

# SELLERS DORSEY DIGEST

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## NAVIGATION

### Federal Updates

On April 9, the Office of Management and Budget (OMB) released President Biden's 2022 discretionary budget request preview.

### State Updates

In a letter sent to the Wisconsin Department of Health Services, CMS stated it is withdrawing approval of work requirements for recipients of BadgerCare, a Medicaid program for eligible low-income residents.

### Private Sector Updates

UnitedHealth Group has named Brian Thompson its new CEO.

### Sellers Dorsey Updates

Sellers Dorsey has helped many different types of clients – more than you might realize! We are extremely proud of our work, aiming to preserve and expand access to health care through Medicaid.

## Summary of Key Updates

President Biden proposed to spend \$400 billion on home and community-based services (HCBS) over an eight-year period as part of his \$2 trillion infrastructure plan. The proposal comes as the nation understands how horribly COVID-19 impacted nursing homes, assisted living facilities, and group homes. The need for more long-term care options has become increasingly necessary, but how the federal funding will create solutions remains unclear. Stakeholders believe there still needs to be a clear plan for how funding will strengthen the HCBS workforce, eliminate waiting lists, and expand services ([Kaiser Health News](#), April 12).

On April 13, the House passed a bill to again delay Medicare sequester cuts until the end of December 2021 ([The Hill](#), April 13; [Modern Healthcare](#), April 13).

The Supreme Court of the United States (SCOTUS) temporarily suspended its review of the Arkansas and New Hampshire Medicaid work requirements; shortly after, the court also removed oral arguments from its March calendar. Following SCOTUS' announcement, the Biden administration revoked Medicaid work requirements in Wisconsin and Michigan, noting "CMS still has serious concerns about testing policies that create a risk of substantial loss of health care coverage and harm to beneficiaries even after the expiration of the bar on disenrolling beneficiaries" ([Inside Health Policy](#), April 7).

On April 8, 2021, CMS issued a proposed rule to update Medicare skilled nursing facility (SNF) reimbursement, including a \$444M increase in Medicare Part A payments and an expansion of the SNF Value-Based Purchasing (VBP) Program for FY 2022 ([CMS](#), April 8; [Modern Healthcare](#), April 8; [Fierce Healthcare](#), April 8).

Lawmakers are discussing ways to expand health care coverage within the 12 states that have yet to expand Medicaid and could potentially implement an expansion alternative through President Biden's infrastructure package ([Politico](#), April 9).

From April 6 to April 13, CMS approved one Section 1915(c) Appendix K waiver and six COVID-19 disaster relief SPAs.

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## Federal Updates

### News

- On April 9, OMB released a preview of President Biden's 2022 discretionary budget request. The proposed budget builds on the American Rescue Plan Act (ARPA) and the proposed American Jobs Plan. It focuses on cancer research, tackling the opioid epidemic, investing in the rural health workforce, additional funding for HCBS, and more. Below is a list of proposed funding opportunities for health care:
  - \$551 million for HCBS services on top of the \$400 billion from the infrastructure plan. The additional funding will increase resources for meal programs for the elderly, expand disability services, and provide funding for the Lifespan Respite Care program.
  - \$6.5 billion to launch the Advanced Research Projects Agency for Health (within the National Institutes of Health), which would focus on health research and breakthroughs for diseases such as cancer, diabetes, and Alzheimer's.
  - \$10.7 billion to help end the opioid epidemic through research, prevention, and treatment. This is a \$3.9 billion (57%) increase from 2021.
  - \$670 million within HHS to end the HIV/AIDS epidemic by increasing access to treatment and preventative care.
  - \$1.6 billion for the Community Mental Health Service block grant program.
  - \$200 million to reduce maternal mortality and morbidity nationwide through the expansion of the Rural Maternity and Obstetrics Management Strategies program and implicit bias training for health care providers.
  - \$65 million increase for a rural broadband connection program through the Department of Agriculture to help rural citizens access telehealth services.
  - \$8.7 billion in funding for the Center for Disease Control and Prevention (CDC), which would be the largest increase seen for the agency in decades.
  - \$150 million increase for CDC's Social Determinants of Health program ([Politico](#), April 9; [Modern Healthcare](#), April 9; [Inside Health Policy](#), April 9).
- The Senate Finance Committee will hold its confirmation hearings for the Centers for Medicare and Medicaid Services (CMS) Administrator-nominee Chiquita Brooks-LaSure and Deputy HHS Secretary-nominee Andrea Palm on April 15. Brooks-LaSure and Palm previously worked for the Obama administration, with Palm acting as the Assistant Secretary and Chief of Staff to the HHS secretary. Currently Palm is the Secretary-Designee for Wisconsin's Department of Health and Human Services, and Brooks-LaSure works in the private sector ([Inside Health Policy](#), April 8).
- The Center for Medicare and Medicaid Innovation (CMMI) announced it will not accept new applications for the Global or Professional tracks of its Direct Contracting model in 2022. The Direct Contracting model was originally developed to transition existing accountable care organizations (ACOs) to the model and encourage them to take part in risk-sharing arrangements. Regulators have also paused the Geographic Direct Contracting model and other alternative payment models such as the Community Health Access and Rural Transformation model, citing the great complexity in putting the models into practice ([Modern Healthcare](#), April 8).
- The Medicaid and CHIP Payment and Access Commission (MACPAC) met April 8-9 to review draft chapters for its June 2021 Congressional report and other recommendations and issues.

