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What Happened in Congress This Week?

The Senate and House have passed identical budget resolutions. This means that lawmakers can now move forward with Budget Reconciliation. This legislative process can be used to pass legislation with a simple majority in the Senate, rather than the traditional 60 votes necessary to bypass the filibuster for most legislation. Reconciliation will be the legislative vehicle to pass the vast majority of President Trump's legislative agenda.

CMS Finalizes 5% Increase for Medicare Advantage Plans Despite Growing Evidence of Overpayments

The Centers for Medicare and Medicaid Services (CMS) published the final rule that sets payment rates and makes other policy changes for Medicare Advantage plans in the 2026 plan year. The final rule establishes a 5% increase in payments to MA plans, translating to $25B, despite the proposed version of this rule only calling for only a 2.23% increase. It also represents a major increase from the 3% increase MA plans received for 2025.

MA plans receive monthly payments from Medicare to cover MA enrollees. The payment amounts are set by a variety of factors, including the "Effective Growth Rate" formula that benchmarks Medicare payments to MA plans based on Medicare's per-capita costs for beneficiaries covered by traditional Medicare.

CMS attributes the larger-than-proposed payment increase for 2026 to a revised Effective Growth Rate Formula that projects an increase in Medicare per capita costs of 9.04%, up from 5.93% in the proposed rule. According to the CMS press release, CMS received new data that was not available when the proposed version of the rule was issued which resulted in the higher cost projection.

The 5% increase for MA plans is controversial as new light is shed on how MA plans exploit other factors that determine MA payments to earn higher payments from Medicare. Much of this attention is focused on the MA coding intensity factor, which allows MA to receive higher payments from Medicare for specific enrollees based on their diagnosed conditions. For example, a new study shows that in 2021 MA enrollees had an average risk score that was 18.5%

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percent higher than beneficiaries covered under traditional Medicare. This translates to $33 billion. Of this total, 42% ($14 billion) was paid to UnitedHealth, the largest MA plan sponsor.

This is consistent with findings from MedPAC (slide 33) which showed that Medicare payments to MA plans were "substantially above what spending would have been" in traditional Medicare. MedPAC's presentation shows the coding intensity factor accounted for $32 billion in 2021, consistent with the study's findings. However, when adding other factors, the total disparity was $44 billion in 2021. MedPAC now projects that Medicare will overpay MA plans by almost double that amount, $84 billion, in 2025.

Despite this data, MA received a $25 billion increase for 2026.

CMS also finalized a new policy that is intended to improve the accuracy of the coding intensity adjustments that will phase in over three years.

The fact that MA plans continue to receive payment increases is especially frustrating for physicians, who have been fighting against annual Medicare payment reductions with limited success. Congress still has not addressed a 2.83% cut to physician Medicare payments for 2025 and it's not clear if they will. This is in addition to the 2% sequestration cut that has been on the books since 2011. Recognizing this and other issues, MedPAC has advocated for an annual inflationary update to Medicare payments. Members of Congress, such as Representative Greg Murphy, MD (R-NC-3) have championed legislation that would both address the 2.83% cut and provide an inflationary update for at least 2025.

Top Stories in Healthcare Policy

Also included in CMS's Medicare Advantage and Part D Final Rule were three notable decisions:

- The agency will not cover GLP-1 weight loss drugs such as Wegovy, aligning with Secretary Robert F. Kennedy's Make America Healthy Again philosophy, which emphasizes lifestyle choices over medication.
- The administration chose not to finalize a Biden Administration proposal that would have required pharmacy benefit managers (PBMs) to notify pharmacies of their network participation status before the start of open enrollment for a given plan year. It also would have prohibited

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pharmacies from withdrawing from plan contracts or network participation without providing justification.
- The Trump Administration declined to finalize a Biden Administration proposal to create artificial intelligence guardrails for Medicare Advantage.

Congressman Pat Ryan (D-NY-18) released the results from a Community Survey on Optum Rx. The report shed disappointing light on Optum's "care quality, accessibility, and billing practices." Representative Ryan has submitted the results of the survey to the Department of Justice (DOJ), Department of Health and Human Services (HHS), and the Federal Trade Commission (FTC).

A federal judge has issued a permanent injunction preventing cuts to National Institutes of Health (NIH) indirect grant funding from taking effect. The Trump Administration is appealing the injunction.

A non-profit paid off $30 billion of old medical debt for 20 million people.

The Congressional Budget Office (CBO) published an updated prediction that the Medicare Trust Fund will remain solvent until 2052. This is 17 years later than what it reported last year.

A lawsuit against MultiPlan and UnitedHealthcare was dismissed. The lawsuit claimed that the two companies colluded to lower reimbursement rates for an anesthesia services provider.

Rand published a new report detailing strategies for sustaining emergency care in the United States.

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