



Federal Issues

Regulatory

ONC Completes Critical 21st Century Cures Act Requirement

The Department of Health and Human Services' (HHS) Office of the National Coordinator for Health Information Technology (ONC) and the Sequoia Project, the Recognized Coordinating Entity (RCE), announced the publication of the [Trusted Exchange Framework](#) and the [Common Agreement](#) (TEFCA).

Why this matters: The *21st Century Cures Act* calls on ONC to “develop or support a trusted exchange framework, including a common agreement among health information networks nationally” with the goal of establishing interoperability through simplified nationwide connectivity for health agencies, health care providers, health information networks, health plans, individuals, public, and other stakeholders.

Under the newly-published TEFCA, entities will be able to apply to be designated as Qualified Health Information Networks (QHINs). QHINs will connect to one another and enable their participants (e.g., health care providers, individuals, payers, public health agencies) to engage in health information exchange across the country. For more information about TEFCA

In this Issue:

Federal Issues

Regulatory

- **ONC Completes Critical 21st Century Cures Act Requirement**
- **ONC Seeks Public Comment on Electronic Prior Authorization Standards, Implementation Specifications and Certification Criteria**
- **COVID-19 Updates**
- **Administration Awards Funds to Promote Mental Health Among Health Care Workforce**

State Issues

New York

Legislative

- **Governor Unveils Executive Budget Proposal**

Regulatory

- **2023 Rate Setting Process Begins**
- **New Health Commissioner Confirmed**

West Virginia

Legislative

- **House Committee Advances Choice of Pharmacy Services and Insulin Cap Legislation**

and what entities can participate, visit [HealthIT.gov/TEFCA](https://www.healthit.gov/TEFCA).

Industry Trends

Policy / Market Trends

- [AHIP and BSBSA File Amicus Brief Supporting *No Surprises Act* Implementation](#)
- [Highmark Health CEO Discusses What to Expect in 2022 in the Latest Episode of “The Next Big Thing in Health”](#)
- [New Reports Underscore Need for Action on Out-of-Control Drug Prices](#)

ONC Seeks Public Comment on Electronic Prior Authorization Standards, Implementation Specifications and Certification Criteria

Office of the National Coordinator for Health Information Technology (ONC) released a Request for Information (RFI) seeking input on electronic prior authorization standards, implementation specifications and certification criteria that could be adopted within the ONC Health IT Certification Program (Certification Program). ONC notes this feedback could be used to inform potential future rulemaking aimed at enabling providers to interact with health care plans and other payers for the automated, electronic completion of prior authorization tasks.

Why this matters: This RFI advances the insurance industry vision to revise the Department of HHS’s information sharing and interoperability policies to maximize the benefit of application programming interfaces (APIs) and other tools health insurance providers are building to streamline how data flows across the health care system. As health insurance providers explore electronic prior authorization, ensuring EHR connectivity will facilitate adoption and use by providers.

The agency is seeking comments on ways the Certification Program could streamline prior authorization tasks as well as anticipated benefits and burdens of any updates to the Certification Program. **The RFI is available in the [Federal Register](#) and responses are due March 25, 2022.**

COVID-19 Updates

- Last week was the official launch of the Biden Administration’s [website](#) for individuals to order free rapid COVID-19 tests. The Administration has stated they have 420 million tests allotted for this campaign, which is focused on increasing the availability of COVID testing. White House officials have stated tests should arrive seven to 12 days after ordering and each order would contain four tests.
- Additionally, White House officials have stated they are planning to distribute 400 million nonsurgical N95 masks for individuals to pick up free of charge at retail pharmacies and community health

centers across the country. The masks will come from the Strategic National Stockpile, the nation's emergency medical reserve.

Administration Awards Funds to Promote Mental Health Among Health Care Workforce

On Thursday, the Health Resources and Services Administration (HRSA), announced \$103 million in awards to improve the retention of health care workers and help respond to the nation's critical staffing needs. The awards will be distributed to 45 grantees with a focus on providers in underserved and rural communities. HRSA will leverage three programs to help distribute the funding:

- \$28.6 million to 10 grantees will be through the Promoting Resilience and Mental Health Among Health Professional Workforce program. Evidence-informed programs and practices will be implemented to promote mental health among health care workers.
- \$68.2 million to 34 grantees through the Health and Public Safety Workforce Resiliency Training Program. Funding will focus on training programs for health professions and nursing training with curriculum focused on reducing burnout and promoting resilience.
- \$6 million to George Washington University to provide tailored training and technical assistance to the 44 award recipients.

State Issues

New York

Legislative

Governor Unveils Executive Budget Proposal

Gov. Hochul unveiled her first Executive Budget last week. In health care, the proposed Medicaid spending is \$98.1 billion (both state and federal funds), which is an increase of more than 10% from the 2022 budget.

Of note is a provision that requires the Department of Health (DOH) to go through a procurement – competitive bidding – process for nearly the entire Medicaid managed care program. This proposal, which includes mainstream Medicaid managed care, HARP, MLTC and MAP but excludes HIV/SNP plans, directs DOH to reduce the number of health plans in the Medicaid program to “at least two, but no more than five plans” in each of the state’s Medicaid regions.

Why this matters: This may result in fewer Medicaid managed care plans, limiting choices available to the state’s most vulnerable residents, and disrupting care for patients and providers.

While there is no timeline provided for the process, there is an effective date of October 1, 2023.