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- Commissioners considered a draft chapter for their June 2021 report related to high-cost specialty drugs. After consideration, Commissioners approved the following two recommendations to Congress: (1) amend Section 1927(c) of the Social Security Act (SSA) to increase the minimum rebate percentage on drugs that receive accelerated FDA approval, and (2) amend Section 1927(c)(2) to increase the additional inflationary rebate on drugs that receive accelerated FDA approval. These additional rebates would apply until the drug receives full FDA approval through the standard process ([MACPAC](#), April 8; [Modern Healthcare](#), April 8).
- MACPAC also approved recommendations related to behavioral health access for adults, adolescents, and children. Commissioners recommended CMS and the Substance Abuse and Mental Health Services Administration (SAMHSA) release sub-regulatory guidance on how Medicaid and CHIP can fund a “crisis continuum” for individuals experiencing a behavioral health crisis. The Commission also recommended the HHS Secretary direct a “coordinated effort” to provide additional education and technical assistance to facilitate expanded access to behavioral health services ([MACPAC](#), April 8; [MACPAC](#), April 8; [Modern Healthcare](#), April 9).
- Commissioners presented a draft report, written at Congressional request, related to non-emergency medical transportation (NEMT). The report finds wide variation between states in the extent to which NEMT programs meet the needs of beneficiaries but notes that needs are changing due to the increased use of telehealth. The report also notes states are increasingly expanding use of technology in administration of NEMT by contracting with transportation network companies like Uber and Lyft ([MACPAC](#), April 8).
- Stakeholders in addiction medicine treatment are advocating to the Biden administration to permanently extend the methadone administration flexibilities beyond the COVID-19 public health emergency (PHE). During the PHE, SAMHSA has allowed states to increase the number of take-home doses of methadone and permitted clinicians to use telehealth for monitoring methadone-prescribed patients ([Inside Health Policy](#), April 7).
- A March 11 issue brief from the HHS Assistant Secretary for Planning and Evaluation (ASPE) outlines the impact of Medicaid 1115 Demonstrations on health coverage. The report finds recent demonstrations that place conditions on eligibility, such as work requirements, can lead to reduced health coverage. The report also finds demonstrations that include “healthy behavior” incentives have had low rates of individuals completing the defined health behavior activities. Likewise, the report finds that health savings account-like arrangements implemented by some states have been administratively burdensome and confusing, leading to low utilization ([ASPE](#), March 11).
- A March 23 analysis published in Health Affairs explores the impact of ARPA on Medicaid. The article covers key Medicaid provisions in the law, including coverage expansions for COVID-19 testing, treatment, and vaccines, and indicates where CMS needs to issue guidance to states on how to interpret these coverage mandates. The article also summarizes issues around the enhanced Federal Medical Assistance Percentages (FMAP) for states newly expanding Medicaid, pointing out that because the enhanced funding is tied to the definition of the Affordable Care Act (ACA) expansion group in Section 1905 of the Social Security Act, the HHS Secretary does not have authority to waive elements of this new provision under an 1115 waiver. The implication is that states must cover the full ACA eligibility group to receive the enhanced FMAP ([Health Affairs](#), March 25).

## Federal Regulations

- Congressional leaders have requested HHS Secretary Xavier Becerra create a Special Enrollment Period in September 2021 so individuals getting fully subsidized COBRA under ARPA could enroll in ACA coverage through Healthcare.gov once their COBRA benefits wind down. Pennsylvania's new state-based exchange

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has already indicated it will include the end of the COBRA subsidies as a qualifying event for a Special Enrollment Period ([Inside Health Policy](#), April 7).

