



Issues for the week ending June 14, 2024

Federal Issues

Legislative

Medicare Advantage Prior Authorization Bill Reintroduced in House, Senate

On Wednesday, [House](#) and [Senate](#) sponsors introduced an updated version of the “[Improving Seniors’ Timely Access to Care Act](#).” The legislation largely seeks to codify The Center for Medicare and Medicaid Services’ (CMS) [prior authorization final rule](#) for Medicare Advantage (MA) plans, which mandates electronic prior authorization, increases transparency and sets response timelines.

Why this matters: First introduced in 2019, the legislation has broad bipartisan support and the endorsement of more than 370 national and state organizations representing patients, physicians, MA plans, hospitals and other stakeholders.

The Improving Seniors’ Timely Access to Care Act unanimously passed the House in the last Congress and was cosponsored by a majority of members in the Senate and House of Representatives. A higher than expected score from the Congressional Budget Office

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prevented it from advancing farther at the time. However, with the final rule establishing spending in the baseline, the need to offset the legislation has been minimized, increasing its odds of being included in an end of year health package.

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Federal Issues

Regulatory

CMS Recalculates 2024 MA Star Ratings and Issues Guidance for CY 2025 Bid Resubmissions

On June 13, the Centers for Medicare & Medicaid Services (CMS) issued a [memorandum](#) to announce how it will respond to recent court decisions invalidating the agency's approach to applying guardrails when implementing Tukey outlier deletions for 2024 Star Ratings and 2025 Quality Bonus Payments (QBPs).

By the Numbers: CMS stated that it has recalculated 2024 Star Ratings for all contracts by applying guardrails based on actual 2023 Star Rating cut points rather than simulated cut points. CMS assigned the recalculated ratings to contracts receiving higher QBP ratings, which the memorandum indicates means increases from 3 to 3.5 stars, 3.5 to 4 stars, or 4 to 4.5 stars. No change will be made to contracts that would otherwise see the QBP rating decrease based on the recalculation.

Contracts with increases in their QBP ratings are permitted to resubmit their Contract Year (CY) 2025 bids, including bid pricing tools, plan benefit packages, and formularies between June 26 and June 28, 2024. Actuarial certification for any bid resubmission must be completed by July 3, 2024. Affected contracts planning to change their formulary must also contact CMS by June 18, 2024 to confirm next steps.

Go Deeper: CMS will “update the 2024 Star Ratings information for all contracts on Medicare Plan Finder in the coming weeks.” [More details can be found here.](#)

White House Releases Fact Sheet on Health Care Cybersecurity

The White House [released](#) a fact sheet detailing various actions the Administration and the private sector have taken to improve the resilience of the health care sector in the wake of recent cyberattacks.

Actions include:

- May 2024 convening of Chief Information Security Officers to advance health care cybersecurity solutions across the industry.
- Launch of the Universal Patching and Remediation for Autonomous Defense (UPGRADE) program, a cybersecurity effort that will invest more than \$50 million to create tools for information technology (IT) teams to better defend the hospital environments they are tasked with securing.

Focus on Rural: The fact sheet also highlights how cyber disruptions are particularly disruptive in rural areas and notes that major U.S. technology providers are working to provide free and low-cost resources to rural hospitals across the nation.

Go Deeper: [Read the full fact sheet.](#)

CMS Bulletins on Medicaid and MH/SUD Treatment

The Centers for Medicare & Medicaid Services (CMS) recently released two informational bulletins to assist state Medicaid agencies with: (1) monitoring and oversight of MH/SUD parity requirements, and (2) accessing enhanced federal matching rates for MH/SUD-related information technology expenditures.

- **The first bulletin, [Medicaid and CHIP Managed Care Monitoring and Oversight Tools, including States’ Responsibility to Comply with Medicaid Managed Care and Separate CHIP Mental Health and Substance Use Disorder Parity Requirements](#),** provides reminders on Medicaid managed care and CHIP MH/SUD parity requirements and state responsibilities for managed care program parity oversight.
- The guidance notes the existing CMS resources that have been released to support implementation of parity regulations and indicates that CMS is in the process of producing additional resources to promote compliance with parity requirements.
- The bulletin also provides general updates on efforts to expand web-based portal use for managed care reporting, contract, and rate submissions as well as reminders regarding additional State reporting requirements, implementation of the prior authorization components of the Interoperability and Patient Access Final Rule, and CMS’s process for review and approval of managed care contracts.

