

# Fall Outlook: Health Industry Seeks Aid

## Home Health, Clinical Labs, Dialysis, Value Based Care, Telehealth

This month the Senate & House are in for only a handful of days before members of Congress leave for pre-election campaign season. The outlook for September and post-election can be found below.

- **Congress will likely pass a 3-month budget (CR) through mid-December (9th or 16th).** As a reminder, the government FY23 ends Sept 30, 2022. Congress is unlikely to pass 12 appropriations bills before this time. Instead, we expect a continuing resolution (CR) to fund the government at current levels through mid-December. Democratic leaders are currently considering a CR that will extend to Dec. 9 or Dec. 16, although they not have made any decision yet on the deadline
- **\$22 B in COVID funding, \$4.5 B for Monkeypox, Ukraine & flooding aid will be sought by Democrats.** The White House is seeking more than \$47 B in emergency funding (see White House summary sheet [here](#)) for Ukraine, Covid-19 preparedness, Monkeypox and natural disasters, including deadly flooding in Kentucky.
  - \$2 B to continue testing programs, including free community testing at pharmacies and sustainment of testing capacity, and capability to distribute free COVID tests to households
  - \$8 B to accelerate research and development activities for next-generation COVID vaccines and therapeutics
  - \$1.3 B to support ongoing Phase 3 clinical trials for adult and pediatric vaccines and for surveillance and lab capacity to detect emerging variants
  - \$3.9 B for Monkeypox vaccine, testing, therapies, and other R&D
  - \$6.5 B for natural disasters
- **The following industries are lining up for relief in a 4Q bill (likely attached to budget).** We provide likelihood of relief in parentheses, as well, at this time, though we look to final regulations for HH & Physicians as Medicare payment policy relief may lessen the need for legislative relief.
  - VALUE-BASED CARE (**One or two year is possible**) Congress passed MACRA in 2015 as a solution to the yearly physician SGR payment adjustments, which consists of a 5% advanced alternative payment model path for providers or the MIPS quality reporting program. Funding for the AAPM 5% bonus expires at the end of 2022 and costs about \$600 M per year to extend the program. Hospital, physician and specialty groups are advocating for a 1-to-2-year extension.
  - HOME HEALTH (**Possible/Likely**) If finalized on or around Nov 1 Home health agencies face a 4.2% pay cut in 2023. CMS may also finalize its decision to claw back \$2 B as early as 2024.
  - CLINICAL LABS (**Likely**). The SALSA Act provides additional relief to clinical labs; We will provide a more detailed analysis of the bill & issues shortly. The lab industry has received relief approx. 3x over the last 5 years from PAMA of 2014.
  - HOSPITALS (**Possible**) 4% percent statutory PAYGO cuts unless waived by Congress would result in billions of payment cuts to hospitals in 2023. Also, 2% sequester cuts implemented in 2013 and delayed for much of the PHE were reinstated in July 2022.
  - SPECIALTY PHYSICIANS (**Unlikely**) – If finalized on or around Nov 1, the Physician Fee Service rule included a 4.42% payment adjustment for many clinicians. There is a push by hospitals and some physician groups to delay of the cut, estimated to cost \$6 B for one year.
  - DIALYSIS (**Unclear**). The industry was dealt a blow by the Supreme Court in June 2022. In a 7-2 ruling the Court held that the Marietta Plan coverage terms do not violate the statute because those terms apply uniformly to all covered individuals (same coverage for those with end stage renal disease and those without). A recently introduced bill would obligate health

plans to cover dialysis the same way they do treatments for other chronic illnesses and would increase reimbursement for DaVita, Fresenius. It would also impact a multibillion-dollar line item in the Medicare budget, making it an attractive offset.

- **TELEHEALTH** (*Likely, short-term*) Biden signed the FY 2022 appropriations package including an extension of telehealth flexibility provided under the Public Health Emergency (PHE) for an additional 151 days after it ends. In August, the House passed HR 4040 which would extend telehealth flexibilities for an additional 2 years. The Senate has yet to take up the House passed bill.
- **MED TECH/DIAGNOSTICS/DRUGS** (*Likely, short-term*). The FDA Used Fee 5-year authorization bill is likely to pass either before or after Oct 1 deadline. The agency has funds to operate into November, and the VALID Act (Diagnostics) may make it this year, as it has been the brain child of Sen. Burr (R-NC) to regulate diagnostic tests as of 2027, as his pre-retirement wish.
- **OUR TAKE & NEXT STEPS:** We will provide outlook for the aforementioned industries in separate in-depth analyses this month. Also, the CMS final CY23 rules will dictate the need for (1) specialty physician and (2) home health legislative assistance. In other words, if the industries are not provided leniency in final CY 23 rules (on or around Nov 1) then the trade associations will seek help via Congress in an end-of-year bill.