- Over 500,000 Americans have signed up for health insurance through the current Open Enrollment period. This is double the pace of the same period last year when enrollment was limited to those who had a qualifying event ([Politico](#), April 7).
- On April 8, CMS proposed several payment rules that would go into effect in 2022. The agency plans to increase hospice payments by 2.3% or \$530 million and SNF by 1.3% or \$444 million in Medicare Part A payments. Rehabilitation facilities would have a 2.2% payment increase, with a separate rule allocating a 2.3% increase for payments to inpatient psychiatric facilities. Additionally, CMS plans to update labor shares for continuous home care, routine home care, inpatient respite care, and general inpatient care ([CMS](#), April 8; [Modern Healthcare](#), April 8; [Fierce Healthcare](#), April 8).
  - In addition to new payment rules, CMS proposed to add two new quality reporting measures for SNFs in FY 2023: (1) vaccination rates among health care personnel staff; and (2) health care acquired infections (HAI). The proposed rule also asks for input on ways to achieve health equity efforts through policy and reporting. It also makes changes to the SNF VBP Program, which offers incentive payments to nursing homes based on their care quality. CMS is soliciting input from stakeholders on which quality metrics they should include ([Inside Health Policy](#), April 8).

## Federal Legislation

- On April 13, the House passed a bill to again delay Medicare sequester cuts until the end of December 2021. The House and Senate will need to negotiate whether the delay will also include a rest of the pay-as-you-go ledger, under which COVID-19 relief dollars could otherwise trigger additional Medicare cuts. Providers consider this a win and will continue to "advocate for more overall funding for the Provider Relief Fund, relief for hospitals and health systems with Medicare accelerated payments." Previously, Congress delayed sequester implementation until April 1, 2021 as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act ([The Hill](#), April 13; [Modern Healthcare](#), April 13).
- Lawmakers are discussing ways to expand health care coverage within the 12 states that have yet to expand Medicaid and could potentially implement an expansion alternative through President Biden's infrastructure package. Two potential ideas are to: (1) create a federal program narrowly tailored to the 12 non-expansion states, or (2) expand ACA subsidies to this population so they can get a low-cost private plan on the marketplace. This would require a change to the ACA as subsidies have been unavailable to those below the federal poverty line. Political opposition is likely, though Democratic lawmakers hope to gain the traction needed to wrap up a legislative package by July 4 ([Politico](#), April 9).

## COVID-19

- Hospitals in Southeast Michigan are starting to reduce or cancel elective procedures due to a surge in COVID-19 patient admissions in the region. Currently, Michigan Medicine has limited elective surgeries while Beaumont Health, Trinity Health Michigan, and Ascension Michigan are considering delays depending on whether COVID-19 patient admissions double every two weeks. Some health systems are leaving the decision to delay or limit elective procedures to individual hospitals ([Modern Healthcare](#), April 8).

## Waivers

- Section 1115
  - On March 31, Virginia requested CMS amend the state's existing Section 1115 Demonstration Waiver, "FAMIS MOMS and FAMIS Select." The amendment would extend coverage for pregnant

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- women with incomes up to 205% of the federal poverty level (FPL) from 60 days to 12 months postpartum ([CMS](#), March 31).
    - On April 12, CMS approved an amendment to Illinois' Section 1115 Demonstration Waiver, "Illinois Continuity of Care and Administrative Simplification." The amendment extends postpartum coverage for pregnant women with incomes up to 208% of the FPL from 60 days to 12 months ([CMS](#), April 12).
  - Section 1915(c) Appendix K
    - [Michigan](#)
      - Clarifies due dates for waiver eligibility recertifications and allows evaluations to be conducted electronically.
      - Extends due date of CMS-372 report to July 2021 and allows flexibility in data collection.

## SPAs

- COVID-19 Disaster Relief SPAs
  - Massachusetts ([MA-20-0019](#)): Eliminates copays for a number of eligible populations and services, including treatment for substance use disorder with FDA medications, preventative services, all vaccines and administration, and smoking cessation products. This time-limited COVID-19 response SPA has an effective date of March 1, 2020, and an expiration upon termination of the PHE.
  - New Hampshire ([NH-21-0003](#)): Allows pharmacy technicians to administer the COVID-19 vaccination and increases pharmacy reimbursement for vaccine administration to the Medicare rates. This time-limited COVID-19 response SPA has an effective date of December 14, 2020, and an expiration upon termination of the PHE.
  - Oklahoma ([OK-21-0024](#)): Increases the vaccine administration to the Medicare rate. This time-limited COVID-19 response SPA has an effective date of March 15, 2021, and an expiration upon termination of the PHE.
  - Oregon ([OR-21-0006](#)): Provides a 10% increase in payment rates for Adult Mental Health Residential Programs, Substance Use Disorder Residential Programs, and Child and Adolescent Mental Health Residential providers. This time-limited COVID-19 response SPA has an effective date of July 1, 2020, and an expiration upon termination of the PHE.
  - Texas ([TX-21-0008](#)): To account for school closings during the COVID-19 pandemic, the amendment allows Texas to use of an alternate Random Moment Time Study (RMTS) methodology for reimbursement of School Health and Related Services. This time-limited COVID-19 response SPA has an effective date of April 1, 2020, and an expiration upon termination of the PHE.
  - West Virginia ([WV-21-0007](#)): Increases payment rates for durable medical equipment, dental services, ambulance services, physical therapy, occupational therapy, speech therapy, intermediate care facilities, and personal care services. The payment increases are effective through December 31, 2020. The updates to this time-limited COVID-19 response SPA have an effective date of July 1, 2020 and expire on December 31, 2020.

