



ADVI

TxSCO Update

January 11, 2024



Overview: Notable Updates

Federal

- Notable 2024 Congressional retirements
- 2024 federal healthcare priorities
- Recap: House passes Lower Costs, More Transparency Act
- CY 2024 Physician Fee Schedule responses
- Stark/in-office dispensing update
- Medicaid redetermination forecasts

State

- Primary Season
- TDI Rulemaking on HB 1647
- Interim Charges

Federal Updates

ADVI Welcomes Hillary Cavanagh to Policy & Reimbursement Team In January 2024



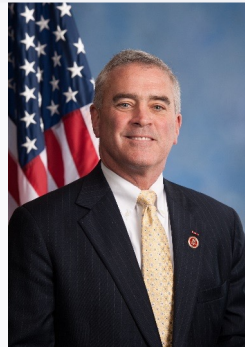
Background

- Hillary comes most recently from the CMS Innovation Center (CMMI) where she led the Division of Ambulatory Payment Models in the Patient Care Models Group
- Hillary is an expert in specialty care models, including the Enhancing Oncology Model (EOM) and the preceding Oncology Care Model (OCM)
- She served on working groups and task forces in support of the White House's Cancer Moonshot and advised the development of the CMMI models developed in response to the Executive Order on Lowering Prescription Drug Costs for Americans
- Before joining CMMI, Hillary worked in the Office of Legislation and held previous positions at Ernst & Young and Avalere Health

Notable 2024 Congressional Retirements



Rep. Michael Burgess,
M.D. (R-TX-26)



Rep. Brad Wenstrup,
D.P.M. (R-OH-02)



Rep. Larry Bucshon,
M.D. (R-IN-08)



Rep. Anna Eshoo
(D-CA-16)

Doctors Caucus Co-chairs

Doctors Caucus Member

2024 Healthcare Priorities

Congress

- 1/19: Deadline to pass FDA funding
- 2/2: Deadline to pass HHS funding

Federal Agencies

- Artificial Intelligence – per executive order, HHS will:
 - Launch an AI task force by the end of January and
 - Develop guidelines on AI-enabled health tools by the end of April
- DEA: Expected proposed rule for using telemedicine to prescribe buprenorphine and other controlled substances

Recap: House Passes Lower Costs, More Transparency Act

December 11, 2023: The House passed the Lower Costs, More Transparency Act by a vote of 320 to 71 (with 1 representative voting “present” and 41 not voting)

Transparency

- Codifies current hospital price transparency requirements
- Codifies current health plan price transparency requirements (applicable to all group and individual health plans)
- Extends price transparency requirements to imaging services, diagnostic labs, and ASCs
- Ensures health plan fiduciaries are not contractually restricted from receiving cost or quality information about their plan
- Ensures PBMs and Third-Party Administrators disclose compensation to plan fiduciaries
- Ensures that all private health plans are banned from applying gag clauses
- Requires each off-campus HOPD to obtain and include an NPI on billing for claims
- Requires MA organizations to report on ownership of providers, PBMs, and pharmacies

PBMs and Drug Costs

- **Requires PBMs to semi-annually provide employers with data on prescription drug spending, including:**
 - **Acquisition cost of drugs**
 - **Total out-of-pocket spending**
 - **Formulary placement rationale**
 - **Aggregate rebate information**
- **Prohibits PBMs that contract with Medicaid MCOs from spread pricing**
- Requires state Medicaid agencies to administer the NADAC price survey to participating pharmacies in Medicaid
- **Creates site-neutral payments for physician-administered drugs**
- Requires FDA to disclose to new generic drug applicants if any ingredients cause a drug to be quantitatively or qualitatively different from the listed brand drug for purposes of establishing “sameness”
 - FDA would provide directional guidance if there is a quantitative difference

Other Provisions

- Extends
 - Community Health Center Fund through CY 2025 at \$4.4B per year
 - National Service Corps through CY 2025 at \$350M per year
 - Teaching Health Center GME Program through CY 2030 (amount differs from \$175M to \$300M per year)
 - Special Diabetes Program at \$170M per year and Special Diabetes for Indians Program at \$170M per year through CY 2025
- Delays Medicaid DSH payment reductions for FY 2024-2025
- Eliminates \$7B in the Medicaid Improvement Fund
- Requires
 - Annual report from HHS on how Medicare regulations and CMMI demonstrations affect consolidation
 - MedPAC report on vertical integration among MA organizations providers, PBMs, and pharmacies

Source: H.R. 5378 ([link](#)); House Floor Schedule ([link](#)); CBO estimate (12/8/23, [link](#))

