



MEMORANDUM

To: Subcommittee on Health Members and Staff
From: Committee on Energy and Commerce Majority Staff
Re: Health Subcommittee Markup on May 17, 2023

I. Introduction

On Wednesday, May 17, 2023, at 10:00 a.m. (ET), the Subcommittee on Health will meet in open markup session in 2123 Rayburn House Office Building to consider the following:

- **H.R. 1418, the Animal Drug User Fee Amendments of 2023 (Rep. Greg Pence)**
- **H.R. 2544, the Securing the U.S. Organ Procurement and Transplantation Network Act (Rep. Larry Bucshon)**
- **H.R. 3281, the Transparent PRICE Act (Rep. Cathy McMorris Rodgers)**
- **H.R. 2666, the Medicaid VBPs for Patients (MVP) Act (Rep. Brett Guthrie)**
- **H.R. 3285, the Fairness for Patient Medications Act (Rep. Morgan Griffith)**
- **H.R. 3284, the Providers and Payers COMPETE Act (Rep. Michael Burgess)**
- **H.R. 3290, To amend title III of the Public Health Service Act to ensure transparency and oversight of the 340B drug discount program (Rep. Larry Bucshon)**
- **H.R. 2559, the Strengthening Community Care Act of 2023 (Rep. John Joyce)**
- **H.R. 2547, the Special Diabetes Program for Indians Reauthorization Act of 2023 (Rep. Tom Cole)**
- **H.R. 2550, the Special Diabetes Program Reauthorization Act of 2023 (Rep. Diana DeGette)**
- **H.R. 1613, the Drug Price Transparency in Medicaid Act of 2023 (Rep. Earl L. “Buddy” Carter)**
- **H.R. 2665, the Supporting Safety Net Hospitals Act (Rep. Yvette D. Clarke)**
- **H.R. 2679, the PBM Accountability Act (Rep. Ann Kuster)**
- **H.R. 3248, the Diagnostic Lab Testing Transparency Act (Rep. Mariannette Miller-Meeks)**
- **H.R. 3262, To amend title XI of the Social Security Act to increase transparency of certain health-related ownership information (Rep. Jan Schakowsky)**
- **H.R. 3282, the Promoting Transparency and Healthy Competition in Medicare Act (Rep. Diana Harshbarger)**
- **H.R. 3237, To amend title XVIII of the Social Security Act to require each outpatient department of a provider to include a unique identification number on claims for services, and to require hospitals with an outpatient department of a provider to submit to the Centers for Medicare & Medicaid Services an attestation with respect to each outpatient department (Rep. John Joyce)**

In keeping with Chair Rodgers' announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to EandCdocs@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time.

II. Explanation of Legislation

- A. **H.R. 1418, the Animal Drug User Fee Amendments of 2023** - This legislation would reauthorize ADUFA and AGDUFA for fiscal years 2024 to 2028. Reauthorization of these programs would include the negotiated agreement on performance goals and procedures between FDA and industry for the upcoming five-year period. This would be the fifth iteration of ADUFA and the fourth iteration of AGDUFA.
- B. **H.R. 2544, the Securing the U.S. Organ Procurement and Transplantation Network Act** - This legislation would amend section 372 of the Public Health Service Act to allow for additional flexibilities within the Organ Procurement and Transplantation Network (OPTN).
- C. **H.R. 3281, the Transparent PRICE Act** - This legislation would require hospitals to make their standard charges public through machine-readable files as well as payer-specific negotiated charges, including for cash-paying patients, for 300 shoppable services. Additionally, the legislation would require health insurance companies to make personalized pricing information available to enrollees and post machine-readable files containing in-network negotiated rates, historical prescription drug prices, and out-of-network allowed amounts. Finally, the bill would increase penalties for noncompliance with existing rules and implement policies to improve the quality of data reported by hospital and insurers to provide actionable information for patients and employers.
- D. **H.R. 2666, the Medicaid VBPs for Patients (MVP) Act** - This legislation would codify Medicaid rules that permit the use of varying best price points under value-based purchasing arrangements such as gene therapies.
- E. **H.R. 3285, the Fairness for Patient Medications Act** - This legislation would establish deductible and cost-sharing limitations on highly rebated drugs. Specifically, cost-sharing would be capped at the price paid by the insurer for the drug in the previous year to ensure patients are never paying more than the cost of the drug.
- F. **H.R. 3284, Providers and Payers COMPETE Act** - This legislation would require the U.S. Department of Health and Human Services (HHS), during each of its annual hospital and other provider payment rules like those for inpatient and outpatient care, to consider the implications that its proposals may have on further consolidating the health care system by studying both horizontal and vertical consolidation among both providers and payers.

