

## ML Strategies Health Care Preview

WEEK OF MAY 20, 2019

We are a few legislative days from the Memorial Day recess with the trajectory of issues like drug pricing and surprise medical billing still emerging. The House has passed several drug pricing bills in the past month, with more to come this week. However, it is unlikely the Senate will simply take them up and pass them as the recently-passed House package included bills to strengthen the Affordable Care Act (ACA), which are unlikely to go anywhere in the Senate. It is widely expected that the drug pricing bills and surprise medical bill package will be included in the Senate's cost-containment package, which is being developed by the key committees of jurisdiction in the Senate.

Unless this package can clear both chambers before the August recess, it is possible this package will be combined with the health extenders package that needs to be reauthorized by the end of the fiscal year. Funding for community health centers, teaching health centers, and the Medicaid disproportionate share hospital delay will all need to be addressed and typically garner bipartisan support. As this package grows, it becomes increasingly more difficult to address aspects of the package.

The next month will be the most critical time this year for health care as HELP and Finance show their cards on drug pricing, surprise medical bills, in addition to getting started on the health extenders package at the committee level.

### **CMS BACKS OFF SIX PROTECTED CLASSES**

Last week, CMS published a final rule, "[Medicare Advantage and Part D Drug Pricing Final Rule](#)." CMS opted not to finalize the proposed exceptions that would have allowed Part D sponsors to exclude a protected class drug from a formulary when a manufacturer raises prices faster than inflation or if the drug represents a new formulation of a drug already on the market. This aspect of the proposed rule faced intense opposition from both sides of the aisle.

CMS did opt to include a proposed step therapy policy in the final rule. In the final rule, MA plans could implement step therapy for Part B drugs with a few safeguards in place. "Step therapy may only apply to new starts of medication, must be reviewed and approved by the plan's pharmacy and therapeutics committee, and when patients request coverage of or appeal a denial of a Part B drug, a plan's decision-making timeframe will be shorter and mirror current Part D rules."

CMS will also seek additional feedback on the pharmacy price concessions proposal, which would re-define negotiated price as the baseline, or lowest possible, payment to a pharmacy. The Agency received over 4,000 comments on this proposal and will continue reviewing policies around this issue.

### **THIS WEEK IN THE HOUSE**

**Ed & Labor** – "Eliminating Barriers to Employment: Opening Doors to Opportunity" (Tues @ 10:15)

**E&C** – "Improving Drug Pricing Transparency and Lowering Prices for American Consumers." (Tues @ 10:30)

**Ways & Means** – "Protecting Patients from Surprise Medical Bills." (Tues @ 2pm)

### **THIS WEEK IN THE SENATE**

No hearings to report.

### **SIGN UP**

[MLSDCHealth@mintz.com](mailto:MLSDCHealth@mintz.com)

### **TEAM**

Alex Hecht

Connie Garner

Frank Guinta

Aaron Josephson

Kate Josephson

Eli Greenspan