

New Year, New Administration, New Priorities

Kim Brandt
Health Care Compliance Association Annual Meeting
April 2021

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HEALTHCARE PARTNERS

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Congressional Overview

Main focuses to date:

- Nominations/Confirmations of Key Officials
- COVID relief package of \$1.9 trillion
- Impeachment Trial
- Infrastructure
- Sequestration

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Congressional Committees: 117th Congress -- House

House Energy and Commerce Committee:

Chair: Frank Pallone (NJ)

Ranker: Cathy McMorris Rodgers (WA)

Health Subcommittee: Chair – Anna Eshoo (CA), Ranker -- Brett Guthrie (KY)

House Ways and Means Committee:

Chair: Richard Neal (MA)

Ranker: Kevin Brady (TX)

Health Subcommittee: Chair -- Lloyd Doggett (TX), Ranker –Devin Nunes (CA)

House Budget Committee:

Chair: John Yarmuth (KY)

Ranker: Jason Smith (MO)

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Congressional Committees: 117th Congress -- Senate

Senate Finance Committee:

Chair: Ron Wyden (OR)

Ranker: Mike Crapo (ID)

Key new Members: Elizabeth Warren (MA) and John Barrasso (WY)

Senate Health, Education and Labor (HELP) Committee:

Chair: Patty Murray (WA)

Ranker: Richard Burr (NC)

Senate Budget Committee:

Chair: Bernie Sanders (VT)

Ranker: Lindsey Graham (SC)

Senate Judiciary Committee:

Chair: Richard Durbin (IL)

Ranker: Chuck Grassley (IA)

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Congressional Priorities

Health Care:

- ACA reforms to strengthen ACA
- Health equity issues: maternal health, mental health, racial equity, rural health
- Medicaid issues: more money to encourage states to expand Medicaid, bolstering existing Medicaid programs particularly home and community based services, long term services and supports
- Nursing Home issues: ensuring adequate funds for care and enhanced oversight to ensure quality of care
- Pharma issues including drug cost controls (insulin)

Tax:

- Corporate tax rate increase
- Capital Gains tax (On SFC both Wyden and Warren are both advocates of more aggressively taxing the wealthy and corporations)
- More transparency around dark money groups as 501(c)(3) organizations
- International tax (White paper from SFC on international tax)

Infrastructure

Climate

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Congressional Update

• Infrastructure Plan:

- President Biden unveiled a broad ranging infrastructure plan which the House will begin working on when they return. This is the first of two parts. The second part will be a "social" infrastructure plan which will focus on child care, universal pre-K, free community college and health care priorities such as ACA and Medicaid expansion and drug pricing reforms.
- Current infrastructure plan includes \$400 billion for home and community based services (HCBS) which is significant as it is the largest such investment ever proposed. Builds on Biden's campaign promises in this area which were to:
 - Expand access to a broad array of long-term services and supports in local settings, including through closing the gaps in Medicaid for home- and community-based services and establishing a state innovation fund for creative, cost effective direct care services.
 - Eliminate the current waitlist for home and community services under Medicaid.

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Congressional Update

- Establish a long-term services and supports innovation fund to help expand home- and community-based alternatives to institutional care.
- Improve caregiving and health outcomes in our nation's most underserved communities by adding 150,000 community health workers.
- Engage in a national strategy to recruit, retain and empower nursing professionals.
- Treat caregivers and early childhood educators with respect and dignity, and give them the pay and benefits they deserve, training and career ladders to higher-paying jobs, the choice to join a union and bargain collectively, and other fundamental work-related rights and protections.

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Key Cabinet and Sub Cabinet Positions

- Treasury Secretary Janet Yellen
- Attorney General Merrick Garland
- HHS Secretary Xavier Becerra:
- Other key HHS Officials:
 - Rachel Levine -- Assistant Secretary for Health
 - Vivek Murthy -- US Surgeon General
 - Andrea Palm – Deputy Secretary**
 - Chiquita Brooks-LaSure – Administrator, CMS**

** not yet confirmed as of 4/16/21

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CMS and FDA Key Officials

Centers for Medicare and Medicaid Services (CMS)

Administrator: Chiquita Brooks-LaSure (pending confirmation)
Center for Medicare and Medicaid Innovation: Liz Fowler

Food and Drug Administration (FDA)

Commissioner: Janet Woodcock (Acting)

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Administration Actions

Executive Orders!!

