Highmark's Weekly Capitol Hill Report

Issues for the week ending June 3, 2022

Federal Issues

Legislative

Advocacy to Protect Pennsylvania Hospitals from Medicare Cuts

In a letter last week to the Pennsylvania Congressional delegation, the Hospital & Healthsystem Association of Pennsylvania (HAP) and more than 160 hospitals, including AHN, warned lawmakers that cuts to Medicare funding would result in hundreds of millions in losses for Pennsylvania hospitals as they work to recover from the historic revenue losses and increased expenses during COVID-19.

Lawmakers must act now to protect hospitals from a Medicare sequestration cut that resumed during April and potential revenue reductions stemming from the Statutory Pay-As-You-Go Act of 2010 (PAYGO), the letter said.

"Hospitals operate on tight margins where cost shifting is not an option," the letter said. "This kind of drastic decline in funding puts Pennsylvania hospitals at risk."

In the letter, hospitals emphasized:

- Annually, the 2 percent Medicare fee-for-service payment cut amounts to **$176 million** for Pennsylvania hospitals and **$4.7 billion** nationwide

In this Issue:

- Failure to waive PAYGO will result in an estimated loss of more than **$350 million** for Pennsylvania hospitals in fee-for-service payments during 2023
- The relief that Congress provided through the Provider Relief Fund and through halting these payment cuts has been critical to supporting hospitals' COVID-19 response and remains paramount to their ability to provide patient care
- A drastic decline in funding puts Pennsylvania's hospitals at risk

Industry Trends

Policy / Market Trends

- **AHIP Corrects the Record on Providers' Disinformation Campaigns Against MA**
- **CMS Updates Medicaid.gov to Assist Beneficiaries in Preparing for Redeterminations**
- **CMS Releases Tool Outlining Ten Fundamental Actions for States Preparing for the PHE Unwinding**
- **CBO Releases Medicaid Baseline Projections**
- **CMS Released the Latest Monthly Medicare Enrollment**

Federal Issues

Regulatory

CMS Extends States' HCBS Expansion Deadline Under ARPA

The Centers for Medicare & Medicaid Services (CMS) announced states will have through March 31, 2025 to use funding made available by the American Rescue Plan Act (ARPA) to enhance, expand, and strengthen home- and community-based services (HCBS) for people with Medicaid who need long-term services and supports (LTSS).

Why this matters: States originally had a three-year period — from April 1, 2021 through March 31, 2024 — to use the available funds, attributable to ARPA's temporary 10 percentage point FMAP increase. States now have an additional year to facilitate high-quality, cost-effective, person-centered services for people with Medicaid.

CMS Announces Strategy for Implementing HCBS Regulations

CMS in partnership with the Administration for Community Living (ACL), released a strategy for implementation of home and community-based settings regulations. The strategy outlines several requirements states must meet to continue federal reimbursement of home and community-based services (HCBS) after the transition period for full compliance with the HCBS settings regulation ends in March 2023. Read More

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CMCS Releases Updated SSI and Spousal Impoverishment Standards

The Center for Medicaid and Children's Health Insurance Program (CHIP) Services (CMCS) released an information bulletin with updated 2022 Supplemental Security Income (SSI) and Spousal Impoverishment Standards. Effective July 1, the minimum monthly maintenance needs allowance for all states except Alaska and Hawaii will be $2,288.75. Read More

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COVID-19 Update

- The White House launched the first federally supported 'test to treat' COVID-19 site in Rhode Island. The site will immediately treat people who test positive for COVID-19 with medical evaluations and antivirals. The site also offers vaccination. More test to treat sites will be made available in Minnesota, New York, and Illinois in the near future in efforts to increase access to oral antivirals like Pfizer's Paxlovid.

- Additionally, according to a draft plan of reporting requirements reviewed by Bloomberg, the CDC is planning to stop collecting data from hospitals on suspected cases of COVID-19 now that the infection can be confirmed quickly. They may also ease data reporting requirements from rehabilitation and mental health facilities that aren't major intake sites for COVID-19 cases. The changes would apply to federal collection of data; states could still ask health care facilities to report other types of information.

