Highmark's Weekly Capitol Hill Report

Issues for the week ending September 8, 2023

Federal Issues

Legislative

Congress Returns to Busy Fall Agenda with Health Care Items in Play

Both the House and Senate are back in session this week with the full slate of appropriations bills to be addressed in the coming weeks to avoid a government shutdown.

The most likely next step will be passage of a short-term continuing resolution (CR) by Sept. 30 to buy appropriators more time to come to agreement on spending details. However, despite bipartisan support for a CR in the Senate, the GOP majority in the House remains at odds over strategy and the outcome is unclear.

Once the spending is resolved, several must-do items, including a major farm bill and Federal Aviation Administration reauthorization top the list of priorities.

Health care also remains in the mix for movement in both chambers this fall:

- **In the House,** GOP leaders of the House Energy and Commerce, Ways and Means

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and Education and Labor Committees have released the "Lower Costs, More Transparency Act." The legislation represents a mix of policies advanced by the committees over the summer, including: fair hospital billing provisions requiring HOPDs to use a unique identifier in Medicare; policies codifying and expanding hospital and health insurer price transparency rules; requiring site-neutral payments for physician-administered drugs in Medicare; banning PBM spread pricing in Medicaid; and extending key health programs, including community health centers, the National Health Service Corps and special diabetes programs.

The package will likely pass the House as soon as this month, putting at least some of its provisions on the table for year-end negotiations with the Senate.

- Meanwhile, Senate Majority Leader Chuck Schumer (D-NY) laid out his priorities through the end of the year in a "Dear Colleague" letter issued September 1.

  Although he has expressed a desire all year to hold a floor vote on a health care package that would include an insulin co-pay cap for the commercial market, PBM transparency legislation, and bills to increase generic and biosimilar competition, it is unlikely to happen in this work period given competing priorities. **This means a year-end package is likely the only vehicle to address health care.**

  At the committee level, the Senate Finance Committee will likely continue to move forward with proposals raised at their PBM markup earlier in the summer, such as any willing pharmacy, anti-steering, and transparency.

Artificial Intelligence (AI) also continues to be a hot topic in the Senate, with Schumer coordinating briefings for colleagues with AI experts and HELP Committee Ranking Member Bill Cassidy (R-LA) released an RFI on AI this week.

Federal Issues

Regulatory

CMS Announces New All-Payer Model, Funding for Up to 8 States

The Center for Medicare & Medicaid Innovation announced a voluntary payment model Tuesday that caps payments to doctors and hospitals in a state in exchange for loosening rules governing how care is provided.

CMS announced the States Advancing All-Payer Health Equity Approaches and Development Model ("States Advancing AHEAD" or "AHEAD Model") which aims to better address chronic disease, behavioral health, and other medical conditions. CMS notes the AHEAD Model builds on lessons learned from existing state-based models, including the Maryland Total Cost of Care Model, the Vermont All-Payer ACO Model, and the Pennsylvania Rural Health Model.

Why this matters: The Model seeks to curb growth of health care costs while promoting population health and advancing health equity. Under this new, voluntary model, states will give hospitals a fixed global budget each year to account for traditional, fee-for-service Medicare. The goal is to encourage states to "control unnecessary spending" by moving care away from hospitals to less expensive settings, according to a release.

- Additionally, states will be held accountable for state-specific Medicare and all-payer cost growth targets, primary care investment targets, population health outcomes and health equity outcomes.

- Participating states will also receive funding and other assistance to carry out activities aimed at reducing total cost of care and improving health care outcomes, such as strengthening primary care, improving care coordination, and increasing referrals to health-related social services.

Next Steps: CMS plans to issue awards of up to $12 million, in 3 cohorts, which are intended to account for varying levels of readiness. The Model will include a Notice of Funding Opportunity, released in late fall 2023, with two application periods for interested states, and will begin accepting applications in Spring 2024. Eligible applicants are state agencies (e.g.,

Medicaid, public health, or state insurance agency). CMS will select up to eight states to participate in the model, which is scheduled to operate from 2024 to 2034.

CMS Releases Guidance on Agent/Broker Consent Documentation

CMS has released a FAQ providing guidance on new requirements adopted in the 2024 Payment Notice. The questions in the document address regulatory changes to 45 C.F.R. 155.220(j), focusing on the new requirements to document and maintain records concerning consumer consent and consumer review/attestation of their eligibility application information. The list of questions was curated from questions and comments from the Agent/Broker Summit held in May 2023, as well as inquiries from other interested parties. The FAQ can be accessed here.

GAO Report Analyzing Drug Expenditures and Rebates for Part D Benefit

The U.S. Government Accountability Office (GAO) released a report on Medicare Part D formularies and manufacturer rebates. GAO found plan sponsors that provide Medicare Part D coverage received $48.6 billion in rebates from drug manufacturers in 2021. The GAO also found that payments by beneficiaries were more than plan sponsor payments, after accounting for rebates, for 79 of the 100 drugs receiving the most rebates.

Why this matters: They recommend CMS monitor the effect of rebates on plan sponsor formulary design on Medicare and beneficiary spending to assess whether rebate practices impact enrollment by certain beneficiaries. The monitoring of rebates will be particularly important as CMS implements provisions of the Inflation Reduction Act, which will change Part D plan sponsor, beneficiary, and Medicare drug spending responsibility and may affect formulary design and rebates.

Industry Trends

Policy / Market Trends

CMS Releases May Medicaid Redeterminations Data

CMS released Medicaid and Children's Health Insurance Program (CHIP) renewal data for May 2023. In May, states conducted 4 million renewals. Of the renewals conducted, 42.1% had their coverage renewed and 37.6% were terminated. CMS also released data on Marketplace enrollment for April and May. In May, 232,889 former Medicaid or CHIP enrollees applied for coverage through the federally facilitated exchange and 57,334 applied for coverage through state-based exchanges.

CMS Releases New Z Code Infographic

CMS released a new Z code infographic titled "Improving the Collection of Social Determinants of Health Data with ICD-10-CM Z Codes (2023)." This infographic aims to assist providers with understanding and using Z codes to improve the quality of health equity data.

Why this matters: When recorded appropriately and consistently, providers, payers and CMS can use Z codes to enhance quality improvement activities, track factors that influence health and better understand health inequities. Read More

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/.**