

SELLERS DORSEY DIGEST

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NAVIGATION

Federal Updates

HHS extended the comment period for its proposed rule to amend existing privacy regulations to make it easier for providers to share information needed to coordinate care for patients.

State Updates

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Private Sector Updates

Banner Health received \$311 million in operating income from Arizona's Medicaid rate enhancement program that took effect in October 2020.

Sellers Dorsey Updates

We will share a recorded presentation addressing key questions and highlights about ARPA next week. Stay tuned for more information or to read our [summary](#) issued on March 12 [here](#).

Summary of Key Updates

On March 12, Rep. John Yarmuth (D-KY) introduced [HR1868](#), which proposes to extend the temporary suspension of the Medicare sequestration through the end of 2021. The sequestration, which imposes a 2% cut on all Medicare provider payments beginning in 2013, was originally signed into law as part of the Budget Control Act of 2011; however, the cut has been delayed or postponed several times since the bill's enactment. Most recently, Congress extended the moratorium to delay Medicare sequestration until March 31, 2021 ([Inside Health Policy](#), March 11).

On March 15, CMS increased the Medicare payments for COVID-19 vaccines to \$40 per dose, up from \$23 per dose. For vaccinations that require multiple doses, providers will receive \$40 per dose. Per CMS, "this rate reflects updated information about the costs involved in administering the COVID-19 vaccine for different types of providers and suppliers, and the additional resources necessary to ensure the vaccine is administered safely and appropriately" ([CMS](#), March 15, [Bloomberg](#), March 16).

On March 10, CMS updated its nursing facility visitation guidance ([CMS](#), March 10).

From March 2 through March 16, CMS approved 10 Section 1915(c) Appendix K waivers and 20 SPAs, 3 of which are COVID-19 disaster relief SPAs.

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Federal Updates

News

- In its March 2021 report to Congress, MedPAC recommends lawmakers temporarily extend Medicare telehealth flexibilities for one or two years after the end of the public health emergency (PHE) and use this period to collect evidence to inform more permanent changes to telehealth policies. While MedPAC recommends Medicare continue to pay for expanded telehealth services, it also recommends Medicare return to paying the fee schedule's facility rate for telehealth services in order to determine the cost of providing those services. MedPAC also recommended providers no longer be allowed to waive cost sharing for telehealth services after the PHE ([MedPAC](#), March 15; [Modern Healthcare](#), March 15).
- On March 10, CMS updated its nursing facility visitation guidance. The revised guidance allows responsible indoor visitation regardless of the vaccination status of either the resident or visitor with few exceptions. The guidance allows for visitation to continue during facility outbreaks as long as there is evidence the outbreak is contained to a single unit of the facility ([CMS](#), March 10).
- The Biden administration has ordered an additional 100 million doses of Johnson & Johnson's (J&J) COVID-19 vaccine, doubling the total J&J vaccine order to 200 million doses; the first 100 million doses of the J&J vaccine were pre-purchased last summer. The administration has also directed Biomedical Advanced Research and Development Authority (BARDA) to pay Merck up to \$269 million to help convert its facilities into making the J&J vaccine and meet the vaccine production goals ([Inside Health Policy](#), March 10).
- On March 9, HHS extended the comment period for its proposed rule to amend existing privacy regulations to make it easier for providers to share information needed to coordinate care for patients. Comments will now be due on May 6 ([Federal Register](#), March 9; [Bloomberg](#), March 9).
- In its March 2021 meeting, MedPAC considered a recommendation to HHS that the Secretary consolidate and better coordinate its portfolio of alternative payment models (APMs). Commissioners noted patient attribution to multiple APMs can weaken incentives, and that providers participating in multiple models can weaken comparisons and create competing incentives ([MedPAC](#), March 4).
 - MedPAC also considered value-based purchasing (VBP) for skilled nursing facilities (SNF) in its March meeting. MedPAC's initial finding was the current SNF VBP scheme is flawed, but some of the current flaws are addressed in changes made through the 2021 Consolidated Appropriations Act, which expands the number of performance measures. The commission's draft recommendation would implement a new value-based incentive program that pays out performance bonuses to providers and includes consideration for patient experience. Commissioners opined that VBP ideally should be paired with other tools, such as public performance reporting and technical assistance, to improve performance. MedPAC will submit its report to Congress on VBPs for SNFs in June 2021 ([MedPAC](#), March 4; [Inside Health Policy](#), March 9).
- The Bureau of Labor Statistics reported hiring in the U.S. is accelerating quicker than originally predicted, with 379,000 jobs added in February. The evidence shows the economy is strengthening as coronavirus cases drop, vaccines increase, restrictions ease, and Americans begin traveling and spending more. The current unemployment rate is 6.2%, down significantly from the 14.8% reported in April 2020. Economists are optimistic that hiring will continue to accelerate as states begin to reopen ([Associated Press](#), March 5; [Bureau of Labor Statistics](#), March 5).
- In its March 2021 meeting, MACPAC commissioners raised concerns about low Medicaid reimbursement rates for COVID-19 vaccines. The commission's research showed 10 states were paying below Medicare

