

Healthcare Reform Digest: Omnibus Appropriations Act 2023



On December 23, 2022, US Congress approved a year-end \$1.7 trillion omnibus legislative package, Consolidated Appropriations Act, 2023 (CAA 2023), which was signed by President Biden on December 29, 2022. The legislative package contains a number of health policy changes, including an extension of key Medicare telehealth flexibilities and a \$10 billion increase in funding for behavioral health services. Several of the key health provisions are summarized below:

Telehealth Coverage

Prior to the COVID-19 pandemic, Medicare provided coverage for telehealth services in certain limited circumstances. During the pandemic, limitations on telehealth coverage were waived to allow Medicare beneficiaries more access to care while reducing their risk of contracting COVID-19. These expanded telehealth flexibilities are now extended to the end of 2024 and include, among other things, the following: (i) coverage for telehealth services received from home; (ii) expansion of providers who can provide covered telehealth services, including occupational therapists, physical therapists, speech pathologists and audiologists; and (iii) allowing for coverage of telehealth services through audio-only telecommunication.

The legislation extends through the end of 2024 the temporary relief offered during the COVID-19 pandemic that permits high deductible health plans (HDHPs) to offer first dollar coverage for telehealth services prior to meeting the required deductible without jeopardizing the tax deductibility of HSA contributions.

Behavioral Health

The legislation provides funding for several programs addressing mental illness, substance use disorder, and crisis response, including Mental Health and Substance Abuse Block Grants and specific programs for pediatric, maternal, and veterans' mental health.

Among the programs receiving increased funding are: (i) certified community behavioral health clinics (CCBHC), which offer a range of behavioral health services from mental health crisis teams and screening to substance use disorder treatment; (ii) the National Suicide Prevention Hotline (988); and (iii) grant program for mobile crisis response teams.

Medicare will begin offering coverage for additional behavioral health services, including intensive outpatient programs and services furnished by marriage and family therapists and mental health counselors.

The legislation removes barriers to the dispensing of buprenorphine for the purpose of opioid use disorder treatment.

Non-federal governmental health plans, such as those offered by states, municipalities and school districts, may no longer opt out of requirements for mental health parity.

The legislation includes \$50 million of funding spread across five years to help states enforce federal mental health parity provisions.

Medicaid

Medicaid redeterminations have been suspended since the beginning of the pandemic. States can now begin processing Medicaid redeterminations as of April 1, 2023, even if the public health emergency (PHE) is in place. States will have one year to complete Medicaid redeterminations.

States are now required to provide 12 months of continuous coverage for children on Medicaid.

State Medicaid programs that have been temporarily offering 12 months of coverage for postpartum women may offer this coverage permanently. In the 2022 legislative session, the Rhode Island General Assembly passed a law providing Medicaid coverage for birthing people 12 months postpartum.

Other notable provisions

The legislation mitigated the provider reimbursement cuts that were scheduled to take place under Medicare as of January 1, 2023. Instead of a roughly 4.5% cut, the fee schedule decreases will now be 2.0 % in 2023 and 3.25% in 2024.

The legislation includes support for initiatives to improve maternal health outcomes, including the following: (i) funding for several federal agencies to develop initiatives aimed at improving maternal health and reducing the nation's high maternal mortality rate and (ii) financial awards to community-based organizations to address adverse maternal health outcomes, particularly among racial/ethnic minority families.

In an effort to increase the number of psychiatrists in the U.S., two hundred additional graduate medical education slots will be funded with the requirement that at least half of those new slots will be dedicated to psychiatry and psychiatry subspecialty residencies.

The legislation takes several steps intended to improve the government's ability to prepare for emergencies, including: (i) a requirement that the Centers for Disease Control (CDC) prepare an agency-wide strategic plan every four years that describes how CDC will use strategic communications, external partnerships and coordination with other agencies in the event of an emergency and (ii) additional authority for the Health and Human Services Secretary to request support from other departments and agencies to lead federal public health and medical response to a PHE.