- G. **H.R. 3290, To amend title III of the Public Health Service Act to ensure transparency and oversight of the 340B drug discount program** - This legislation would establish reporting requirements for hospitals participating in the 340B program. Specifically, participating hospitals would be required to report total 340B savings and other key metrics to the Health Resources and Services Administration on an annual basis.
- H. **H.R. 2559, the Strengthening Community Care Act of 2023** - This legislation would extend funding for the Community Health Center Fund and National Health Service Corps.
- I. **H.R. 2547, the Special Diabetes Program for Indians Reauthorization Act of 2023** - This legislation would extend funding for the Special Diabetes for Indians program.
- J. **H.R. 2550, the Special Diabetes Program Reauthorization Act of 2023** - This legislation would extend funding for the Special Diabetes Program.
- K. **H.R. 1613, the Drug Price Transparency in Medicaid Act of 2023** - This legislation would require pass-through pricing and prohibit spread-pricing for payment arrangements with pharmacy benefit managers under Medicaid.
- L. **H.R. 2665, the Supporting Safety Net Hospitals Act** - This legislation would eliminate the disproportionate share hospital payment reductions under the Medicaid program for Fiscal Years 2024 and 2025.
- M. **H.R. 2679, the PBM Accountability Act** - This legislation would require pharmacy benefit managers (PBMs) regularly to furnish employers with detailed data on prescription drug spending, including the cost of drugs, total out-of-pocket spending, formulary placement rationale, and aggregate rebate information. Additionally, the Comptroller General of the United States would be required to submit a report to Congress on pharmacy networks of group health plans, health insurance issuers, and entities providing pharmacy management services under such group health plans or group or individual health insurance coverage.
- N. **H.R. 3248, Lab Price Transparency**- This legislation would require diagnostic laboratories to disclose three data points for clinical diagnostic laboratory tests included on the list of shoppable services specified by the Centers for Medicare and Medicaid Services: the discounted cash price of each test, the de-identified minimum rate for each test, and the de-identified maximum rate for each test.
- O. **H.R. 3262, Ownership Transparency**- This legislation would require hospitals, freestanding emergency centers, ambulatory surgical centers, physician practices with more than 25 physicians, physician practices owned

by hospitals, insurance companies, and other entities, to report to the Department of Health and Human Services (HHS) upon changes in ownership. HHS would be required to use this data to submit annual reports on trends in health care consolidation.

- P. **H.R. 3282, The Promoting Transparency and Healthy Competition in Medicare Act** - This legislation would increase transparency into the effects of vertical integration in health care by requiring Medicare Advantage Organizations and Part D plan sponsors to report data with respect to how these companies interact with health care providers that they share common ownership with – like physician groups, pharmacy benefit managers (PBMs), and pharmacies – compared to those that they do not.
- Q. **H.R. 3237, To amend title XVIII of the Social Security Act to require each off-campus outpatient department of a provider to include a unique identifier on claims for items and services, and to require providers with a department of a provider to submit to the Centers for Medicare & Medicaid Services an attestation with respect to each such department** - This legislation would require that each department of a provider include a unique identification number on claims for services, and to require hospitals with an outpatient department of a provider to submit to the Centers for Medicare and Medicaid Services an attestation with respect to each outpatient department.

III. Staff Contacts

If you have any questions regarding this markup, please contact Jolie Brochin of the Committee Staff at (202) 225-3641.