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rates for vaccines, which commissioners worried could lead to lower vaccination rates in those states ([MACPAC](#), March 4; [Inside Health Policy](#), March 4).

- The American Medical Association (AMA) and American Medical Group Association (AMGA) have released statements advocating to the Biden administration that more-stable COVID-19 vaccines, like the J&J single-dose vaccine that requires simple refrigeration, should be distributed directly to doctors' offices and private medical practices. The associations argue that direct vaccine supply to private medical groups is crucial as physicians can use their existing patient-provider relationships to reach vulnerable populations, like the elderly and rural communities, as well as assist in vaccine education. In response to the AMA/AMGA statements, the White House said it has left that decision to the states to determine whether to supply vaccines to private doctors' offices. Currently, the federal government only distributes vaccines to pharmacies, community health centers, and state governments ([Inside Health Policy](#), March 1).

Executive Orders

- Since President Biden's [reopening](#) of exchange-based open enrollment on [February 15](#), more than 200,000 Americans have signed up for Affordable Care Act (ACA) exchange-based health plans. Typically, the federal ACA insurance marketplace is only open during a six-week annual enrollment season. However, given the coverage disruptions caused by the COVID-19 pandemic, President Biden directed health officials to reopen the online federal insurance marketplace until May 15, a three-month extension to the enrollment period. Additionally, the Biden administration announced this week they are allocating an additional \$2.3 million to supplement funding for health care navigators for the remainder of the extended open enrollment period ([The Washington Post](#), March 3).

Federal Regulations

- HHS will further delay implementation of a Trump-era final rule that would require federally qualified health centers (FQHCs) and other community health centers to pass 340B drug savings for insulin through to patients. The new filing delays the rule's effective date until July 20. HHS expressed worry from the comments that the rule could reduce 340B savings for health centers. Many health centers also complained about the rule's administrative requirements, costs of new processes and procedures, new income threshold eligibility for health center operations, as well as the impact on care, delivery, and service levels for health center patients. This delay is part of a government-wide freeze implemented by the Biden administration on last-minute rules approved by the Trump administration. HHS is requesting another round of comments on the rule by March 14 ([Fierce Healthcare](#), March 10).

Federal Legislation

- On March 9, SCOTUS dismissed three cases challenging the Trump-era public charge rule after receiving filings indicating the Biden administration is not defending the policies. Rather, the Department of Homeland security will return to the pre-Trump interpretation of the public charge policy and consequently removed the Trump-era policy through a new rule filed in the Federal Register on March 11. Under the Trump administration's interpretation, immigrants were denied green cards based on their potential reliance on public benefits, including Medicaid ([Federal Register](#), March 15; [Inside Health Policy](#), March 11; [Inside Health Policy](#), March 9).