Note: CBO estimates that H.R.5378 will decrease the federal deficit by \$715 million between 2024 – 2033

Recap: PFS Final Rule for CY 2024: Oncology Impact

November 2, 2023: CMS released the CY 2024 PFS Final Rule ([link](#)) with an accompanying fact sheet ([link](#)). CMS finalized the following proposals:

Conversion Factor	E/M Services	Principal Illness Navigation	Dental Services
<ul style="list-style-type: none">• Overall: 3.37% decrease• Interventional Radiology: -4%• Nuclear Medicine: -3%• Radiology: -3%• Radiation Oncology and Radiation Therapy Centers: -2%• Hematology/Oncology: +2%	<ul style="list-style-type: none">• Begin payment for G2211 (add-on code for complex E/M visits) in CY 2024• CMS finalized changing the status of HCPCS code G2211 to make it separately payable by assigning it an "active" status indicator, effective January 1, 2024.• Due to stakeholder concerns that a physician or practitioner would not perform a preventive service on the same day as an O/O E/M visit merely to avoid the policy to not pay G2211 when the O/O E/M visit is reported with modifier - 25, CMS noted that it intends to monitor the utilization of this code and continue engagement with interested parties as this policy is implemented.	<ul style="list-style-type: none">• Reimbursement for specific care navigation as part of a treatment plan for a serious, high-risk disease• Covered services include<ul style="list-style-type: none">• Person-centered assessment• Identifying or referring patient to appropriate supportive services• Practitioner, home, and community-based care coordination• Health education• Building patient self-advocacy skills• Healthcare access/health system navigation• Facilitating behavioral change as necessary• Facilitating and providing social and emotional support	<ul style="list-style-type: none">• Dental services will be covered prior to<ul style="list-style-type: none">• Chemotherapy when used in the treatment of cancer• CAR T-Cell therapy, when used in the treatment of cancer• Administration of high-dose bone-modifying agents (antiresorptive therapy) when used in the treatment of cancer

GOP Doctors Caucus Met with Speaker Johnson, Discuss Physician Pay

Members of the GOP Doctors Caucus met with Speaker Johnson on January 10 to discuss priorities for the February 2 funding package, including addressing the pay decrease included in the 2024 PFS.

While it is unlikely that physicians will see a neutral or positive pay rate for 2024 compared to 2023, there is a likelihood that the decrease will be mitigated.

HR 6683 (Preserving Seniors' Access to Physicians Act of 2023) was introduced in December and would update the PFS conversion factor by 4.6%, matching the Medicare Economic Index.

H.R.5526 Would Exempt In-Office Dispensers and Mail Shipping from Stark Law

Sponsor and Co-Sponsors



Rep. Diana Harshbarger
(R-TN-1)



Rep. Debbie Wasserman
Schultz (D-FL-25)*



Rep. Chuck Fleischmann
(R-TN-3)*



Rep. Donald Davis (D-
NC-1)*



Rep. Mariannette Miller-
Meeks (R-IA-1)*



Rep. Troy Balderson (R-
OH-12)*



Rep. Bill Johnson (R-OH-
6)



Rep. Richard Hudson (R-
NC-9)

* Denotes original
co-sponsor



Rep. Lisa Blunt
Rochester (D-DE-At
Large)

Overview

- H.R.5526, the Seniors' Access to Critical Medications Act, would do the following:
 - Amends Section 1877 of the Social Security Act to clarify that mailing medications and allowing family members/caregivers to pick up medications on behalf of a patient will not violate the Stark Law
 - Rescinds CMS FAQs related to the topic

Timeline

- 9/18/23: Introduced in House; referred to Energy & Commerce and Ways & Means Committees
- 30 cosponsors as of Nov. 13
- 10/19/23: Bipartisan support voiced at House Energy and Commerce Hearing

KFF Annual State Medicaid Directors Survey Findings

Estimate 8.6% Enrollment Drop in FY 2024

Enrollment Growth

- Medicaid enrollment in FY 2023 was 6.5%, down from 8.4% in FY 2022
- Medicaid officials project enrollment will decline 8.6% in FY 2024
- 2024 enrollment estimates reflect new enrollments, unwinding coverage losses, and assumes some churn (re-enrollments)
- State Medicaid directors identified unwinding as the most significant factor driving enrollment trends
 - For FY 2024, nearly 75% of respondents mentioned eligibility expansions (e.g., 12 months postpartum) as creating upward pressure on enrollment

Total (Federal and State) Medicaid Spending

- Total spending was 8.3% in FY 2023 (down from a peak of 9.9% in FY 2022)
- Projected total Medicaid spending is expected to decrease to 3.4% in FY 2024
- State Medicaid directors identified enrollment changes as the most significant driver of total expenditure changes

