

Federal Issues

Legislative

Congress Returns to Busy Fall Schedule

Congress returns this week with the fate of key pieces of health care legislation in play.

Surprise Billing:

Both the Senate HELP Committee and House Energy and Commerce Committee have passed bipartisan legislation to protect patients from surprise billing. Providers have been aggressively pushing for revisions that call for an independent arbitration process to determine out of network payment rates. Committee leaders, who prefer a payment benchmark based on median private rates, are struggling to keep their legislation on track.

- **Bottom line:** The path forward on what at one time seemed like a slam dunk is becoming much murkier.
- **Next up:** The House Education and Labor and Ways and Means Committees are expected to take up the legislation in the coming weeks.

In this Issue:

Federal Issues

Legislative

- Congress Returns to Busy Fall Schedule

Regulatory

- CMS Issue Program Integrity Final Rule for Medicare Providers and Suppliers

State Issues

Pennsylvania

Regulatory

- Highmark Senior Vice President, Individual and Small Group Markets, Appointed to the Pennsylvania Health Insurance Exchange Authority

Drug Pricing/Part D Reform:

At the end of July, the Senate Finance Committee passed a package of drug pricing legislation that contained a structural revision of Medicare Part D coverage. While the bill is bipartisan, a majority of Republicans on the committee voted against the bill, largely in opposition to inflationary caps the bill would impose on Medicare drug spending.

- **Bottom line:** The GOP opposition in committee is a giant red flag clouding its prospects of for floor action in its current form. Expect Democrats to strongly resist any effort to weaken its drug spending provisions.
- **Next up:** The House is likely to make the next move, with House Democrats scheduled to unveil a package in September or October. Speaker Pelosi's office is rumored to have been negotiating directly with the White House behind the scenes.
- **Key question:** Will Speaker Pelosi support a package with enough common ground to reach an accord with the White House, or will she back a more progressive package that would not clear the Senate and ultimately deny Trump a victory on a key campaign promise?

ACA Health Insurance Tax

Despite aggressive lobbying by insurers and employers, Congress has not passed legislation to keep the HIT tax suspended for 2020.

- **Bottom line:** The window to impact 2020 is about closed.
- **Key question:** Will Congress opt to suspend the tax for 2021 and beyond in an end of year tax extenders package or has perceived stability in ACA markets reduced the desire to provide ongoing relief?

Federal Issues

Regulatory

CMS Issues Program Integrity Final Rule for Medicare Providers and Suppliers

The Centers for Medicare & Medicaid Services issued a final rule with comment [period](#) implementing additional program integrity requirements for health care providers and suppliers who participate in certain federal health insurance programs.

Specifically, the final rule will require Medicare, Medicaid and Children's Health Insurance Program providers and suppliers to disclose certain current and previous affiliations with other providers and suppliers that have:

- uncollected debt;
- been or are subject to a payment suspension under a federal health care program;
- been or are excluded by the Department of Health and Human Services' Office of Inspector General from Medicare, Medicaid or CHIP; or
- had their Medicare, Medicaid or CHIP billing privileges denied or revoked.

Why this matters:

- The final rule provides CMS with additional authority to deny or revoke a provider's or supplier's Medicare enrollment in specified circumstances.
- The rule gives CMS the ability to prevent applicants from enrolling in the program for up to three years if a provider or supplier is found to have submitted false or misleading information in its initial enrollment application.
- In addition, the rule allows CMS to block providers and suppliers who are revoked from re-entering the Medicare program for up to 10 years. Previously, revoked providers could be prevented from re-enrolling for only up to three years.

Industry position: The American Hospital Association (AHA) provided feedback related to a number of these provisions in 2016 when CMS issued a [proposed rule](#). Specifically, the AHA recommended changes be made to the proposed rule on program integrity enhancements to the provider enrollment process to protect well-meaning providers from inappropriate delays, denials or revocation. While the association strongly supports efforts to reduce fraud and abuse in the Medicare program, enrollment should not be put at risk for minor administrative errors, and providers should not be held responsible for reporting information that they have no ability to access or verify. In addition, providers should not be required to report information prior to a final resolution of an appeal, nor should they be subject to a substantial new reporting burden for information to which the agency already has access.

The final rule is effective Nov. 4.

State Issues

Pennsylvania

Regulatory

Highmark Senior Vice President, Individual and Small Group Markets, Appointed to the Pennsylvania Health Insurance Exchange Authority

Governor Tom Wolf announced the incoming leadership of the Pennsylvania Health Insurance Exchange Authority. The authority is a state-affiliated entity that will create, manage, and maintain Pennsylvania's state-based health insurance marketplace.

According to the Administration, the state-based exchange authority will work to develop and maintain a competitive marketplace, educate consumers on their health insurance options, ensure consumers are treated fairly, identify pathways to lower premiums, and provide resources for those seeking additional support. Act 42 outlines the process for appointing authority board members. Four voting members are appointed by the governor, while one voting member each is appointed by the speaker of the house, the house minority leader, the senate pro tempore, and the senate minority leader.

"Pennsylvania is confidently moving towards a state-based exchange," Gov. Wolf said. "The individuals appointed to the authority bring years of health care experience, consumer knowledge and industry vision. Their diverse backgrounds will allow the authority to work for all Pennsylvanians and help the state achieve its goal of becoming a leader in health care reform."

Gubernatorial Appointments:

- Paula Sunshine, Independence Blue Cross
- Sheryl Kashuba, UPMC Health Plan
- Tia Whitaker, Pennsylvania Association of Community Health Centers
- Antoinette Kraus, Pennsylvania Health Access Network

Speaker of the House Appointment:

- Mark Nave, Highmark

House Minority Leader Appointment:

- Jessica Brooks, Pittsburgh Business Group on Health

Senate Pro Tempore Appointment:

- Todd Shamash, Capital Blue Cross

Senate Minority Leader Appointment:

- Laval Miller-Wilson, Pennsylvania Health Law Project

The exchange authority also includes, as outlined in Act 42, agency heads from the departments of health, human services and insurance:

- Dr. Rachel Levine, Department of Health, Secretary
- Teresa Miller, Department of Human Services, Secretary
- Jessica Altman, Pennsylvania Insurance Department, Commissioner

The state-based exchange will allow consumers to enroll in coverage starting during open enrollment for 2021. The full Press Release is available [here](#).

The Pennsylvania General Assembly is observing summer recess.

The Delaware Legislature is in recess.

The West Virginia Legislature has adjourned for the year.

Congress

The U.S. Congress is in session September 9-12. The U.S. Senate is in session September 13.

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

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

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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