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Waivers

- Section 1915(c) Appendix K
 - CMS approved extending the end date of existing waiver flexibilities to six months after the end of the PHE for the following states: [Alaska](#), [California](#), [Indiana](#), [Iowa](#), [Massachusetts](#), [Michigan](#), [New York](#), [North Carolina](#), and [Pennsylvania](#).
 - CMS approved extending the end date of existing waiver flexibilities to the end of the PHE for [Montana](#).

SPAs

- Traditional SPAs
 - Arizona ([AZ-20-0022](#)): Updates the fee schedule for ambulance rates for ambulance services. This SPA has an effective date of October 1, 2020.
 - California ([CA-16-0027](#)): Restores acupuncture as a covered service under the Alternative Benefit Plan (ABP). This SPA has an effective date of July 1, 2016.
 - Florida ([FL-20-0011](#)): Changes October 1, 2020 through September 30, 2021 from a rebasing year to a non-rebasing year for rates paid to inpatient psychiatric providers. Addresses cost and staffing concerns due to the PHE. This SPA has an effective date of November 6, 2020.
 - Hawaii ([HI-20-0003](#)): Updates the fee schedule methodology for EPSDT, home pharmacy services, medical supplies, and dental services in response to a Companion Letter issued by CMS with the approval of SPA 19-0005. This SPA has an effective date of December 1, 2020.
 - Indiana ([IN-20-0019](#)): Makes optometric services available via telemedicine. This SPA has an effective date of October 22, 2020.
 - Kansas ([KS-21-0001](#)): Grants a 2-year exception from the Recovery Audit Contractor program. This SPA has an effective date of January 1, 2021.
 - Louisiana ([LA-20-0017](#)): Increases inpatient hospital rates by 3.2 percent. This SPA has an effective date of January 1, 2021.
 - Maryland ([MD-20-001](#)): Updates language including certification requirement and establishes a geographic differential rate for targeted case management (TCM) services offered under certain Medicaid programs operated by the Developmental Disabilities Administration. This SPA has an effective date of October 1, 2020.
 - Maryland ([MD-20-0008](#)): Provides a 4% increase in the reimbursement rate for TCM providers based on a legislatively-approved cost of living adjustment. This SPA has an effective date of July 2, 2020.
 - Missouri ([MO-20-0022](#)): Expands the services for which licensed pharmacists are allowed to bill MO HealthNet to include all services within their professional scope of practice. This SPA has an effective date of January 1, 2021.
 - New Jersey ([NJ-19-0006](#)): Increases fee-for-service rates for behavioral health intake and initial treatment planning billed by a mental health or substance abuse treatment program. This SPA has an effective date of April 1, 2019.
 - New Jersey ([NJ-20-0019](#)): Continues authorization for Graduate Medical Education (GME) payments made on behalf of individuals enrolled in the New Jersey CW Demonstration. This SPA has an effective date of October 1, 2020.

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- New Jersey ([NJ-20-0020](#)): Continues authorization for \$18 million in GME Supplemental Subsidy payments made on behalf of individuals enrolled in the New Jersey CW Demonstration. This SPA has an effective date of October 1, 2020.
- New Mexico ([NM-20-0020](#)): Increases rates for air ambulance services. This SPA has an effective date of November 15, 2020.
- Pennsylvania ([PA-20-0020](#)): Continues an additional class of disproportionate share hospital payment to qualifying facilities that promote access to comprehensive inpatient services. This SPA has an effective date of December 13, 2020.
- Washington ([WA-20-0037](#)): Increased the rates paid in FY 2021 to qualified low-volume, small rural hospitals to 150% of the hospital's fee-for-service rate for state and Federal medical assistance programs. This SPA has an effective date of October 2, 2020.
- Wyoming ([WY-20-0010](#)): Modifies coverage and rates payable to Indian Health Services and eligible tribal health facilities. This SPA has an effective date of January 1, 2021.
- COVID-19 Disaster Relief SPAs
 - Arizona ([AZ-20-0021](#)): Allows pharmacy technicians and pharmacy interns to administer the influenza vaccine, as well as a potential COVID-19 vaccine, once approved. This time-limited COVID-19 response SPA has an effective date of September 1, 2020, and an expiration date upon termination of the PHE.
 - Minnesota ([MN-20-0023](#)): Modifies criteria for interfacility ambulance transfers and coverage for investigational drugs and vaccine administration. This time-limited COVID-19 response SPA has an effective date of September 1, 2020, and an expiration date upon termination of the PHE.
 - Oklahoma ([OK-20-0042](#)): Adds coverage and reimbursement of vaccine administration and COVID-19 countermeasures to comply with the Public Readiness and Emergency Preparedness Act. This time-limited COVID-19 response SPA has an effective date of August 24, 2020, and an expiration date upon termination of the PHE.

