Key policies in the Continuing Resolution for FY 2025

Released on Dec. 17, 2024

Other than the health section, the remainder of the CR provisions are supposed to be extended until March 14, 2025.

Medicaid

- **Sec. 101. Streamlined Enrollment Process for Eligible Out-Of-State Providers Under Medicaid and CHIP.** For purposes of improving access to necessary out-of-state care for children enrolled in Medicaid and the Children's Health Insurance Program (CHIP), this section requires States to establish a process through which qualifying pediatric out-of-state providers may enroll as participating providers without undergoing additional screening requirements.
- Section 106. Codifying certain Medicaid Provider Screening Requirements Related to Deceased Providers.
    - Section codifies the requirement that State Medicaid programs check, as part of the provider enrollment and re-enrollment process and on a quarterly basis thereafter, whether providers are deceased through the SSA's Death Master File.
- Section 107. Modifying Certain State Requirements for Ensuring Deceased Individuals Do Not Remain Enrolled.
    - Section requires State Medicaid programs to check the SSA's Death Master File on at least a quarterly basis to determine whether Medicaid enrollees are deceased.
- Sec. 108. One-Year Delay of Medicaid and CHIP Requirements for Health Screenings, Referrals, and Case Management Services for Eligible Juveniles in Public Institution.
    - This section delays by 12 months CMS' enforcement of the requirements in Section 5121 of the Consolidated Appropriations Act, 2023 (P.L. 117-328, CAA, 2023) to require State Medicaid and CHIP programs to provide screenings, diagnostic services, and targeted case management services for eligible juveniles within 30 days of their scheduled date of release from a public institution following adjudication.
- Section 110. Modifying Certain Disproportionate Share Hospital Payment Allotments.
    - Section eliminates the Medicaid Disproportionate Share Hospital (DSH) allotment reductions for FY2025 and delays the effective date of the two remaining years of Medicaid DSH allotment reductions until January 1, 2027.
    - Authorizes Tennessee to make Medicaid DSH payments until January 1, 2027.
- Section 112. Ensuring Accurate Payments to Pharmacies Under Medicaid (Offset).
    - Section requires participation by retail and applicable non-retail pharmacies in the National Average Drug Acquisition Cost (NADAC) survey. The NADAC survey measures pharmacy acquisition costs and is often used in the Medicaid program to inform reimbursement to pharmacies.
- Section 113. Preventing the Use of Abusive Spread Pricing in Medicaid (Offset).
    - Bans "spread pricing" in the Medicaid program, which occurs when PBMs retain a portion of the amount paid to them (a "spread") for prescription drugs.

Medicare

- Section 201. Extension of Increased Inpatient Hospital Payment Adjustment for Certain Low-Volume Hospitals.
  - Section only extends the Medicare low-volume hospital payment adjustment through 12/31/2025.
- Section 202. Extension of the Medicare-Dependent Hospital (MDH) Program.
  - This section extends the MDH program through December 31, 2025.
- **Section 204. Extending Incentive Payments for Participation in Eligible Alternative Payment Models.**
  - **Section extends incentive payments for qualifying participants in Advanced APMs (A-APMS) through Payment Year 2027 based on a performance year 2025 at a higher 3.53 percent rate.**
  - **Freezes the 50% QP APM revenue threshold that has been in effect since 2023 through payment year 2027 (only 2025 performance year).**
- **Section 205. Temporary Payment Increases Under the Medicare Physician Fee Schedule to Account for Exceptional Circumstances.**
  - **The section-by-section characterizes this as a "boost" to the MPFS CF of 2.5 percent for 2025.**
  - **In reality, it simply mitigates 2.5% of the 2.83% cut physicians receive on 1/1/25 due to expiration of the temporary 2024 update as described in the CY25 MPFS Final Rule.**
- Section 206. Extension of Funding for Quality Measure Endorsement, Input and Selection.
  - Section provides $5 million in funding for CMS for quality measure selection and to contract with a consensus-based entity to carry out duties to quality measure endorsement, input, and selection activities through December 31, 2025.
- **Section 208. Extension of Work Geographic Index Floor (GPCI).**
  - **Section extends the 1.0 work GPCI floor used in calculation of payments under the Medicare MPFS through December 31, 2025.**
- **Section 209. Extension of Certain Telehealth Flexibilities.**
  - **Section Extends Medicare telehealth flexibilities that were extended in the CAA, 2023 through December 31, 2026 (2 years) (Geographic and originating site restrictions, continued moratorium on in-person visit for telemental health services).**
  - **Establishes a special payment rule for telehealth services provided by FQHCs and RHCs.**
  - **Imposes certain modifiers on telehealth services furnished "incident to" other services and telehealth visits furnished via contracts with certain virtual platforms.**
    - This is designed to allow HHS OIG to be able to track which nonphysician providers are furnishing telehealth services "incident to" physicians. AMA doesn't interpret it as something that would present major problems as it's essentially a program integrity provision and it's far less restrictive than other guardrails (e.g., in-person visits).
    - The section on required use of modifiers also includes a new provision on, "*claims for telehealth services that are furnished through a telehealth virtual platform by a physician or practitioner that contracts with an entity that owns such virtual platform*."
- Section 210. Requiring Modifier for Use of Telehealth to Conduct Face-to-Face Encounter Prior to Recertification of Eligibility for Hospice Care.
  - CMS must create a new Medicare claims form modifier in order to track when a hospice face-to-face recertification encounter occurs through telehealth.
- **Section 211. Extending Acute Hospital Care at Home Waiver Flexibilities.**
  - **Section extends the Acute Hospital Care at Home initiative, as currently authorized under CMS waivers and flexibilities, through December 31, 2029.**
  - **Section establishes parameters for a new interim study and report on the Acute Hospital Care at Home Initiative.**
  - **Names the program after Senators Tom Carper (D-DE), Tim Scott (R-SC), Brad Wenstrup (R-OH), and Earl Blumenauer (D-OR).**