State Issues

Delaware

Legislative

Chiropractic Supportive Care Coverage Mandate Introduced

Senate Bill 309: This Act prohibits the denial of insurance coverage for chiropractic supportive care, which constitutes maintenance therapy. This requirement applies to policies, contracts, or certificates issued, renewed, modified, altered, amended, or reissued after December 31, 2023.

Why this matters: Current Delaware law prohibits annual or lifetime numerical limits on chiropractic visits for the treatment of back pain. The treatment of chronic back pain through chiropractic supportive care can prevent patients from requiring opioid pain medications or more expensive treatments.

New York

Legislative

Legislative Session Ends; Summary of Health Care Bills

The legislative session wrapped up in Albany early Saturday morning. Below is a summary of bills of interest to that Highmark had been tracking and the final action on them:

Passed Both Houses

- **Clinical Peer Reviewers A.879 /S.8113)** — Restrictions on plans' clinical peer reviewers.

- **PRICE Act S.4620-C)/A.5411-D —** Enacts the "Patient Rx Information and Choice Expansion" (PRICE) Act, which requires health plans to provide members of their providers with real-time information on prescription cost, benefit and coverage data.

- **Rx Copay Accumulator S.5299-A /A.1741-A —** Restricts health plans' copay accumulator programs by prohibiting them from recognizing the cost of drug coupons when calculating an insured individual's cost-sharing requirement.

- **MH Step Therapy S.5909/A.3276 —** Prohibits the use of step therapy protocols in coverage for the diagnosis and treatment of mental health conditions.

- **OT Referral S.5663-A/A.3202-C —** Allows patients up to ten visits with an occupational therapist without a referral.

- **Colorectal Screening A.2085-A/S.906-B —** Requires coverage for colorectal cancer screening starting at age 45.

- **Anti-competitive Contracting (A.8169-A/S.7199-A) —** A proposal prohibiting anti-competitive contracting practices (HEAL Act) passed with amendments.

- **Rx coverage in disaster (S.4856/A.7469)** – Requires plans to include coverage of an immediate additional thirty-day supply of a prescription drug during a state disaster emergency.

- **Opioid treatment copay ban (A.372/S.5690)** – Prohibits copayments for treatment at an opioid treatment program.

- **Medically Fragile Children (A.289-C/S.2121-C)** – Mandated coverage for medically fragile children.

Did not pass

- **Rx Price Increase Notice A.663-B/S.7449-C)** — Requires drug manufacturers to provide an "early warning" on prescription drug price increases. Passed Senate; not acted on by the Assembly. We supported.

- **Single Payer A.6058/S.5474** — The "NY Health Act," creating a government-run single payer system for the state, did not pass either house.

- **PA "Gold Card" S.8299/A.9908-A)** — A "Gold Card" proposal that would exempt health care professionals from preauthorization requirements did not pass either house.

- **Dividend Tax S.8470/A.9519)** — The so-called "Reinvest in New York" Act that would have imposed a tax on health plans' dividends and out-of-state transfers did not pass either house.

The NY Health Plan Association released a statement on the final outcome of the session, noting that many of the bills that passed — such as the various prescription drug proposals and those imposing new mandated benefits — do nothing to address the underlying costs of health care and will ultimately increase the cost of health insurance and make it less affordable for New Yorkers.

Regulatory

Coverage Redeterminations when Public Health Emergency Ends

While the federal and state public health emergency due to the COVID-19 pandemic remains in effect, the NY State of Health (NYSoH) is looking ahead to minimize the number of New Yorkers at risk of losing their Medicaid, Child Health Plus or Essential Plan coverage when the emergency and continuous coverage protections come to an end.

Last week, the NYSoH posted a new PHE Unwind Digital Toolkit with materials designed to inform New Yorkers about renewing their coverage or exploring other available health insurance options if they no longer qualify for Medicaid, CHP or EP. The toolkit includes a number of templates that plans and other partners and stakeholders can "co-brand" to communicate with consumers in efforts to assist them in renewing coverage.