State Updates

Click [here](#) to view Sellers Dorsey's state budget tracking summaries.

- The Oklahoma Health Care Authority (OHCA) has expanded access to care to Oklahomans struggling with substance use disorders by partnering with the Oklahoma Department of Mental Health and Substance Abuse services. OCHA is the first Medicaid agency to ever receive federal approval to provide coverage and reimbursement for all FDA-approved medication-assisted treatment (MAT) prescriptions through opioid treatment programs ([KXII](#), March 16).
- Open enrollment for North Carolina Medicaid Managed Care began March 15 and will end May 14. Nearly two million Medicaid recipients need to enroll with a health plan. North Carolina residents can choose from four available plans. North Carolina's transition to managed care was originally slated to start February 2020 but was delayed because of state budget complications ([US News](#), March 16; [The Charlotte Observer](#), March 15).

Private Sector Updates

- Banner Health received a revenue boost from Arizona's Medicaid rate enhancement program that took effect in October 2020, gaining \$311 million in operating income on \$10.4 billion in revenue for the year. The new federal match program in Arizona that almost levels Medicaid reimbursement with Medicare reimbursement offers an advantage to the Arizona health system by supporting the safety net and payer mix operating in the state ([Modern Healthcare](#), March 15).

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- Over the last year, the pandemic either strengthened or exacerbated relationships between providers and payers, which is shaping how upcoming contract negotiations are being approached. Some insurers strengthened partnerships with hospitals by ensuring patients had their needs met or even providing cash advances in the beginning of the pandemic. Other payers remained less flexible throughout the crisis. As the landscape continues to shift between payers and providers, telehealth utilization and reimbursement is guaranteed to be a focus during contract discussions ([Modern Healthcare](#), March 13).
- DocGo, a company founded in 2015 and operating in 26 states, offers integrated digital-first medical mobility services with on-demand service response. The startup plans to merge with special purpose acquisition company (SPAC) Motion Acquisition Corp. DocGo provides non-critical medical services in patients' homes and bridges the gap between physical and virtual care ([Fierce Healthcare](#), March 10).
- A Kaiser Family Foundation (KFF) issue brief found limiting private insurance reimbursement to Medicare rates in 2021 would reduce health spending by an approximate \$350 billion. To address the burden of health care costs for individuals and employers, KFF analyzed how various policy levers, such as single payer health care (e.g., Medicare-for-All), a public option, or regulatory controls over private prices, could assist in the reduction of prices private insurers pay for health care services. While this reduction could alleviate health care costs for those with private insurance, it would reduce revenue for hospitals and providers and have unclear effects on patient care overall ([KFF](#), March 1).

Sellers Dorsey Updates

- Today we shared a message from Marty Sellers and Brian Dorsey about Sellers Dorsey's Commitment to Ending Racism. [See it here.](#)
- In last week's special issue of the Digest, Sellers Dorsey released a summary analysis of ARPA 2021. Highlights of the bill include a third round of direct stimulus payments to qualifying Americans, an extension through September 6 of federal unemployment benefits, recovery fund allotments for states and local governments, additional funds for the Paycheck Protection Program, and an expansion of the child tax credit. [Read the full analysis here.](#)
- Sellers Dorsey will share a recorded presentation addressing key questions and highlights next week. Stay tuned and visit [here](#) for more information.



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