- **Section 213. Guidance on Furnishing Services Via Telehealth to Individuals with Limited English Proficiency.**
    - **Section enacts the SPEAK Act, facilitating guidance and access to best practices on providing telehealth services accessibility.**
    - **AMA supported the SPEAK Act.**
        - **For historical context, AMA was initially hesitant on a previous draft of this bill, which created a task force to create recommendations on accessibility requirements (now referred to in this current language as "best practices"). We shared those considerations and recommended that they explicitly include "physicians" as an included entity that HHS would consult with in creating future best practice guidance.**
- **Section 215. Inclusion of Virtual Diabetes Prevention Program Suppliers in MDPP Expanded Model.**
    - **Section expands participation in the Medicare Diabetes Prevention Program Expanded Model to virtual until 2030 and allows beneficiaries to participate virtually and in-person.**
- Sec. 217. Report on Wearable Medical Devices.
    - This section directs GAO to conduct a technology assessment and issue a report on wearable medical devices. Study includes an examination of the benefits and challenges of artificial intelligence to augment such capabilities.
- Section 223. Requiring Enhanced and Accurate Lists of (REAL) Health Providers Act.
    - Section requires MA plans to maintain accurate provider directories on a public website beginning plan year 2027.
    - Section requires plans to report on the accuracy of their directories and provide cost-sharing protections.
- Section 224. Medicare Coverage of Multi-Cancer Early Detection Screen Tests.
    - Section adds multi-cancer early detection (MCED) screening tests as a covered benefit under the Medicare program, effective January 1, 2029.
- **Section 227. Modernizing and Ensuring PBM Accountability.**
    - **Prohibits PBMS and their affiliates from deriving remuneration for covered Part D drugs based on the price of a drug.**
    - **Requires PBMs to define and apply drug and drug pricing terms in contracts with Part D plan sponsors transparently and consistently.**
    - **Sets out annual requirements for PBMs to report on drug price and other information to Part D plan sponsor clients.**
    - **Empowers Part D plan sponsors with new audit rights with respect to PBMs.**
        - **The sections adequately cover general oversight and accountability mechanisms of PBM practices related to bona fide service fees, drug rebates and discounts, spread pricing, prohibitions on remuneration arrangements, and disgorgement or any remuneration paid to PBMs. A full report will also be required of PDPs providing detailed information on prescription drug spending.**
        - **This section also includes a requirement of a future GAO study and Report describing the use of compensation and payment structure related to a drug's price within the retail drug supply chain.**
            - **Significant inclusion: the effects of drug price-related compensation structures and alternative compensation structures on Federal health care program beneficiaries, including with respect to cost-sharing, premiums, Federal outlays, biosimilar and generic drug adoption and utilization, drug shortage risks, and the potential for fees set as a percentage of a drug's price to advantage the formulary selection, distribution, or purchasing of drugs with higher prices.**
- **Section 228. Requiring a Separate Identification Number and an Attestation for Each Off-Campus Outpatient Department of a Provider (Offset and pre-cursor to Site Neutral).**
    - **The section requires each off-campus outpatient department of a hospital to obtain and bill for services under a unique national provider identifier, subject to HHS OIG compliance review.**

- **Section 229. Medicare Sequestration (Offset).**
  - **Section extends current law mandatory 2 percent Medicare payment reductions under sequestration for the last 4 months of FY2032 and the first 2 months of FY2033.**
- **Section 230. Medicare Improvement Fund (Offset).**
  - **Section reduces the MIF from $3.197 billion to $1.8915 billion.**
  - **$1.8915 billion was reserved for implementation of the patent thicket provisions (Section 904 below).**
- Section 1001. Two-year Extension of Safe Harbor for Absence of Deductible for Telehealth.
  - Extends for an additional 2 years (through CY 2026) the flexibility to exempt telehealth services from the deductible in high-deductible health plans (HDHPs) that can be paired with an HSA.