- Over 30 EOs issued through the end of January – 15 within the first 24 hours
- Obama only issued 9 EOs and Trump 8 EOs within their first two weeks
- Only 3 that have dealt with healthcare: Medicaid, ACA, Women's Health

COVID-19 Health Equity Task Force

- 12 non government task force members from across the country with a range of racial and ethnic groups as well as diverse backgrounds
- Chaired by Dr. Marcella Nunez-Smith
- Will also include federal agencies
- Will issue report to Administration on recommendations to inform COVID-19 response and recovery

Regulatory Freeze

- EO issued instructing that all new and pending regulations would be reviewed before going into effect

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Administration Actions: COVID-19

COVID-19 Response

- 200 million shots in 100 days
- Expanding testing
- Ensuring adequate vaccine supply
- Working to reopen schools and economy
- Efforts being led by COVID-19 Task Force at WH

Public Health Emergency and Waivers

- Current PHE expires April 20, 2021
- Administration stated in late January that it would likely extend to end of 2021
- Public statements from WH officials that providers would be given 60 days notice before PHE expires so waivers will not disappear overnight
- Over 135 Medicare and nearly 500 Medicaid waivers currently in place which grant unprecedented flexibilities for telehealth, training, reporting requirements, etc. Many of them have been in place since early March 2020.

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Administration Healthcare Priorities

- COVID-19 Response
- Medicaid
- Affordable Care Act
- Health Equities
- Mental Health
- TeleHealth
- Value Based Care
- Surprise Billing/Price Transparency
- Prescription Drug Pricing

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Administration Actions: FY22 Budget

The President's 2022 discretionary request includes \$131.7 billion for HHS, a \$25 billion or 23.5-percent increase from the 2021 enacted level. This request includes appropriations for 21st Century Cures Act and program integrity activities.

Key Areas include:

Prioritizes Mental Health. The COVID-19 pandemic has increased the prevalence of mental health disorders and further strained the Nation's mental healthcare system. The discretionary request includes historic increases in annual appropriations for mental health. The discretionary request provides \$1.6 billion, more than double the 2021 enacted level, for the Community Mental Health Services Block Grant, supports the particular needs of those who are involved in the criminal justice system, provides funding for partnerships between mental health providers and law enforcement, and expands suicide prevention activities. This funding builds on investments in the American Rescue Plan Act of 2021.

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Administration Actions: FY22 Budget

Protects Rural Healthcare Access and Expands the Pipeline of Rural Healthcare Providers. The discretionary request prioritizes investments in programs that help rural communities by providing access to quality healthcare and health professionals. Within HRSA, the discretionary request increases funding to help rural healthcare providers stay open and care for their rural communities, increase funding for rural residency programs, and ensure coal miners and their families receive health benefits. The discretionary request also funds efforts to increase the number of individuals from rural areas going to medical school or other training programs, and returning or staying in rural communities to provide care, with a focus on primary care physicians, nurses, nurse practitioners, nurse anesthetists, and other in-demand providers.

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Administration Actions: FY 22 Budget

Enables Older Americans and People with Disabilities to Live Independently in Their Communities. The discretionary request builds on significant investments provided in the American Rescue Plan Act of 2021 by providing additional resources for the Administration for Community Living to help older adults and people with disabilities maximize their independence and well-being. The discretionary request provides relief to caregivers and families, including \$551 million for home and community-based services, doubles funding for the Lifespan Respite Care program, increases resources for meal programs for older Americans, and expands services for individuals with disabilities.

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Administration Actions: FY22 Budget

Advances the Goal of Ending the Opioid Crisis. The COVID-19 pandemic has exacerbated the deadly opioid crisis in America. Drug overdoses, including those that involve opioid use, contributed to the loss of 70,630 lives in 2019. The discretionary request provides a historic investment of \$10.7 billion, an increase of \$3.9 billion over the 2021 enacted level, to help end the opioid crisis, including funding for States and Tribes, medication-assisted treatment, research, and expanding the behavioral health provider workforce.

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Administration Update: CMS

- Announced that they are not allowing new applications for the Direct Contracting (professional and global) models. The Geographic Direct Contracting model was put on indefinite hold earlier in the year and is likely to never get off the ground.
- The CMMI models are undergoing a very thorough review and it is expected that many of the models will be substantially modified or terminated under the current Administration.
- Medicaid reforms continue and the work requirements for four states: Arkansas, Michigan, New Hampshire and Wisconsin have all been withdrawn over the past few weeks. It appears likely the new Administration will reject all pending requests to approve work requirements.
- Medicaid expansion: Continues to be a priority with the enhanced FMAP funding provided in the American Rescue Plan. Worth noting Wyoming House passed Medicaid expansion, but unlikely to pass Wyoming Senate.

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Administration Priorities: Enforcement

Key Players:

HHS Secretary Becerra

Attorney General Merrick Garland

HHS Inspector General (no nominee)

Outlook:

Increased focus on Industry Consolidation (potentially also on role of private equity – MedPAC report)

Oversight of CARES Act Funding and other COVID-19 provider funding sources

Uptick in enforcement across the board (looking at telemedicine and other potential abuses of CMS waiver authorities)

COVID-19 related fraud (sale of PPE, phony cures, phony tests, etc)

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Kim's contact info

Email:

kbrandt@tdyllc.com

Cell:

703-867-8146

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