Other provisions in the health care portion of the Executive Budget include:

- **Medicaid Quality Pools** – Fully restores Quality Pool funding for MMC and MLTC.
- **Maternal Health** – Includes prenatal and postpartum care as standard Medicaid coverage and extends Medicaid postpartum coverage eligibility to one year following last day of pregnancy.
- **Essential Plan** – Expands eligibility for the program from 200% to 250% of federal poverty level (FPL) and adds long term supports and services (LTSS) to the EP benefit package. (Essential Plan is New York’s name for the ACA Basic Health Plan.)
- **Child Health Plus** – Eliminates \$9 monthly premium for members with incomes below 222% FPL and transitions rate setting for CHP from DFS to DOH.
- **No Surprises Act (NSA)** – Seeks to align New York’s existing statute prohibiting balance billing with the federal NSA and clarifies differences between the state and federal laws.
- **Abortion Services Coverage** – Requires individual and group private insurance coverage for abortion services without being subject to copayments, coinsurance, or annual deductible payments.
- **Telehealth Reimbursement Parity** – Requires all health plans, including Medicaid and commercial plans, to reimburse providers for services delivered through telehealth on the same basis and at the same rate as services delivered in person. (Highmark NY reimburses video telehealth visits at parity, but not audio-only.)

Regulatory

2023 Rate Setting Process Begins

The Department of Financial Services kicked off the process with a meeting of plan actuaries last week. Plans will submit their Individual and Small Group rate filings on May 10, with final approval targeted for August 8. DFS noted that of the existing standard plan designs, only four meet the actuarial value calculator test, and asked for plan input on standard designs for 2023.

New Health Commissioner Confirmed

The State Senate approved Dr. Mary Bassett as the new Commissioner last week on a 43-20 vote along party lines.

State Issues

West Virginia

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House Committee Advances Choice of Pharmacy Services and Insulin Cap Legislation

Last week, the House Health and Human Resources Committee advanced the following bills:

- [House Bill 4112](#) (Rohrbach, R-Cabell) proposes to limit the ability of PBMs to characterize a pharmaceutical product as “specialty” and limit their ability to restrict the participation of independent pharmacies in networks for purposes of dispensing specialty medications.
 - [House Bill 4252](#) (Rohrbach, R-Cabell) proposes to cap monthly insulin co-pays at \$35 and cap co-pays for diabetic testing and insulin delivery devices at \$100.
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Industry Trends

Policy / Market Trends

AHIP and BCBSA File Amicus Brief Supporting *No Surprises Act* Implementation

Last week, AHIP filed an [amicus brief](#) supporting the federal government’s efforts to implement the *No Surprises Act*. The underlying lawsuit (Texas Medical Association (TMA) v. HHS) was filed in federal district court in Texas late last year. It seeks to halt certain provisions of an interim final rule the agencies released last October establishing, among other things, various independent dispute resolution (IDR) requirements designed to resolve out-of-network payment disputes with providers. AHIP’s amicus brief helps underscore the importance and urgency of having those requirements in place by January 1 of this year - the date the new law went into effect - in order to ensure consumers could fully benefit from its many protections.

BCBSA also filed an [amicus brief](#) last week in support of the administration's rules implementing the No Surprises Act in the Texas Medical Association v. the U.S. Department of Health and Human Services lawsuit challenging portions of the law.

Why this matters: AHIP's amicus brief focuses on two important areas: 1) explaining to the court the numerous operational challenges health insurance providers face in implementing the No Surprises Act and why clear regulatory guidance was needed as soon as possible; and 2) why the decision to anchor the IDR process around the new law's qualifying payment amount (QPA) accomplishes the important goal of addressing excessive out-of-network charges providers have imposed on patients.

BCBSA's brief argues the interim final rule designating the "Qualifying Payment Amount" as a primary consideration in arbitrations to resolve balance billing disputes reflects the reasonable value of health care services and will help to restrain inflated health care costs for patients without resulting in narrower provider networks.

Briefing in the TMA case is still underway and a hearing is scheduled for early next month. A decision is anticipated before March 1. In addition to the TMA case, there are at least four other lawsuits challenging similar provisions of the same interim final rule and other regulations implementing the *No Surprises Act* pending in other federal district courts located across the country.

Both trade associations issued [press releases](#) with their filings.

Highmark Health CEO Discusses What to Expect in 2022 in the Latest Episode of "The Next Big Thing in Health"

On last week's episode of AHIP's "The Next Big Thing in Health" podcast, AHIP Board Chair and Highmark Health CEO David Holmberg [joins](#) AHIP's Matt Eyles and former local TV anchor Laura Evans to discuss what policies will impact our health care system in the upcoming year.

Holmberg, Eyles, and Evans also discussed how the Omicron COVID-19 variant is affecting our health care system, care delivery in underserved communities, and the future of telehealth.

The episode is available now on [Apple](#), [Spotify](#), [Stitcher](#), and [SoundCloud](#).

New Reports Underscore Need for Action on Out-of-Control Drug Prices

The Campaign for Sustainable Rx Pricing (CSRxP) posted a new [blog](#) highlighting two government reports released this week that underscore the urgency for action to reign in out-of-control drug prices.

- One [report](#) from the Congressional Budget Office (CBO) examined trends in pricing and spending on prescription drugs from 1980 to 2018 in federal health care programs. The report found the average net price for brand name drugs covered under the Medicare Part D program more than doubled, from \$149 in 2008 to more than \$353 in 2019. In Medicaid, over the same time span, the average net price for a brand name drug jumped from \$147 to \$218.

- A separate [report](#) from the Department of Health and Human Services (HHS) analyzed prescription drug affordability among Medicare beneficiaries. The report found more than five million Medicare beneficiaries struggled to afford their prescription drugs in 2019, with Black and Latino adults almost one-and-a-half times more likely to face financial uncertainty in affording their medications. The HHS report also found women, those with lower incomes, and those diagnosed with chronic conditions all faced higher rates of financial insecurity affording their medications.

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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