Public Health Extenders

- Sec. 401. Extension for Community Health Centers, National Health Service Corps, and Teaching Health Centers that Operate GME Programs.
  - Community Health Center Fund and National Health Service Corps are extended through FY 2026.
  - Teaching Health Center GME extended through FY 2029.
- Sec. 402 Extension of Special Diabetes Programs
  - Section reauthorizes the Special Diabetes Program for Type 1 Diabetes and Special Diabetes Program for Indians Through FY 2026.

Support Act Reauthorization (Title V. Sections 501 through Section 554)

- **SEC. 551. DELIVERY OF A CONTROLLED SUBSTANCE BY A PHARMACY TO A PRESCRIBING PRACTITIONER**
  - **The section clarifies that pharmacies may deliver a Schedule III, IV, or V controlled substance to an administering practitioner if the product is administered intranasally with post-administration monitoring.**

Pandemic and All-Hazard Preparedness and Response Act (Title VI. Sections 601 through Section 649A). Reauthorizes and updates pandemic and preparedness and response programs for two years, through CY 2026. Of note, it does not include the controversial provisions that were in previous House version that would have reorganized NIH and CDC.

Public Health Programs

- **Section 703. Preventing Maternal Deaths.**
  - **This section reauthorizes support for State-based maternal mortality review committees through FY 2029.**
  - **Additionally, this section directs HHS to disseminate best practices on maternal mortality prevention to hospitals, State-based professional societies, and perinatal quality collaboratives.**
  - **The AMA endorsed the Preventing Maternal Deaths Reauthorization Act of 2023, which is where this language came from.**

- **Section 707. Dr. Lorna Breen Health Care Provider Protection Act**
    - **Education and awareness initiative to promote the use of mental health and substance use services by health care providers through FY 2029 (5 years).**
    - **Reauthorizes the grant programs to promote mental health within the health care workforce by improving awareness of and access to mental health services and training through FY 2029 (5 years).**
- Section 713. Honor Our Living Donors (HOLD).
    - This section amends current law to prohibit the consideration of the organ recipient's income when determining whether a living donor is eligible for qualified reimbursements for living organ donation.
    - Section also removes language that indicates an organ recipient's ability to pay for a donor's expenses cannot be a factor in considering a donor's eligibility for reimbursement and requires an annual report to Congress to examine the sufficient of funding for the program.

FDA Provisions

Lowering Prescription Drug Costs

- **Section 901. Oversight of PBM Services.**
    - **Requires PBMs to provide group health plans and issuers with detailed data (gross and net drug spending, drug rebates, spread pricing arrangements, formulary placement rationale, and information about benefit designs that encourage the use of pharmacies affiliated with PBMs) on prescription drug spending at least semi-annually.**
    - **Ensures that health plans and individuals can receive a summary document regarding information about the plan's prescription drug spending.**
- **Section 902. Full Rebate Pass Through to Plan; Exception or Innocent Plan Fiduciaries**
    - **Section requires PBMs to fully pass through 100 percent of drug rebates and discounts, excluding bona fide service fees, to the employer or ERISA health plan for new contracts, extensions, or renewals entered into for plan years beginning 30 months (2 ½ years) after the date of enactment.**
    - **Section also clarifies the meaning of "covered service provider" under ERISA.**
- **Section 903. Increasing Transparency in Generic Drug Applications.**
    - **Section requires FDA to disclose to certain new generic drug applicants what ingredients, if any, cause a drug to be quantitatively or qualitatively different from the listed drug for purposes of establishing sameness in formulation, and the specific amount of the difference.**
- Section 904. Title 35 Amendments.
    - This section curbs the "patent thickets" by limiting, in certain instances, the number of patents that a reference biological product manufacturer can assert in a patent infringement lawsuit against a company seeking to sell a biosimilar version.

Other Policy Considerations

Division A—Further Continuing Appropriations Act, 2025. Section 21306. Budgetary Effects—

- **Clears the PAYGO scorecards so Statutory PAYGO is not enacted**

(4) BALANCES ON THE PAYGO SCORECARDS.—

Effective on the date of the adjournment of the second session of the 118th Congress, and for the purposes of the annual report issued pursuant to section 5 of the Statutory Pay-As-You-Go Act of 2010 (2 16 U.S.C. 934) after such adjournment and for determining whether a sequestration order is necessary under such section, the balances on the PAYGO scorecards established pursuant to paragraphs (4) 20 and (5) of section 4(d) of such Act shall be zero.

- **NO Prior Authorization Provisions in the CR**
- **NO Scope of Practice Expansion** (e.g., the Equitable Community Access to Pharmacists Services Act; the Chiropractic Medicare Coverage Modernization Act; The I CAN Act, or the Improving Access to Workers' Compensation for Injured Federal Workers Act).
- **Conrad 30 program also extended in the CR through March 14.**