## State Updates

- On April 9, the Ohio Department of Medicaid (ODM) announced awards to six managed care plans including: UnitedHealthcare Community Plan of Ohio, Inc.; Humana Health Plan of Ohio, Inc.; Molina Healthcare of Ohio, Inc.; AmeriHealth Caritas Ohio, Inc.; Anthem Blue Cross and Blue Shield; and CareSource Ohio. The award covers Ohio's managed care program for most low-income adults and

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children, including disabled adults and children, and the Medicaid expansion adult populations. Ohio previously contracted with five managed care plans for Medicaid ([ODM, April 5](#); [ODM, April 9](#)).

- Ohio is reforming its \$20 billion Medicaid program by carving out its pharmacy benefits from managed care organization (MCO) contracts and creating a single, state-regulated pharmacy benefit manager (PBM), effectively replacing the seven private PBMs currently operating in the state’s Medicaid managed care program. The state-run PBM service, administered through Gainwell Technologies, will go into effect starting in early 2022 and is expected to save the state \$240 million per year. The transition to a single vendor is expected to save the Medicaid agency \$128 million for the first year and \$184 million annually for the following years. The state is also implementing a unified preferred drug list to ease the administrative burden on providers serving multiple patients under multiple insurance policies ([Modern Healthcare, April 9](#)).
- Rhode Island Governor Dan McKee has appointed Womazetta Jones, Secretary of the Executive Office of Health and Human Services of Rhode Island, to take interim leadership of the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals. Jones will conduct a review of the department, which oversees Eleanor Slater Hospital, after it was scrutinized for a downsizing plan that stakeholders believe led to the discharge of patients with little to no care alternatives ([Modern Healthcare, April 9](#)).
- In a letter sent to the Wisconsin Department of Health Services, CMS stated it is withdrawing approval of work requirements for recipients of BadgerCare, a Medicaid program for eligible low-income state residents. The requirements mandated BadgerCare beneficiaries to document at least 80 hours per month of either work, education, job training or community service. Wisconsin has 30 days to appeal the approval withdrawal ([Wisconsin Examiner, April 7](#); [Associated Press, April 9](#)).
- Florida State Rep Jackie Toledo has filed a bill in the state legislature to ban transaction fees in Florida’s Medicaid Managed Care program. The purpose of the bill, according to Toledo, is to prevent large PBMs from exploiting these fees to “cheat independent pharmacies out of making a fair profit.” Toledo also claims the non-necessity of these fees, alleging that \$6 million of \$113 million state payments to PBMs is for these transaction fees ([Health Payer Specialist, April 5](#)).

## Private Sector Updates

- UnitedHealth Group named Brian Thompson its new CEO. Thompson has been with the company for 17 years and most recently served as UnitedHealthcare’s lead of government programs. Thompson plans to continue growing the insurer’s Medicare Advantage business through 2021 ([Modern Healthcare, April 7](#)).
- Intermountain Healthcare, a Salt Lake City company, is partnering with the University of Utah School of Medicine to launch a new medical school program that focuses on social determinants of health. Students will focus on the immediate needs of sick patients and how financial, social, and behavioral issues affect the health of individuals and communities ([Health Payer Specialist, April 9](#)).

## Sellers Dorsey Updates

- Sellers Dorsey has helped many different types of clients – more than you might realize! We are extremely proud of our work, aiming to preserve and expand access to health care through Medicaid. [Here’s an example](#) of how we helped physician practice plans obtain more funding for health care services through a quality-based payment program. We also work with states, hospitals, managed care plans, long-term care providers, solution vendors, and health care investors. [Read about our work with various clients here.](#)

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- Next week, Sellers Dorsey members will virtually attend [Medicaid Health Plans of America's Spring Policy Forum](#) on April 20-21. We are excited to listen to discussions on COVID-19 vaccine access, state trends, and more.
- Sellers Dorsey is hiring for various positions in Philadelphia, Austin, Miami, and Tallahassee. Check out our [career opportunities](#).



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