Industry Trends

Policy / Market Trends

AHIP Corrects the Record on Providers' Disinformation Campaigns Against MA

AHIP sent a letter to the Centers for Medicare & Medicaid Services (CMS) to refute false and misleading reports about Medicare Advantage (MA) being spread by provider organizations like the American Hospital Association and American Medical Association. The letter strongly reaffirms MA plans' commitment to put patients and consumers first by ensuring MA delivers affordability, access, quality, value, and satisfaction while striving to improve health equity.

The letter highlights the value MA provides to nearly 30 million Americans and discusses why the programs has continued to grow while receiving overwhelming customer satisfaction ratings. AHIP also shares stories of personal health journeys of MA enrollees to showcase the program's popularity and value.

The letter also discusses the importance of prior authorization and the role it plays in improving affordability and quality for everyone. AHIP's letter cites independent studies that show how differences in the provision of care can lead to unnecessary, costly, or inappropriate medical treatments that can harm patients. AHIP reaffirms the role of health insurance providers and their comprehensive view of the health care system, allowing them to implement innovative solutions to streamline processes, improve the quality of care, reduce costs, and enhance patients' overall care experience.

AHIP also corrects the record on misrepresentation of the recent Department of Health and Human Services (HHS) Office of Inspector General (OIG) report on prior authorization in MA. The letter details how the findings of the OIG report are not an indictment of prior authorization, but rather a compelling story of value and access.

Finally, AHIP reaffirms their commitment to working with CMS, providers, and industry partners to improve health care for all seniors and people with disabilities. The letter reads, "Health insurance providers, doctors, hospitals, and health care systems all agree that seniors should have access to medically needed care, and that they should be protected from bad actors. Our focus now should be on streamlining and automating prior authorization and similar medical management tools through national interoperability standards to ensure patient protections while easing administrative burdens."

CMS Updates Medicaid.gov to Assist Beneficiaries in Preparing for Redeterminations

CMS launched enhancements to Medicaid.gov to help beneficiaries renew their Medicaid or Children's Health Insurance Program (CHIP) coverage in preparation for the end of the Public Health Emergency (PHE).

Why this matters: The site now features a "call to action" button, which will automatically direct beneficiaries to a "Renew your Medicaid and CHIP Coverage" page that provides information on how to get ready to renew coverage and update their contact information if needed. The page also includes an interactive map to connect beneficiaries to their state Medicaid agency.

CMS Releases Tool Outlining Ten Fundamental Actions for States Preparing for the PHE Unwinding

CMS released a new tool states can use to further prepare for the eventual end of the COVID-19 public health emergency (PHE) and return to normal Medicaid and CHIP eligibility and enrollment operations. The tool highlights the ten fundamental actions states need to complete to prepare for unwinding when the Medicaid continuous enrollment requirement ends, and provides links to all the CMS guidance and resources states need to support their planning efforts. Read More

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CBO Releases Medicaid Baseline Projections

The Congressional Budget Office (CBO) released its budget and economic projections for 2022 to 2023. Within the projections, CBO increase its estimated outlays for Medicaid in 2022 by $39 billion (8%) and its projections for such outlays over the 2022-2031 period by $49 billion (1%). This increase is partially driven by the fact that CBO estimates that the PHE will end in July 2023, and continuous enrollment provisions in the Families First Coronavirus Response Act (FFCRA) will remain in place until that time.

CMS released the latest monthly Medicare enrollment

The latest monthly Medicare enrollment data from CMS shows over 64.2M people are enrolled in Medicare, as of Feb. 2022. This is a decrease of 6K since the last report.

- Overall, 34.9M are enrolled in Original Medicare.

- 29.4M are enrolled in MA or other health plans, including enrollment in MA plans with and without prescription drug coverage.
- 49.9M are enrolled in Medicare Part D, including enrollment in stand-alone prescription drug plans as well as Medicare Advantage plans with prescription drug coverage.
- Additionally, over 11.9 million individuals are dually eligible for Medicare and Medicaid (counted in the enrollment figures for both programs).

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/.**