- **The second bulletin**, [Access Enhanced Federal Medicaid Matching Rates for State Information Technology Expenditures to Improve Access to Mental Health and Substance Use Disorder Treatment and Care Coordination](#), provides examples of state Medicaid information technology expenditures to improve access to and coordination of treatment and support services for MH/SUD that may qualify for enhanced Medicaid matching rates.
 - Some of the examples include technology to facilitate health information exchange between providers and schools, data-sharing capabilities between hospitals and community-based MH/SUD providers, and public-facing websites or information exchange networks that link enrollees to peer support groups or peer support specialists. The guidance also reminds state agencies how to apply for the enhanced matching rates for these types of expenditures.
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Departments Publish No Surprises Act (NSA) Public Use Files

The Departments of Health and Human Services, Labor, and the Treasury (the Departments) published [Public Use Files](#) (PUFs) on Independent Dispute Resolution (IDR) process operations for the third and fourth quarters of last year.

Why this matters: These files include all data elements required for publication by the NSA and are accompanied by supplemental tables and background. The Departments previously released PUFs for the first two quarters of 2023.

Supreme Court Rejects Bid to Restrict Access to Mifepristone

The Supreme Court issued a decision in the case *FDA v. Alliance for Hippocratic Medicine* that challenged the Food and Drug Administration's 2016 and 2021 expansion of access to Mifepristone. The Supreme Court dismissed the case on the basis that the plaintiffs lacked standing to challenge the FDA decision. A copy of the decision is available [here](#).

CMS Releases Pre-Publication Version of Final Rule on Updates to Medicare Part D E-Prescribing & Health IT Standards

On June 13, the Centers for Medicare & Medicaid Services (CMS) released a pre-publication version of a [final rule](#) that revises the Medicare Prescription Drug Benefit (Part D) and Office of the National Coordinator for Health Information Technology (ONC) regulations to implement changes to required standards for electronic prescribing (e-prescribing) and adoption of health information technology (IT) standards.

CMS had proposed changes to these standards in the [CY 2025 MA & Part D proposed rule](#) but did not finalize its proposals in the [2025 MA & Part D final rule](#), which was published on April 23, 2024.

Why this matters: Through this [final rule](#), CMS is updating the Part D e-prescribing standards and “will require Part D sponsors, prescribers, and dispensers of covered Part

D drugs for Part D eligible individuals to comply with standards CMS has either adopted directly or is requiring by cross-referencing standards ONC adopts for electronically transmitting prescriptions and prescription-related information.”

Highlights from the [final rule](#) include:

- Starting January 1, 2027, Part D sponsors, prescribers, and dispensers of Part D drugs for eligible individuals are required to use NCPDP SCRIPT standard version 2023011 for communication of a prescription or prescription-related information. Beginning January 1, 2028, NCPDP SCRIPT standard version 2023011 will be the only version of the NCPDP SCRIPT standard available for HHS use and for purposes of the Medicare Part D e-prescribing program.
- Starting January 1, 2027, Part D sponsors’ real-time benefit tools (RTBTs) must comply with a standard in 45 CFR 170.205(c), where ONC is adopting NCPDP Real-Time Prescription Benefit (RTPB) standard version 13.
- Beginning January 1, 2027, transmission of formulary and benefit (F&B) information between prescribers and Medicare Part D sponsors must comply with a standard in 45 CFR 170.205(u), where ONC is adopting NCPDP F&B standard version 60.
- Rule also cross-references in §423.160(b)(2) standards adopted for eligibility transactions in HIPAA regulations at 45 CFR 162.1202 for requirements related to eligibility inquiries and responses.
- Rule also makes technical changes to the regulation text throughout §423.160 for clarity and other purposes.

USPSTF Comment Opportunity on Draft Recommendation on Screening for Osteoporosis to Prevent Fractures

The U.S. Preventive Services Task Force (USPSTF) released a [draft recommendation statement](#) and [draft evidence review](#) on screening for osteoporosis to prevent fractures. The first USPSTF recommendation has a “B” grade and recommends screening for osteoporosis to prevent osteoporotic fractures in women age 65 years or older. The second USPSTF recommendation has a “B” grade and recommends screening for osteoporosis to prevent osteoporotic fractures in postmenopausal women younger than age 65 years who are at increased risk for an osteoporotic fracture as estimated by clinical risk assessment. The USPSTF found that the current evidence is insufficient to assess the balance of benefits and harms of screening for osteoporosis to prevent osteoporotic fractures in men.

Why this matters: When finalized, this recommendation will update the 2018 recommendation on screening for osteoporosis. The current draft recommendation is generally consistent with the 2018 recommendation. Following the court [decision](#) in the *Braidwood Management, Inc. v. Becerra* case, the Departments of HHS, Labor and Treasury (Departments) issued [Frequently Asked Questions \(FAQs\) Part 59](#) to address

how the decision impacts coverage requirements for preventive services under the Affordable Care Act (ACA). The FAQs clarify that the Departments will no longer enforce coverage requirements for items and services recommended with an "A" or "B" rating by the USPSTF on or after March 23, 2010. The FAQs note that the Departments will be issuing further guidance on how to handle updates to recommendations which precede 2010.

