

2-Year Omnibus Includes Health Policy

PAMA Delay, Medicaid Redeterminations Start April, Docs Paid More, HH Transparency, Telehealth & Bigger Mental Health

Details are trickling out on the omnibus package that funds the government for the next two years. Pay-go will likely be waived. As we have highlighted previously several healthcare provisions appear to make the cut, including telehealth 2-year extension, hospital at home extension, physician fee fix (MACRA and Specialist Physicians), PAMA (clinical lab) delay, and portions of the PREVENT Pandemics Act. The bill also extends programs that have traditionally been funded like CHIP, which is extended to 2029. PBM transparency may not make the cut, with the VALID Act also likely being left on the cutting room floor. *We note that bill provisions are in flux as Congressional leadership finalizes details.*

What's Likely Included

- **Physician payment relief: Both MACRA (VBC) and Specialist physician pay are likely restored (partially).**
 - Reduces the -4.5% cut expected in 2023 to -2.5% and then -1.25% in 2024.
 - Funding for the advanced alternative payment model 5% bonus was expected to expire at the end of 2022. Hospitals and physicians will get some relief as the bonus will be kept at a lower percentage (+3.5%) but extended for another year.
- **2-year extension of telehealth includes high deductible health plan (HDHP) allowance.** Pandemic-era telehealth flexibilities will be extended, and high deductible health plans (HDHPs) would be allowed to provide first-dollar coverage for telehealth and other remote care services, a flexibility set to expire in December 2022.
- **Hospital at home is also likely extended (two years likely).** Hospital at Home is a program that provides acute care in a patient's home as a full substitute for hospitalization. During the PHE hospitals received the full DRG payment to treat a patient at home.
- **Home Health transparency.** Home health agencies have historically been viewed as overpaid and underregulated by both MedPAC and CMS. The industry has sought CMS data/calculations during rulemaking; the data will help the industry argue its case going forward.
- **The bill likely include a two-year reprieve from the statutory PAYGO sequester,** which was estimated to result in an across-the-board cut of 4%. This helps hospitals, health plans and other healthcare providers reimbursed by Medicare.
- **Portions of the PREVENT Pandemics Act are likely included.** We noted previously that this bill was a nod to retiring Senator Burr (R-NC), the current ranking member of the Senate HELP committee and had an above average chance of being included. The bill is a bipartisan, catch-all of roughly 37 different bills related to pandemic preparedness. It includes provisions to modernize FDA infrastructure, improve domestic biomanufacturing, establish a new office to oversee pandemic preparedness, improve public health data collection, and address healthcare workforce shortages.
- **PAMA one-year delay is very likely included and saves <\$1B.** We had said that some clinical lab relief is likely to pass by year-end, but it is less likely to be the SALSA Act and more likely to be

a one year PAMA delay (again). The SALSA Act has wide bipartisan support, in both the Senate and House by Sens. Brown (D-OH) and Burr (R-NC), along with Reps. Pascrell (D-NJ), Peters (D-CA). The SALSA Act score is about \$6 B, which is untenable for year-end policies. A one year delay saves ~ \$780 M. Given the score, we have seen higher odds of passage, along with a commitment to work on SALSA/permanency more generally in the next Congress.

