

# SELLERS DORSEY DIGEST

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## NAVIGATION

### Federal Updates

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### State Updates

The Nevada State House of Representatives approved a bill that would permit the state to create and offer a public-option health insurance plan on the ACA marketplace.

### Private Sector Updates

HCA Healthcare established a collaboration with Google Cloud focused on building a health data analytics platform to support their clinical and operational workflows.

### Sellers Dorsey Updates

Check out our most recent Staff Spotlight Q&A with Janel Myers, Consultant Specialist. Janel has been with Sellers Dorsey for three years and focuses on value-based care initiatives.

## Summary of Key Updates

On May 28, President Biden released his \$6 trillion budget proposal, which includes \$133.7 billion for Department of Health and Human Services (HHS) spending, a 23.4% increase from the previous year's budget. Most agencies under HHS would receive a funding increase, most notably a \$4.3 billion allocation of discretionary spending dollars for the Centers for Medicare and Medicaid Services (CMS). While the plan includes funding to continue the Affordable Care Act (ACA) subsidies at higher levels and to provide home care for the elderly and people with disabilities, it does not include a plan to fund a public option or a more narrowed Medicare expansion despite a dedicated interest in such spending by several Democrats ([The White House](#), May 28; [The Hill](#), May 28).

More than 70% of House Democrats signed a [letter](#) addressed to President Biden and Vice President Harris asking leadership to support health care investments through the American Families Plan to address current gaps in coverage. Specifically, the letter points to savings opportunities available through drug-pricing reform and suggests the administration use those savings to broaden Medicare eligibility; expand Medicare benefits to include dental, vision, hearing, and an out-of-pocket cap; and renegotiate drug prices for Medicare beneficiaries ([The Hill](#), May 27).

On June 2, the Oklahoma Supreme Court ruled in favor of several medical associations that filed a lawsuit challenging the implementation of managed care plans to deliver Medicaid services for Oklahomans. The ruling halts the implementation of the \$2.1 billion contracts awarded to five Medicaid managed care plans in January 2021. The basis of the plaintiffs' challenge is that the state legislature does not have the necessary funding or legal framework to follow through with the contracts ([Health Payer Specialist](#), June 2).

From May 25 to June 1, CMS approved one 1915(c) Appendix K waiver and 14 SPAs, eight of which are COVID-19 disaster relief SPAs.

## Federal Updates

### News

- On May 28, President Biden released his \$6 trillion budget proposal, which includes \$133.7 billion for HHS spending, a 23.4% increase from the previous year's budget. Most agencies under HHS would receive a funding increase, most notably a \$4.3 billion allocation of discretionary spending dollars for CMS. While the plan includes funding to continue the ACA subsidies at higher levels and to provide home care for the elderly and people with disabilities, it does not include a plan to fund a public option or a more narrowed Medicare expansion despite a dedicated interest in such spending by several Democrats. Other spending areas include:
  - \$36.6 billion investment in Title I schools
  - \$6.5 billion investment to launch the Advanced Research Projects Agency for Health (ARPA-H) to focus initially on cancer, diabetes, and Alzheimer's
  - \$2.1 billion investment for the Department of Justice to address the gun violence public health crisis
  - \$30.4 billion investment in Housing Choice Vouchers ([The White House](#), May 28; [The Hill](#), May 28).

### Federal Legislation

- Senate Republicans have not included the same level of home and community-based services (HCBS) spending in their infrastructure bill, citing these costs do not fall within the "physical infrastructure" parameters they have chosen to guide their spending. While President Biden would like to pass this bill on a bipartisan basis, he has emphasized the importance of including caregiving infrastructure in the bill and has supported a \$400 billion investment to bolster HCBS. The administration will continue to review the Republican counteroffer ([Inside Health Policy](#), May 27).
- The Rural MOMS Act ([S1491](#)) and the Maternal Health Quality Improvement Act ([S1675](#)) are two of several maternal health bills that passed the Senate Health Committee on May 25. Lawmakers are especially interested in rural maternal health after a recent Government Accountability Office (GAO) report found mothers in rural areas have a higher death rate than those in metropolitan areas. The bills focus on creating grants to fund racial and ethnic bias training for health care providers, improve maternal mortality data, and grow obstetric networks in rural areas ([Inside Health Policy](#), May 26).

