in access, affordability, or delivery of services, with the goal of removing silos across state agencies, healthcare providers, payers, state and local government sectors, and decreasing the wait time for services for Pennsylvanians in need.

- The Council's work will center on new and innovative care delivery models, workforce challenges, related social needs and inequities, and collaboration between the criminal justice system, public safety networks, and public health organizations to treat the whole person.
- The Council will further address how to best integrate mental health and substance use disorder services with a patient's primary care provider by working hand-in-hand with state and local agencies, commissions, or organizations already engaged in the delivery of these services.

Charged with setting the agenda for behavioral health, the Council will be comprised of 33 members, and include a diverse array of stakeholders with representation from state, county, and local governments, the provider community, advocacy groups, and individuals with lived experiences — all will seek to create a more holistic healthcare delivery system in Pennsylvania. Members include:

- the Secretaries of Aging, Agriculture, Corrections, Drugs and Alcohol Programs, Education, Health, Human Services, Labor & Industry, Policy and Planning, and State;
- the Commissioners of the Insurance Department and State Police;
- the Adjutant General of the Department of Military and Veterans Affairs;
- the Executive Director of the Pennsylvania Commission on Crime and Delinquency;
- the Pennsylvania Attorney General;
- two members of the public with lived experiences;
- two representatives from County Mental Health offices, one from a rural county and one from an urban county;
- two representatives from County Drug and Alcohol services, one from a rural county and one from an urban county;
- two representatives from an Area Agency on Aging, one from a rural county and one from an urban county;
- a substance use disorder treatment specialist or an addiction specialist who is actively practicing.

The Executive Order also creates an Advisory Committee that will share industry knowledge, expertise, reports, findings, and feedback from the communities they serve with the Council to assist members in their work to improve the delivery of services.

The Council builds on the 2023-2024 budget that increased investments to restore full funding to county mental health programs and created a line item to invest \$100 million to fund mental health resources in schools.

Read Executive Order 2023-20, Pennsylvania Behavioral Health Council, [here](#).

**Why this matters:** Hospitals and insurers support strategies to expand and sustain access to behavioral health care by increasing services throughout all care settings, strengthening the behavioral health workforce, and improving care delivery and payment models.

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**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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