- **Medicaid Redetermination start date likely finalized for April 1, 2023; we don't know if FMAP phase down will be extended.** Recall that the current 6.2%-point FMAP will be maintained through the 1Q of redeterminations and states want phase down over 12 months. The PHE ending sooner than Aug 2023 -- currently due to end mid-April 2023 -- results in government savings, due to CBO projections and baseline assumptions.
- **MOMMA's Act: Postpartum 12-month Medicaid coverage made permanent.** So far, 27 states including have taken the American Rescue Plan Act-created option to extend postpartum Medicaid to 12 months via a state plan amendment (SPA). Congress has taken action to make this permanent, as without this the option was scheduled to end in 2027. 23 states have taken no steps towards the one-year coverage as of now. See the American Rescue Plan Act of 2021 [here](#).
- **Key mental health policies are likely included: (1) Marriage and family therapists, (2) 200 GME slots, (3) intensive outpatient policy, and (4) Mainstreaming Addiction Treatment Act (MAT) of 2021.**
 - (1) Access to Medicare Clinical Social Workers: Medicare Part B coverage will extend to licensed professional counselors and marriage and family therapists, bringing Medicare up to par with most private payers.
 - (2) Expanding Psychiatrist Workforce through Medicare Graduate Medical Education (GME): The policy would provide 200 additional GME slots for psychiatry residencies. The increase would be effective beginning on July 1 of the FY. See proposed text [here](#).
 - (3) Intensive Outpatient Policy. Expansion of Medicare mental health coverage by creating a new benefit category for intensive outpatient programs (IOPs).
 - (4) *Mainstreaming Addiction Treatment Act (MAT) of 2021*. See *MAT Act*, introduced in the Senate by Sen. Hassan (D-NH) back in February 2021 [here](#). The bill (1) removes the requirement that a provider needs to apply for a Drug Enforcement Administration (DEA) to dispense narcotic drugs (e.g., buprenorphine) for substance use disorder treatment, (2) allows community health aides/practitioners to dispense certain narcotic drugs for maintenance or detoxification treatment without registering with the DEA if the drug is prescribed by a provider through telemedicine (preempting state laws related to licensure), and (3) directs SAMHSA to conduct a national campaign to encourage providers to integrate substance use disorder treatment into practices.
- **Codification of Part D EUA policy.** After the end of the PHE, Part D plans will be required to cover COVID products approved under Emergency Use Authorization.
- **Bipartisan FDA riders are likely included.** These riders were originally expected to be included in the FDA user fees prior to plans for a clean passage. They are largely bipartisan and noncontroversial and include provisions for clinical trial diversity reform, improving FDA inspections, and generic flexibilities.
- **Offsets are included.** Offsets include the Medicare improvement fund (\$10 B or so), PAMA lab cut delays, hospice cap, and \$3B from extending the Medicare sequester in 2032.

What's Likely Out

- **PBM transparency in commercial markets may be punted again but could see the light of day in 2023.** We expected to see increased PBM transparency, based on anticipated requirements for PBMs to provide group health plans, states, and federal regulators detailed data and reports on rebates, discounts, copayments every six months. The rule was a component of mental health bipartisan bill approved by the House in June 2022, the Restoring Hope for Mental Health and Well-Being Act of 2022. See [here](#). CBO had determined that PBM reform would raise \$200 M over 10 years. This did not make the cut.
- **VALID Act would regulate diagnostics via FDA, which we saw as iffy at best.** We noted previously that either PREVENT Pandemics or VALID Act was expected to be included as a nod to the retiring Senator Burr. The in vitro clinical testing (IVCT) regulation is likely to be revisited in 2023. If passed, VALID sets up a risk-based system for FDA oversight of IVCTs starting in 2027 (may be delayed to 2028). A premarket, abbreviated premarket, and supplemental application review and approval process are outlined in the bill. The bill also allows for several mitigating measures (appropriate labeling, performance testing, and role of professionals) which lowers oversight and benefits manufacturers and exemptions including exemptions including humanitarian exemptions, high-complexity grandfathered tests, low-risk IVCTs, low volume IVCTs, and modified IVCTs.
- **NEXT STEPS: The Senate is expected to file cloture for a vote early this week.** We should see final text this evening or tomorrow. After the bill passes the Senate, it will take a 1-2 days to pass in the House. We largely expect the legislation to wrap up by Friday with no additional amendments in either chamber. Healthcare priorities left out are expected to be revisited in 2023 including VALID Act, Medicare Multi-Cancer Early Detection Screening Coverage Act, (possible) dialysis fix, among others. For passage of life sciences provisions that did not make it, there is PAHPA (Pandemic & All-Hazards Preparedness Act) and Animal Drug User Fee Act slated for reauthorization in Oct 2023.