
LEGISLATIVE UPDATE

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FEDERAL

Congress

President Trump is expected to sign an executive order on Monday which would require HHS to oversee a new rule that seeks to increase price transparency. Under the executive order, hospitals and payers will be required to give patients estimates for out-of-pocket costs for procedures ahead of their appointment, instead of receiving their Explanation of Benefits (EOB) following a procedure, therefore knowing the specific cost they will be responsible for. Once signed by the president, the order will direct HHS to begin the rule making process and is expected to meet great opposition or even legal challenges. The American Hospital Association (AHA) strongly opposes this rule as payer and provider groups oppose making public their negotiations on rates. The CEO of America's Health Insurance Plans argues that it would have the opposite effect and could raise rates as "no one wants to have the lowest rate."

The five components of the executive order (EO)-

1. **Requirement for HHS to issue a proposed rule for hospitals to show negotiated rates with payers.** (60 day request in the EO; Timely with the next outpatient hospital payment proposed rule expected late July.)
2. **Requirement for HHS and Department of Insurance to explore whether the EOB should be shared prior to the procedure.** (90 days) The agencies will be required to showcase the costs the patient will be responsible for prior to any procedure or hospitalization.
3. **Quality metrics.** The order calls for a roadmap for consolidating quality metrics across all federal health care programs (120 days).
4. **Claims data.** The goal is to make health care data more manageable and accessible to consumers (120 days).
5. **Health Savings Account (HSA).** Expanding the availability of the HAS to pay for more health care services (180 days).

While the executive order is just the opener in a lengthy rule-making process, lawmakers are also talking about the issue of transparency in cost of health care as well as the growing cost. Sen. Ron Wyden (D-Ore.) ranking member of the Senate Finance Committee, introduced a bill last month that would require health insurers to tell their beneficiaries what out-of-pocket costs they would face for any in-network procedure or prescription drug they seek. The [Health Care Price Check Act \(S. 1497\)](#) would create an online tool and toll-free number for members to ask about cost of service and quality of providers. It would also require payers to tell patients when a provider is out-of-network.

As previously reported, the Senate Committee on Health, Education, Labor and Pensions (HELP), [Lower Health Care Costs Act \(S. 1895\)](#), introduced by Sen. Lamar Alexander (R-Tenn.), is aiming to tackle surprise billing by introducing the establishment of a benchmark payment rate based on local median negotiated rates. Children's Hospital Association (CHA) is opposed to this default payment model as it could have major negative consequences for pediatric health care. The incentive for insurers to negotiate with hospitals and other providers to establish appropriate provider networks for all services would be removed by this plan. Children need access to networks that are inclusive of all appropriate pediatric providers, including specialists and subspecialists. If plans have the option to simply pay providers a pre-determined out-of-network benchmark rate, rather than include them in-network, they will do so. A default rate does not account for a provider's volume, services offered, quality, or the complexity or specialization of care involved- all things that are normally factored into negotiated rates. We strongly believe that any solution should focus on preserving the role of private negotiation between provider and insurers to avoid incentivizing the creation of narrow networks.

Another alternative that has some support is to include arbitration- a means for patients to dispute a bill- which has been considered in an earlier discussion draft of the Lower Health Care Costs Act and the Cassidy-Hassan bill, [Stopping the Outrageous Practice of Surprise Medical Bills Act of 2019 \(S. 1531\)](#).

While we have discussed concerns within the *Lower Health Care Costs Act*, it is also important to identify the good pieces included in the bill-

- **Bans balance billing.** If a health plan does not contract with the providers to be in-network, the health plan may not pay the provider's full bill, leaving the patient with a bill for the balance from the out-of-pocket provider. By removing balance billing, the patients are removed from the equation and handled between the provider and health plan.
- **Reduces the cost of prescription drugs.** Among the many provisions, it generates competition by focusing on the tactics used by drug manufacturers to slow down or deter generic drugs (competition).
- **Improving public health.** Vaccination education through the CDC, maternal health and childhood obesity among the provisions.
- **Mental health parity.**
- **Funding community health centers.**

The full committee is expected to markup the bill Wednesday, June 26th.

To keep track of these bills, please refer to the attached federal bill list.

STATE

Nebraska Legislature

Although the 2020 election is more than a year away we are already looking into those candidates running for office. In fact, the Democratic Presidential hopefuls will have their first televised debate in Miami, FL this week, kicking off the long campaign cycle.

Here in Nebraska, we are aware of a few candidates for Legislature that have big shoes to fill. First, Sen. Sara Howard (D-Dist. 9, Omaha), chair of the Health and Human Services Committee, is term-limited and unable to run in 2020. Just announced last week, Marque Snow, the president of the Omaha Public Schools board, announced his plans to run for her open seat. Snow has a bachelor's degree from the University of South Dakota and moved to Omaha with his husband in 2011. He is currently the program Director at the Nebraska Center for Workforce Development. Snow already faces an opponent in his race for Legislative District (LD) 9. Mark Vondrasek, works as a bicycle mechanic and field technician for Heartland BCycle and is an active member of the Nebraska Democratic Socialists of America.

In Lincoln, a state legislative staffer, Jennifer Carter, announced that she is seeking election to Lincoln's south-central district, LD 29. Currently, Sen. Kate Bolz (D-Dist. 29, Lincoln) holds that seat but is term-limited. Senator Bolz sits on the budget setting Appropriations Committee. Carter, a registered Democrat, earned her bachelor's degree at Columbia University and is married with two children. She joins Jacob Campbell, a former child abuse investigator for the state and current member of the legislative staff. Campbell and his wife, Laura, serve as Nebraska Army National Guards and met when they first served together. Neal Clayburn also seeks the popular LD 29. He is a U.S. Navy veteran and former wrestling, football and track coach in Nebraska. He has worked as an associate director for the Nebraska State Education Association since 2006. Finally, Eliot Bostar is entering the race and is currently the director of the Nebraska Conservation Voters. He previously worked as a special adviser in the New York's Governor's office where he helped expedite the rebuilding of the World Trade Center site after the 9/11 attacks.

Finally, two incumbent, or sitting, senators have thrown their name back in the ring for a second term. Sen. Carol Blood (D-Dist. 3, Bellevue) and Sen. Dan Quick (D-Dist. 35, Grand Island). Senator Blood championed the breastfeeding bill and hearing aid bill this year, among many other bills for children.

(Sources: CHA, Modern Healthcare, HealthCare Dive, Congress.gov, Omaha World Herald)