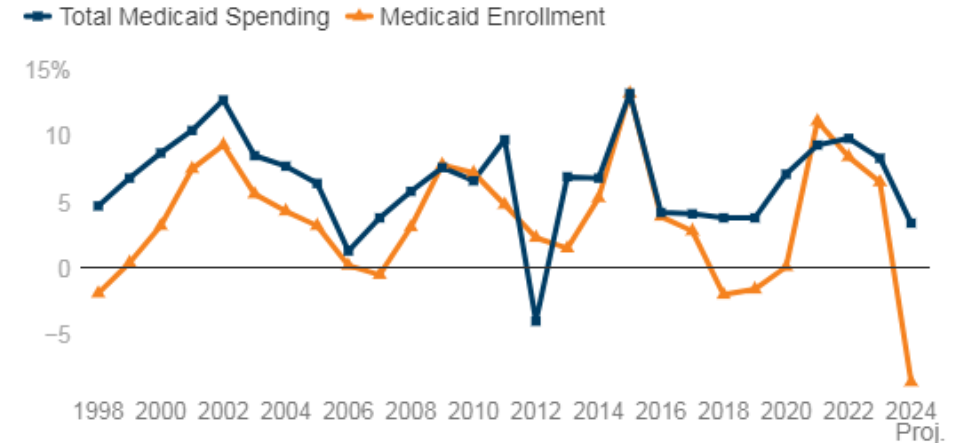
State Medicaid Spending

- State spending increased 13% in FY 2023 and is expected to rise by 17.2% in 2024
 - This growth is expected even as total spending growth slows
- State Medicaid directors identified the phase out and eventual end of the enhanced FMAP (implemented during the COVID PHE) as the primary reason more spending will shift to states

Figure 2

Percent Change in Medicaid Spending and Enrollment, 1998-2024

Annual Percentage Changes, FY 1998 - FY 2024



NOTE: Growth percentages refer to state fiscal year (FY). FY 2024 projections based on enacted budgets.

SOURCE: FY 2023-2024 spending data and FY 2024 enrollment data are derived from the annual KFF survey of state Medicaid officials conducted by Health Management Associates, November 2023. 48 states submitted survey responses by Oct. 2023; state response rates varied across questions. Historic data reflects growth across all 50 states and DC and comes from various sources. See Methods of [Medicaid Enrollment and Spending Growth Amid the Unwinding of the Continuous Enrollment Provision: FY 2023 & 2024](#) for more information. • PNG

KFF

State Updates

Transition to Primary Season

- With regular and special legislative sessions behind us (we hope), focus in Austin has turned to primary races
- With the campaign filing deadline also behind us, a total of 16 House members and 2 Senators will not be returning for the 89th Legislative Session
- Of those leaving the House
 - 9 are Republicans and 7 are Democrats; very few of these districts are considered "swing"
 - 2 are running for State Senate, 2 are running for Congress and 1 is running for US Senate
- In the Senate, Drew Springer is retiring from politics, John Whitmire is the new Mayor of Houston and Roland Gutierrez has a free run for US Senate

Transition to Primary Season

- Of the 76 incumbent House Republicans running for re-election, 45 or 60% have primary challengers.
 - For comparative purposes, of the 57 House Democrats running for re-election, only 8 or 14% have primary challengers.
- In the Senate, only half the body seeks re-election in a given term and only 2 of the 13 Senators seeking re-election have primary challengers
 - Paul Bettencourt (R-Houston) and Nathan Johnson (D-Dallas) who is being challenged by current House member, Victoria Neave Criado.

Texas Department of Insurance Comments Due January 10th on HB 1647 (White-Bagging Legislation) Rulemaking

- TDI has published rules implementing a long list of bills from this past session including HB 1647, the bill prohibiting white bagging mandates
- The public comment period closed Wednesday and a public hearing to receive comments was held Tuesday (HillCo will be covering and reporting back).
- We have reviewed the rules and believe they are in line with the spirit of the bill and the efforts made by the stakeholder community to pass the bill.
- Once comments have been received, the agency will take their time in reviewing them prior to making any changes and will likely publish the adopted version of the rules early this Spring.

Interim Charges

- At the end of each legislative year, leadership of each chamber develops a list of policy issues for each committee to study prior to the next legislative session.
- Now that we are seemingly done with legislative sessions, the Speaker's office and Lt. Gov. Will work with committee chairs and members to determine those lists
- Due to the lengthy legislative period it is expected that interim charges will be limited to monitoring implementation of recently passed legislation and a few other issues
- Interim charges are expected to be released this Spring.



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