STATE-FEDERAL UPDATE

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STATE-FEDERAL AFFAIRS
TOPICS COVERED:

- Congressional Funding for HHS Programs
- Public Health and Emergency Preparedness
- Healthcare Costs and Health Insurance
- ACA Court Case
- Rural Health and Hospital Closures
- Air Ambulances
- Prescription Drugs and PBMs
CONGRESSIONAL FUNDING HHS PROGRAMS:
CONGRESSIONAL FUNDING:

- House of Representatives passed all of their appropriations bills this year.
- Senate will take up appropriations after the August recess.
- Under the House Labor HHS Appropriations Bill:
  - Total of $99.0 billion for HHS, an increase of $8.5 billion above 2019 enacted level and $20.9 billion above President’s budget request.
CONGRESSIONAL FUNDING:

- House also passed the Bipartisan Budget Act of 2019.
- Budget deal raises caps for discretionary spending for two years and suspended the debt limit until July 31, 2020.
- Discretionary Spending: Non-Defense at $621.5 billion for non-defense spending for FY20.
- Offsets are $77 billion via increased fees and extending sequestration cuts for non-exempt mandatory programs.
On August 1, 2019 Senate passed budget deal 67-28.

Bill will add $324 billion to spending limits over the next two fiscal years.

Doesn’t include $157 billion primarily for overseas military operations.

Offsets won’t start until FY2027.
PUBLIC HEALTH AND EMERGENCY PREPAREDNESS:
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- Labor HHS Appropriations gives $700 million for the public health emergency preparedness cooperate agreements.
- Passage of Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 (PAHPAI) (S.1379).
- Ensures coordinated health care response to natural disasters and prioritizes vulnerable populations.
- Allow more health care professionals to be hired and trained when a public health crisis occurs and provides liability protections.
HEALTHCARE COSTS AND HEALTH INSURANCE:
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- HHS, Department of Labor and Treasury released final regulation expanding use of health reimbursement arrangements (HRAs).
- Permit employers HRA benefit up to $1800 per year.
- Employee can be reimbursed for certain qualified medical expenses.
- Regulation will start in January 2020.
HEALTHCARE COSTS AND HEALTH INSURANCE:

- Following updates to Section 1332 Waivers now State Relief and Empowerment Waiver/State Innovation Waivers, CMS, HHS and Treasury made a request for additional ideas on these waiver concepts states can use.
- CMS released four new waiver concepts to provide states with examples they can use under this program as well.
Federal judge upheld administration’s expansion of short-term insurance plans.

Short-term plans will last up to twelve months instead of three.

Plans originally created for short-term gap option for consumers in between enrollment options.
HEALTH INSURANCE PREMIUMS:

- 2020 health insurance premiums likely to be different than 2019 ones.
- Number of factors:
  - expansion of short-term health plans;
  - expanded flexibilities for association health plans (AHPs);
  - lowering the individual mandate tax penalty to zero and
  - changes in cost-sharing reduction (CSR) subsidies among others.
SURPRISE AND BALANCED BILLING:
President Trump signed an Executive Order (EO) this summer regarding medical billing practices.

EO addressed different measures on healthcare transparency and pricing.

After EO is released there will be 60 days for Health and Human Services (HHS) to propose a regulation requiring hospitals to publicly post billing information.
In Congress the House Energy and Commerce Committee marked up H.R. 3630, the No Surprises Act.

Legislation ended up including an amendment allowing payment disputes between a patient and provider for a medical bill to go to an independent arbiter in certain circumstances.
SURPRISE AND BALANCED BILLING:

- In the Senate there has been a group of bipartisan senators working on balanced billing legislation for over a year.
- Senators Bill Cassidy (D-LA), Maggie Hassan (D-NH), Michael Bennet (D-CO), Todd Young (R-IN), Lisa Murkowski (R-AK) and Tom Carper (D-DE).
- They introduced the STOP Surprise Medical Bills Act (S. 1531) with over 24 co-sponsors.
SURPRISE AND BALANCED BILLING:

- Legislation on this topic that has gotten most attention is the Lower Health Care Costs Act of 2019.
- Has several provisions on addressing health care costs including for in-network and out-of-network medical billing.
- Patients receiving emergency care, once in stable condition, must receive written notice to get an estimate to continue seeing the out-of-network doctor or get a list of in-network providers.
ACA COURT CASE:

- Case recently heard on repeal of fifth circuit decision that ruled without the individual insurance tax mandate the ACA was unconstitutional.

