

## Biden Budget: Healthcare Services

### MA Policy May Signal RADV, Medicaid MCOs Compliance, Mental Health Boost

The FY23 Biden Budget is released with healthcare policies [here](#). We remind all that the President's budget is an opening salvo, frequently aspirational and almost never enacted as proposed. It's largely a way to re-emphasize administration priorities, which will be tough as GOP looks to take control of one or both chambers come November 2022.

- **1 -- BBB Deficit Neutral reserve Fund.** We had said that ACA subsidies, Drug Pricing, Science Commitments (ARPA-H, Cancer Moonshot), and potential COVID funds are likely to be addressed in the budget, with a lower level of specificity. Recall BBB is back, with Manchin (D-WV) calling for April-May negotiations. We still think that ACA subsidies are likely paid for by drug price reforms and could pass stand alone. **[Deficit Neutral]**
- **2 -- Risk adjustment policy quietly included –MA plans would collect key provider data that assists with investigations.** Expand Tools to Identify and Investigate Fraud in the Medicare Advantage Program This proposal would require MA plans to collect referring provider identifiers for healthcare services and report as part of encounter data submissions to CMS. By requiring MA plans to collect key provider data to assist with investigations, this proposal would provide CMS and the HHS-OIG with improved capabilities to hold wrongdoers accountable. CMS would have improved capabilities to prevent program losses and beneficiary harm. Plans would benefit from more actionable data in their own systems and the federal government's broader visibility into fraud affecting multiple plans. This proposal would not require additional funding. **[Not Scorable]**
- **3 – Medicaid MCO (CNC, MOH, UNH, others) program enforcement saves \$2 B over ten.** Currently, CMS has inadequate financial oversight and compliance tools in Medicaid managed care, lacking maximum flexibility to disallow and defer individual payments or partial payments associated with contracts with managed care organizations, prepaid inpatient health plans, and prepaid ambulatory health plans. CMS's only recourse when it identifies compliance failures is to withhold all federal financial participation under the contract, an untenable compliance option given potential beneficiary harm and disruption to the state's Medicaid program. This proposal would revise to condition federal match in Medicaid managed care plan contract capitation payment amounts on a service-by-service basis and provide CMS with additional enforcement options. The revisions would enhance CMS's ability to take actions to protect beneficiaries, making these plan compliance tools more consistent with similar authorities in FFS. **[\$2.1 billion in savings over 10 years].**
- **4 –Apply the *Mental Health Parity and Addiction Equity Act* to Medicare.** Unlike most private and employer-based insurance and Medicaid plans, Medicare is not subject to the *2008 Mental Health Parity and Addiction Equity Act* (the Act), which requires health plans that offer mental health and substance use disorder benefits to provide coverage that is on par with the medical and surgical benefits they offer. This proposal ensures that mental health and substance use disorder benefits under Medicare do not face greater limitations on reimbursement or access to care relative to medical and surgical benefits. MedPAC will be required to issue a report to identify existing gaps in mental health and substance use disorder benefits to be addressed in Medicare statute. **[Not Scoreable]**
- **5 -- Revise Criteria for Psychiatric Hospital Terminations from Medicare** Current law requires CMS to terminate psychiatric hospital participation in Medicare after 6 months of non-compliance with conditions of participation, even if the deficiency does not jeopardize patient health and

wellbeing. This provision does not apply to any other provider category. If a facility must be terminated, it would diminish access to quality mental health services by diverting resources away from patient care, and any required termination could cause patients with mental illness to forgo seeking the appropriate care. This proposal would give CMS flexibility to allow a psychiatric hospital to continue receiving Medicare payments when deficiencies are not considered to immediately jeopardize the health and safety of its patients and where the facility is actively working to correct the deficiencies identified in an approved Plan of Correction. [Budget Neutral]

- **6 -- Require Medicare to Cover Three Behavioral Health Visits without Cost-Sharing.** Medicare Part B includes coverage of behavioral health visits to a doctor, therapist, or other clinician for services generally received outside of a hospital, but the annual Part B deductible and coinsurance apply, with limited exceptions. This proposal would require Medicare to cover up to three behavioral health visits per year without cost-sharing. Eliminating cost-sharing for individuals removes potential financial barriers to treatment and gives more patients access to the care they need.. [\$1.4 B in costs over 10 years]
- **OUR TAKE & NEXT UP:** The budget is an opening salvo but portions may see the light of day in pending legislation / regulation. The MA piece is new and potentially signals future audit action; we all know that RADV (risk adjustment data validation) final rules are due by November 2022, per agency delay in 2021. We still think that ACA Subsidies + Drug Reform can pass stand alone in 2022 as one offsets the other pretty evenly (CNC, MOH, UNH, HUM, CVS, others). The enhanced subsidies, enacted through the \$1.9 T COVID relief bill, sunset on Dec 31, 2022. We think that for election purposes, both parties will want to see the subsidies extended. ICYMI, Medicare “sequestration” reductions return Friday April 1: CMS sent Med Advantage (MA) plans an agency memo over the weekend on the ins and outs of sequester and bids. 1% cuts return April 1 and 2% start fresh July 1. We have not seen Congress discuss any relief this year and did not opine that relief was in the cards.