The USPSTF is accepting public comments until July 8. We encourage Plans to submit individual responses to the USPSTF if you have feedback to share on this comment opportunity.

CMS Releases 2023-2032 National Health Expenditure Projections

On June 12, the CMS Office of the Actuary [released](#) projections of National Health Expenditures (NHE) and health insurance enrollment for 2023-2032.

Topline: The Office of the Actuary projects that over 2023-2032, yearly average growth in NHE (5.6%) will outpace average annual growth in GDP (4.3%), resulting in an **increase in the health spending share of GDP from 17.3% in 2022 to 19.7% in 2032**. Selected highlights on NHE spending by major payers include:

Medicare

Average annual Medicare expenditure growth is projected to be **7.4% for 2023-2032**. Over 2030-2032, Medicare spending growth is expected to be somewhat lower (7.0%), reflecting projected slowing enrollment growth after the last of the baby boomers (those born between 1946 and 1964) enroll in 2029.

Medicaid

For 2023-2032, the average growth rate for Medicaid spending is **projected to be 5.2%**. State eligibility redeterminations resumed in 2023 following the end of the public health emergency's continuous enrollment provisions, and many individuals were disenrolled in 2023, and more in 2024. After 2024, Medicaid enrollment is expected to stabilize as eligibility processes return to normal.

Private Health Insurance

The average rate of growth for private health insurance **spending over 2023-2032 is projected to be 5.6%**. Enrollment gains in direct-purchase plans, including Marketplace plans, are expected through 2025 related to the temporary extension of enhanced Marketplace subsidies and the Special Enrollment Period. Enrollment is projected to fall in 2026 when the enhanced subsidies expire under current law.

Go Deeper: [Read the NHE Projections here.](#)

CMS Consumer Consent & Application Review Frequently Asked Questions (FAQs)

CMS published [Frequently Asked Questions: Consumer Consent & Application Review Requirements](#), a resource for agents, brokers and web-brokers assisting clients with Marketplace eligibility and enrollment.

Why this matters: The FAQs address when consent must be documented, acceptable methods of documentation, and use of the Marketplace's Enhanced Direct Enrollment (EDE) platform. BCBSA, AHIP, and a small group of Plans and EDE partners met with CCIIO to discuss the concerning increase in the Marketplace's Unauthorized Enrollments and potential solutions. Clarifying and verifying consumer consent has been a key issuer recommendation.

State Issues

New York

Regulatory

Expanding Doula Care Access

Health Commissioner James McDonald issued a statewide [standing order for doula services](#). Authorized under the 2024-2025 State Budget, the order, effective as of June 10, 2024, applies to Medicaid enrollees and New Yorkers covered by other types of health insurance, and is designed to assist pregnant women more easily access doula care.

State Issues

Pennsylvania

Legislative

Pennsylvania Legislative Update: Budget Negotiations, PBMs, Committee Meetings

Budget: Negotiations continue to take place regarding Pennsylvania's 2024/2025 Fiscal Year Budget. Both House and Senate chambers are off this week to recognize the Juneteenth Holiday, but staff and leadership continue to negotiate with the Governor's office ahead of the June 30th budget deadline.

PBMs: House Bill 1993, Representative Benham's PBM legislation, which is the House companion to Senate Bill 1000, was amended and reported from the House Health Committee on Wednesday. The amendment that was added was at the request of the Governor's office, placing a higher dispensing fee in the bill. Negotiations on both House Bill 1993 and Senate Bill 1000 are continuing with a more comprehensive, negotiated amendment being expected to be placed in the legislation when they return to session next week.

Committee Meetings: At the request of leadership, all bills which may be part of the ongoing budget negotiations were to be reported out of committees by the end of last week, leading to a flurry of committee meetings and bills being reported out. In line with the rules of both the House and the Senate, all bills once reported out of committee were then referred to the respective Rules Committees for evaluation of budget and policy impact. Bills reported from committees and rereferred include:

- House Bill 1140, Representative Krueger's legislation which seeks to expand the mandatory coverage of all forms of contraceptives, including expanded Medicaid coverage, was amended and reported out of the House Insurance Committee
 - House Bill 2268, Representative Markosek's legislation requiring coverage for Speech Therapy, was amended and reported out of the House Insurance Committee.
 - House Bill 1754, Representative Mullins and Representative Cutler's legislation requiring the coverage of biomarker testing when deemed medically necessary was reported out of the Senate Banking & Insurance Committee
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Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: <http://legis.delaware.gov/>.

New York Legislation: <https://nyassembly.gov/leg/>

Pennsylvania Legislation: www.legis.state.pa.us.

West Virginia Legislation: <http://www.legis.state.wv.us/>

For copies of congressional bills, access the Thomas website –
<http://thomas.loc.gov/>.

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