This Week’s Dose

Congress is no closer to passing additional COVID-19 funding, and without it, some programs are running out of funds. While the House was out on recess, the focus in the Senate was on the confirmation hearings for Supreme Court nominee Ketanji Brown Jackson.
Concerns for Suicide Hotline Launch. On March 23, the Senate Committee on Health, Education, Labor & Pensions held a hearing, entitled “Strengthening Federal Mental Health and Substance Use Disorder Programs: Opportunities, Challenges, Emerging Issues,” where Senators discussed the impacts of the pandemic on mental health and federal programs and partnerships to provide solutions. The witness list included testimony from officials with the Substance Abuse and Mental Health Services Administration (SAMHSA), Health Resources & Services Administration, and National Institutes of Health.

At the hearing, Senators expressed concern about the operational readiness of the National Suicide Prevention Lifeline transition to its new 988 number in July. Witnesses also shared lawmakers’ concerns that an additional infusion of federal funds are needed to ensure infrastructure readiness and strengthen the behavioral health workforce that will staff the hotline. The federal government has invested $282 million on mental health crisis infrastructure and only two states have not applied for funding.

Administration

President’s Budget Coming Soon. President Biden is expected to release his highly anticipated 2023 budget request on Monday, March 28. The budget will highlight the Administration’s funding and policy priorities and provide economic projections accounting for rising inflation. The President’s budget signals some policy initiatives that the Administration has authority to implement, but most of the recommendations require either legislative authorization or congressional funding.

The Status of Additional COVID Funding. The Biden Administration is winding down the reimbursement program that pays for COVID-19 treatment, testing and vaccines for the uninsured due to lack of funding. The federal government has spent more than $20 billion over the last two years to help the uninsured receive these benefits.

The Administration pushed for an additional $22.5 B in COVID-aid earlier this month to be included in the omnibus spending bill. Congress reduced that to $15.6 billion, but then removed these funds from the final bill due to disagreements on the funding mechanisms for COVID relief. Democrats are continuing to work on a stand-alone COVID funding bill, but those negotiations continue as they work to achieve agreement on the funding level and pay-fors needed - both of which are needed to achieve 60 votes in the Senate.

Amidst these negotiations the Centers for Disease Control and Prevention warns of new Omicron sub-variant BA.2 doubling in prevalence over the last two weeks, and the Administration weighs whether a potential fourth dose of the coronavirus vaccine is needed for older and immunocompromised adults. White House coronavirus coordinator Jeff Zients has indicated that the Administration does not have the funds to purchase a fourth dose without additional funding from Congress.
Courts

Air Ambulance Surprise Billing Case Updates. There are a number of lawsuits pending challenging federal surprise billing regulations. Most are focused on whether the Biden Administration adhered to the text of the No Surprises Act when implementing the independent dispute resolution (IDR) process and directing the arbiters on how to consider statutory factors when making decisions. Plaintiffs in the cases have argued, among other things, that the regulations are contrary to law because the regulations and accompanying guidance requires IDR arbitrators to give special weight to the Qualifying Payment Amount when resolving payment disputes between providers and payers.

February 23, the U.S. District Court for the Eastern District of Texas ruled in favor of the Texas Medical Association in their suit challenging parts of the regulations. March 22, Judge Richard Leon of the U.S. District Court for the District of Columbia heard oral arguments in surprise billing cases brought by the Association of Air Medical Services and the American Medical Association and American Hospital Association. As next steps, parties in the case were invited to submit supplemental briefs.

Judge Leon pressed the government whether it would appeal the Texas Medical Association case. The government indicated that it has not yet decided on whether to appeal.

Quick Hits

- The U.S. Occupational Safety and Health Administration (OSHA) on March 22 announced a limited reopening of comment period for the COVID-19 emergency temporary standard for healthcare industry, originally published on June 21, 2022. Additionally, OSHA intends to hold a public hearing on COVID-19 prevention policy for healthcare stakeholders on April 27, before finalizing the rule.

- The Centers for Medicare & Medicaid on March 21 released templates and resources for two state reporting requirements that will help CMS and states monitor enrollment and renewal efforts as states resume routine Medicaid following the end of the Public Health Emergency.

- The Department of Health and Human Services through HRSA announced on March 22 that it will distribute $413 million in Provider Relief Fund (PRF) Phase 4 payments to more than 3,600 providers impacted by the COVID-19 pandemic. HRSA is working to wrap up PRF distributions as there is no additional funding in sight from Congress.

- On March 23, the Senate Special Committee on Aging held a hearing entitled “An Economy That Cares: The Importance of Home-Based Services,” where the Committee discussed the need to pass funding for home and community-based services and homecare workforce.
• The House Ways and Means Committee on March 22 held a Republican Meeting on “Cures and Coverage: A Chilling Precedent for Patients,” to discuss how new restrictions on FDA-approved drugs prohibits access and treatment for Americans suffering from Alzheimer’s.

• The House Energy and Commerce Committee announced that the Health Subcommittee will hold a hearing on March 30 on reauthorizing the Medical Device User Fee Act.

• The House Ways & Means Committee issued a Request for Information (RFI) soliciting input from twelve health systems regarding their work and operational policies combat climate change, and how the federal government can be supportive in these initiatives. Indications are that the RFI may be sent to additional entities over time.

Health Policy Breakroom Podcast

Twelve years ago, this week, the Affordable Care Act (ACA) became the law of the land and millions of Americans gained affordable coverage as a result. Since 2010, the ACA has endured several legislative challenges and judiciary appeals. Debbie Curtis and Rodney Whitlock were both active on both sides of the aisle during the curation of the ACA legislation and share their experiences on crafting this law, along with the outlook on what's needed to support and strengthen the ACA for future generations.

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Developers:

• ES5 builds are disabled during development to take advantage of 2x faster build times.

Next Week’s Diagnosis

Both the House and Senate will be in session next week, with only two weeks before the Chambers recess for spring break. Stakeholders will be reviewing the President’s Budget to understand key policy priorities.