### Federal Litigation

- The Biden administration filed a motion in federal court to dismiss a lawsuit against HHS that prevents the agency from importing prescription drugs from Canada. The administration argues the lawsuit, filed by the Pharmaceutical Research and Manufacturers of America, is premature because the drug importation rule and processes have not been officially implemented. The administration's court filing aligns with Florida and New Mexico, two states that formally started the process of applying for Canadian imports ([Politico](#), May 28).

### Letters

- More than 70% of House Democrats signed a [letter](#) addressed to President Biden and Vice President Harris asking leadership to support health care investments through the American Families Plan to address current gaps in coverage. Specifically, the letter points to savings opportunities available through drug-pricing reform and suggests the administration use those savings to broaden Medicare eligibility; expand Medicare benefits to include dental, vision, hearing, and an out-of-pocket cap; and renegotiate drug prices for Medicare beneficiaries. Senator Bernie Sanders (V-IT) leads a group of approximately 20

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other Senators also in support of adding Medicare expansion to the American Families Plan. Stakeholders expect the pharmaceutical lobby to strongly oppose drug-pricing reform across the board, regardless of how Congress decides to allocate the savings ([The Hill](#), May 27).

## COVID-19

- Moderna requested full approval and priority review from the Food and Drug Administration (FDA) for its COVID-19 vaccine for adults. The company will provide Phase 3 data to the FDA on a rolling basis ([Politico](#), June 1).
- Pharmaceutical firms Sanofi and GlaxoSmithKline are jointly developing a COVID-19 vaccine and will start production in the coming weeks as they launch a Phase 3 trial of 35,000 adult volunteers in the United States, Asia, Africa, and Latin America. If the trial is successful, the two-dose vaccine could be available for use in late 2021. The preliminary trial data has shown the vaccine to be efficacious for adults ([Modern Healthcare](#), May 27).
- Group medical practices have asked HHS to extend the deadline for spending provider relief funds beyond June 30. Additionally, they have asked the department to address complex financial reporting requirements that require providers to submit all health care expenses to show a need for relief funds. Providers who received over \$10,000 in relief funding must submit reports showing spending over the past year and a half by type: Medicare Part B, Part D, Medicaid, etc. Providers have not been able to familiarize themselves with the reporting template, and HHS has yet to open the reporting portal ([Inside Health Policy](#), May 24).

## Waivers

- 1915(c) Appendix K
  - [Arkansas](#): Allows for electronic assessment and treatment plan development in the state's Autism Waiver, effective March 12, 2020.

## SPAs

- Traditional SPAs
  - New Hampshire ([NH-21-0020](#), effective January 1, 2021): Revises the quarterly nursing home supplemental payment, known as MQIP, for dates of service in the quarter ending March 31, 2021.
  - New Mexico ([NM-20-0019](#), effective July 1, 2020): Increases the number of full-time equivalent employees to qualify for the state's Graduate Medical Education (GME) program to increase access to care in rural areas. Both public and private hospitals can participate.
  - Oregon ([OR-21-0003](#), effective October 1, 2020): Moves Oregon's current Medication Assisted Treatment (MAT) benefit from the optional to the required benefit section in the state plan to comply with Section 1006(b) of the SUPPORT Act.
  - Virginia ([VA-21-0001](#), effective July 1, 2021): Implements Assertive Community Treatment (ACT) Program for adults and Mental Health Intensive Outpatient Program services for youth and adults. The SPA also replaces the current Partial Hospitalization Program for adults with Mental Health Partial Hospitalization Programs for Youth and Adults.
  - Washington ([WA-20-0034](#), effective December 12, 2020): Creates a new cost-based per diem rate for substance use disorder (SUD) residential treatment facilities (RTF) operated by the Indian Health Service (IHS) or Tribes to IHS-eligible American Indian/Alaska Native (AI/AN) Medicaid beneficiaries.