- Questions in recent case:
  - If judges rule in favor of the previous decision will this dismantle the ACA?
  - Did the previous judge issue an injunction when he said the law as invalid?
  - If the courts rule ACA’s requirement on buying insurance is unconstitutional would there be any impact on health insurance markets if law still stands?
RURAL HEALTH CARE AND HOSPITAL CLOSURES:
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- Medicare Conditions of Participation (CoPs)- allows hospitals to co-locate with other hospitals or health care entities.
- Updated draft guidance welcome after stakeholders asked for further clarification comments could be submitted until July 2, 2019.
- More hospitals are co-locating with other providers to streamline care and develop different delivery systems, but also provide options to rural hospitals
- Draft guidance clarifies how shared spaces, services, personnel and emergency services can be organized to allow the hospital to demonstrate compliance.
Ways and Means Committee created bipartisan taskforce to find solutions for rural and underserved communities. Came after hearing in Ways and Means about the future of rural hospitals that raised concerns about closures or for ones staying open and are operating at a loss.

In addition to keeping hospitals open in these areas also going to look at ways to improve medical access and health equity in rural and underserved communities.

Committee Leadership also introduced, Beneficiary Education Tools Telehealth Extender Reauthorization (BETTER) Act of 2019, how to improve the quality of and access to services for Medicare beneficiaries.
New legislation introduced last week by Senator Marsha Blackburn (R-TN), the Telehealth Across State Lines Act of 2019. Would direct HHS to develop guidelines for virtual care across state lines.

Would also create a new grant program helping telemedicine projects to expand into rural areas, and for CMS’ Innovation Center to test out new telehealth payment mode.
PRESCRIPTION DRUGS AND PBMS:
Earlier this spring CMS approved final changes to Medicare Advantage and Medicare Part D that will increase transparency on the cost of prescription drugs for enrollees.

HHS finalized a rule that would have required prescription drug ads to disclose list prices. Would’ve increased transparency on drug prices but did not enforce companies to lower their prices.

Administration introduced a drug rebate proposal that would’ve bar pharmacy benefit managers (PBMs) and insurers from accepting rebates from drug companies participating in Medicare and Medicaid. Would’ve included fixed-fee arrangements with rebates going directly from prescription drug manufacturers to patients.
The Senate Finance Committee kicked off their year with a marathon of hearings on prescription drug pricing practices and transparency.

Senator Chuck Grassley (R-Iowa) was working with Senate Finance ranking member Ron Wyden (D-Ore.) on prescription drug pricing and transparency legislation, and held several conversations with the Senate leadership, and administration staff.

Senator HELP Committee Chairman Lamar Alexander (R-Tenn.) and ranking member Patty Murray (D-Wash.) held hearings on drug pricing as it relates to overall rising healthcare costs.

- Introduced “Lower Health Care Costs Act of 2019”
- Proposes ban on PBMs from charging more for a drug than what they paid for it, and requires PBMs to pass 100 percent of rebates or discounts to the health insurers or employers that hire them.
AIR AMBULANCES:
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- Under the Lower Health Care Costs Act-provision, Ending Surprise Air Ambulance Bills.
- Patients would be held harmless from surprise air ambulance bills, and only required to pay the in-network cost sharing amount for air ambulance transport.
- Air ambulance providers would be barred from sending patients balance bills for more than the in-network cost-sharing amount.
- For any surprise air ambulance bills a patient’s health plan would pay air ambulance providers the local average contracted commercial amount that the insurer negotiates with other providers in that area.
Opposition from air ambulance providers to change current language.

Their proposed changes:
- Updating the Medicare reimbursement rate.
- Requiring that all health insurers cover air ambulances.
- Increase the reimbursement rate above the proposed median in-network rate for a geographic area.
Legislation also introduced in House to specifically address air ambulance billing, H.R. 3784, the Air Ambulance Affordability Act of 2019, introduced by Rep. Joe Neguse (D-CO).

Would prohibit surprise billing for air ambulance services by: not requiring a beneficiary copayment or coinsurance for any costs that are greater than the cost-sharing amount that would have been provided by an in-network provider.

Proposes a neutral “baseball” style arbitration process for insurance companies and air ambulance providers to determine the appropriate price for services used.
RESOURCES:

- https://www.actuary.org/node/12893
RESOURCES:

- %20section%20by%20section%206.19.pdf
RESOURCES:

- https://subscriber.politicopro.com/f/S._2408_bill_text.pdf?id=0000016c-4ebb-de87-affd-6efb417f0001
- https://www.govinfo.gov/content/pkg/STATUTE-92/pdf/STATUTE-92-Pg1705.pdf
- https://bipartisanpolicy.org/event/surprise-medical-bills/
THANK YOU!

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