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- West Virginia ([WV-21-0001](#), effective January 1, 2021): Clarifies the existing clinic services benefit and adds a \$1,000 per calendar year dental benefit for adults.
- COVID-19 Disaster Relief SPAs (Terminate at the End of the Public Health Emergency)
  - Arkansas ([AR-21-0002](#), effective January 1, 2021): Increases reimbursement for gloves used for in-home services. Gloves provided as a medical supply for use in the home will be reimbursed based on 100% of the reimbursement by Blue Cross/Blue Shield of Arkansas.
  - Colorado ([CO-21-0005](#), effective January 1, 2021): Increases payments to Nursing Facilities and ICF/IIDs for infection-control-related expenses by reauthorizing a separate temporary rate enhancement for COVID-19 related staffing shortages. Guidelines for the extended payments mirror the guidelines for the previous round of supplemental payments. This SPA is additive to [CO-20-0040, effective December 11, 2020](#), and does not remove any flexibilities authorized thereunder. This time-limited COVID-19 response SPA terminates at the end of the PHE, though the 2021 8% payment rate increase for ICF/IIDs was effective January 1, 2021, through March 31, 2021.
  - Georgia ([GA-21-0002](#), effective July 1, 2020): Increases nursing home per diem payments by 5% to cover the increase in cost due to the PHE for the period July 1, 2020, through June 30, 2021.
  - Idaho ([ID-21-0008](#), effective March 13, 2020): Implements flexibilities for the delivery of the following: (1) Idaho's 1915 State Plan HCBS benefit for children with developmental disabilities; (2) Idaho's Basic Alternative Benefit Plan (ABP) Children's Habilitation Intervention Services; and (3) Enhanced ABP Children's Habilitation Intervention Services in alternate settings regardless of the setting identified on the participant's service plan. This time-limited COVID-19 response SPA terminates at the end of the PHE, though the COVID-19 related rate increases for these services terminated on July 24, 2020.
  - Illinois ([IL-21-0004](#), effective March 1, 2020): Covers COVID-19 vaccine administration using the Medicare Suburban Chicago fee-for-service statewide rate and recognizes pharmacies and pharmacy professionals, including pharmacy technicians and pharmacy interns, as qualified providers of COVID-19 vaccines per the HHS PREP Act. Effective March 17, 2020, until the end of the PHE, tests to diagnose or detect COVID-19, specimen collection for COVID-19, and antibody testing for COVID-19 were made payable and the reimbursement rates were set equal to 100% of the Medicare Rest of IL reimbursement rate or comparable code, as listed on the COVID-19 Fee Schedule. Effective December 11, 2020, through March 14, 2021, vaccine rates follow the state's COVID-19 fee schedule. Effective March 15, 2021, the reimbursement rate for COVID-19 vaccine administration was set equal to 100% of the Medicare Suburban Chicago reimbursement rate or comparable code. This SPA is additive to [IL-20-0013, effective March 1, 2020](#), and does not remove any flexibilities authorized thereunder.
  - Kentucky ([KY-21-0003](#), effective January 1, 2021): Implements a temporary \$29.00 increase in the case mix nursing facility per diem rates.
  - Ohio ([OH-21-0015](#), effective March 1, 2020): Temporarily suspends the 5% penalty on nursing facilities for late, inaccurate, or insufficient resident assessment data used to calculate the case mix score.
  - Washington ([WA-21-0021](#), effective November 2, 2020): Provides a disregard of certain resources when determining eligibility for individuals receiving long-term services and supports under a special income level.

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## State Updates

- The Nevada State House of Representatives approved a bill that would permit the state to create and offer a public-option health insurance plan on the ACA marketplace. The new public option plan would go into effect in 2026 and be available to state residents who qualify for the ACA premium subsidies. The House-approved bill will now go to the state Senate for approval ([Las Vegas Review Journal](#), May 29; [Associated Press](#), May 28).
- On June 2, the Oklahoma Supreme Court ruled in favor of several medical associations that filed a lawsuit challenging the implementation of managed care plans to deliver Medicaid services for Oklahomans. The ruling halts the implementation of the \$2.1 billion contracts awarded to five Medicaid managed care plans in January 2021. The plaintiffs claimed the state legislature does not have the necessary funding or legal framework to follow through with the contracts. Last year, Oklahoma voters passed State Question 802 at the ballot box, which expands Medicaid eligibility in the state to cover low-income adults. The court ruled the law to expand Medicaid did not also authorize managed care and therefore would jeopardize health care for all residents by driving out providers and causing medical shortages. Oklahomans eligible for health care coverage through Medicaid expansion were set to begin applying for benefits on June 1 ([Health Payer Specialist](#), June 2; [The Oklahoman](#), June 1).
- Circuit Judge Joh Beetem set the Missouri Medicaid expansion trial date June 18, 2021. The lawsuit came after the Missouri Legislature passed the state budget without including funding to expand Medicaid, despite it being a voter-approved constitutional amendment. The lawsuit includes an order for the Department of Social Services to allow newly eligible residents to enroll and receive coverage starting July 1, 2021 ([Health Payer Specialist](#), May 27).
- The Kaiser Family Foundation (KFF) conducted an analysis on the health and economic effects of the pandemic on Medicaid enrollment, spending, and financing. The analysis highlighted key indicators and trends that could affect Medicaid enrollment and spending, including:
  - Medicaid enrollment is the primary driver of state Medicaid spending.
  - Medicaid enrollment increased by 7.7 million between February 2020 and November 2020 and now totals 78.9 million Medicaid beneficiaries.
  - Changes in Medicaid enrollment are impacted by the unemployment rate, unemployment insurance claims, and the employment-to-population ratio.
  - All indicators suggest some aspect of income loss can make more people Medicaid-eligible; however, Medicaid enrollment changes may lag changes in broader economic metrics.
    - April 2021 saw a national unemployment rate of 6.1%, which is far lower than the peak of 14.8% in April 2020; however, still greater than the 3.5% before the pandemic in February 2020.
    - Unemployment claims reached a peak in May 2020 and have declined since then; however, claims are still not as low as pre-pandemic levels.
    - The employment-to-population ratio reached a low of 51.3% in April 2020 and rose to 57.9% in April 2021, but it is still less than the 61.1% in February 2020.
    - Metrics vary across states. Hawaii experienced the largest percent increase in unemployment rate at 223% from May 2020 to April 2021 compared to the prior 12-month period. Kentucky only saw a 13% increase in the unemployment rate in the same period.
  - States fund their share of Medicaid through general revenue primarily collected from personal income, corporate income, and sales taxes.

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- For the most recent 12-month period (ending March 2021) compared to the prior year, average monthly total tax revenue increased by 0.8%, average monthly personal income tax increased by 4.7%, corporate income tax increased by 4.4%, and sales tax decreased by 1.9%.
- Seventeen states experienced a decline in average monthly total tax revenue (ranging from 46% in Alaska to 12% in Idaho) ([KFF](#), May 26).
- The American Rescue Plan (ARP) Act enacted in March offers states an additional incentive to expand Medicaid coverage during the pandemic with a temporary boost in federal contribution. While Oklahoma is the only state that has expanded Medicaid since the ARP enactment, there have been some initial steps towards expansion.
  - Alabama Governor Kay Ivey (R) is reviewing the federal incentives to expansion and weighing the long-term costs before deciding whether to submit a waiver to CMS ([Roll Call](#), May 25).
  - A coalition called “Yes on 76” tried to put expansion on the ballot in Mississippi but were discouraged after the state supreme court temporarily blocked future ballot initiatives.
  - Missouri voters passed a constitutional amendment in 2020 to implement expansion. The state legislature did not include funding in the budget, prompting a lawsuit currently underway.
  - South Dakota advocates hope to vote on Medicaid expansion in 2022.
  - In Texas, bipartisan efforts to reach a deal on expansion fell apart. One state bill had bipartisan support in the state House of Representatives but faced partisan opposition in the Senate.
  - Wisconsin Governor Tony Evers (D) recently signed an executive order calling for a special session to expand Medicaid.
  - Wyoming state lawmakers attempted to pass a Medicaid expansion bill earlier in 2021, but a bill passed by the House died in a Senate committee vote. The state is holding a special legislative session in July where expansion may be revisited.
- In 2019, Florida lawmakers enacted legislation to repeal portions of its certificate-of-need (CON) law. The state exempts several health facilities from regulation, such as general hospitals or complex medical rehabilitation beds, while maintaining CON approval for others, such as nursing homes. Deregulation for the state’s inpatient rehabilitation will take effect July 2021 with planning and construction already underway for over a dozen new facilities. By the end of 2023, Florida is projected to have over 800 new inpatient rehabilitation beds. There are several opinions on the long-term effects of Florida’s partial CON repeal and what it will ultimately mean for the state. Supporters believe repeals will increase competition and lower prices, while opponents worry powerful companies could build duplicative services, ultimately driving up costs ([Modern Healthcare](#), May 18; [NCSL](#), 2019).

## Private Sector Updates

- HCA Healthcare established a collaboration with Google Cloud focused on building a health data analytics platform to support their clinical and operational workflows. HCA will use the Google Cloud Healthcare application programming and a BigQuery database to provide their physicians, nurses, and nonclinical staff with workflow tools, analysis, and alerts for monitoring patients and providing treatments. The partnership will also focus on improving data for nonclinical areas within the system ([Becker’s Hospital Review](#), May 26).
- Centene-owned Collaborative Health Systems is expanding its value-based care business in a new partnership with the Illinois Rural Community Care Organization (IRCCO). Collaborative Health will provide IRCCO with analytics, strategic growth planning, and care coordination as a part of a new venture called Rural Community Health Systems. Collaborative Health has been expanding its work with providers

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that can no longer enroll in the Centers for Medicare and Medicaid Innovation (CMMI) direct contracting models ([Health Payer Specialist](#), May 24).

- Colorado health officials are offering to pay hospitals to close their free-standing emergency rooms and convert them into primary care or mental health facilities instead. This incentive is a part of the state's new initiative requiring hospitals to improve their quality of care to qualify for millions of dollars in Medicaid funding. Hospitals can choose from goals provided by the state, such as lowering readmission rates, screening patients for social needs, or converting free-standing ERs into other types of facilities ([Modern Healthcare](#), May 24).

## Sellers Dorsey Updates

- Check out our most recent Staff Spotlight Q&A with Janel Myers, Consultant Specialist. Janel has been with Sellers Dorsey for three years and focuses on value-based care initiatives. [Learn more about Janel and her recent work.](#)
- Former Medicaid directors and other members of the Sellers Dorsey team share a passion for working toward health equity through innovative initiatives and thought leadership in Medicaid. [Get to know members of our team, including former Medicaid directors from California, New Mexico, Pennsylvania, Tennessee, Texas, and Wisconsin, as well as staff and advisors from state Medicaid programs around the country.](#)
- Value-based care is a critical focus area for nearly every health care organization. At Sellers Dorsey, we collaborate with policy makers, states, health systems, payers, and others to develop and negotiate state Medicaid reform initiatives, including waivers and pre-prints, value-based purchasing arrangements, expansion of managed care to new populations, and other services. We invite you to share your questions and concerns with our value-based care subject matter experts and explore ways to address your current issues. [Contact us here.](#)



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