

SELLERS DORSEY DIGEST

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NAVIGATION

Federal Updates

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State Updates

Ohio Governor Mike DeWine (R) announced the state will seek to reinstate Medicaid work requirements, appealing the Biden administration's revocation of its 1115 demonstration waiver.

Private Sector Updates

Pennsylvania and Massachusetts can both expect to see new Medicare Advantage (MA) plans enter the market in the near term.

Sellers Dorsey Updates

Value-based care is a core area of expertise at Sellers Dorsey. Our team of experts have hands-on experience to implement proven concepts and insight to develop effective new approaches.

Summary of Key Updates

CMS announced the Department of Health and Human Services (HHS) is awarding \$20 million in American Rescue Plan (ARP) grant funding to 21 State-based Marketplaces to increase consumer access to affordable and comprehensive health insurance coverage ([CMS](#), September 10).

HHS, through the Health Resources and Services Administration, is distributing \$25.5 billion to health care providers affected by the COVID-19 pandemic ([HHS](#), September 10; [Modern Healthcare](#), September 10; [Becker's Hospital Review](#), September 10).

In a response [letter](#) released September 7, the Texas Health and Human Services Commission (HHSC) accepted CMS' offer to extend the Delivery System Reform Incentive Payment program, the Uniform Hospital Rate Increase Program, and the Quality Incentive Payment Program for FY 2022 ([State of Reform](#), September 8).

From September 8 to September 14, CMS approved one 1915(c) Appendix K waiver and 11 SPAs, none of which are COVID-19 disaster relief SPAs.

The future of telehealth, health inequities, and Medicaid expansion – these are some of the topics covered in a recorded joint interview with Sellers Dorsey Medicaid leaders and former Medicaid directors Mari Cantwell (CA) and Gabe Roberts (TN). Mari and Gabe joined Erin O'Malley, Senior Policy Director at America's Essential Hospitals in June for their conference VITAL2021, where Mari and Gabe contributed their perspectives on how state health care policy has changed in response to the COVID-19 pandemic. [Watch segments of their conversation and read a brief summary transcript.](#)

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Federal Updates

News

- On September 10, a CMS press release announced \$20 million in ARP grant funding awards from HHS to State-based Marketplaces (SBMs) to increase consumer access to affordable and comprehensive health insurance coverage. The 21 SBMs receiving the ARP grant funding are Arkansas, California, Colorado, Connecticut, the District of Columbia, Idaho, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. These 21 SBMs will use the grants to modernize IT systems and/or conduct targeted consumer outreach activities to help make health care coverage enrollment smoother. Specifically, the funding will help states to better determine and enroll new consumers seeking marketplace coverage and reassess current enrollees' eligibility for increased savings available under ARP. Grant award amounts range from \$500,000 to \$1.1 million and are based on the SBM model and number of successful applicants. The period of performance is from September 10, 2021, through September 9, 2022 (CMS, September 10).
- On September 2, the Biden administration released its plan to transform the nation's ability to respond rapidly and effectively to future pandemics. The plan outlines the administration's goals to rapidly create and distribute vaccines that protect against any virus family, strengthen domestic and global public health infrastructure and core capabilities for a timelier pandemic response, and monitor the real-time evolution of a new virus upon initial detection of an emergent threat. The plan also commits to publicly share the full genome sequence of new viruses once they have been identified in humans.
 - The cost of implementing the administration's plan totals \$65.3 billion over 7-10 years, [\\$50 billion](#) of which has been requested by the House Committee on Energy and Commerce under the Build Back Better budget reconciliation package ([White House](#), September 2).

Federal Legislation

- On September 13, the House Committee on Energy and Commerce held a [markup session](#) to establish its contributions to the Build Back Better Act, which is expected to go through the budget reconciliation process that began earlier this summer. The Committee's contributions to the \$3.5 trillion legislation include measures on public safety, clean energy, and the following key health provisions:
 - Expands Medicaid eligibility in the 12 states that have not yet expanded Medicaid under the Affordable Care Act (ACA) by first offering premium tax credits through enhanced cost-sharing assistance to individuals earning below 100% of the federal poverty level from 2022 to 2024, and then transitioning those individuals into coverage under a federal Medicaid program. The Committee passed this measure on September 15.
 - Invests \$190 billion in Medicaid home and community-based services (HCBS) to expand access to care, improve provider payment rates, and equip states with resources to improve their health care infrastructure. The legislation also makes permanent the Money Follows the Person and spousal impoverishment programs. The proposed \$190 billion investment falls short of Biden's [\\$400 billion proposal](#) and advocates' expectations for a [\\$250 billion compromise](#). The Committee passed this measure on September 15.
 - Establishes comprehensive dental, hearing, and vision benefits under Medicare Part B.
 - On September 10, the House Committee on Ways and Means approved [legislation](#) expanding Medicare Part B to cover hearing rehabilitation and treatment services starting October 1, 2023, vision services starting October 1, 2022, and dental services starting in 2028. This legislation has [advanced](#) to the House Budget Committee to begin the next steps in the budget reconciliation process.

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- Funds an ACA reinsurance program to allow states to lower premiums, out-of-pocket costs, and deductibles for their residents, yielding an estimated reduction in individual market premiums of up to 7%.
- Permanently extends the Children’s Health Insurance Program (CHIP). The program is not up for renewal until 2027, but lawmakers from both parties favor permanently establishing the program well in advance of the renewal deadline to avoid political bargaining over the program in future negotiations. The legislation also requires Medicaid and CHIP programs to keep children continuously enrolled for a 12-month period.
- Expands Medicaid perinatal coverage for pregnant members to 12 months postpartum. The Committee passed this measure on September 15.
- Requires HHS to negotiate with drug manufacturers on the highest priced and most used drugs, requires drug manufacturers who increase their prices faster than the rate of inflation to pay back excess profits to the federal government, and caps out-of-pocket costs for Medicare Part D beneficiaries at \$2,000 per year.
- Invests \$3 billion to establish the Advanced Research Projects Agency for Health (ARPA-H), which will support breakthrough technological advances in medicine and health care.
- Invests \$35 billion to rebuild and modernize public health infrastructure and support medical provider training ([Inside Health Policy](#), September 9; [House Committee on Energy and Commerce](#), September 9; [Inside Health Policy](#), September 15).

Federal Regulation

- On September 10, the Biden administration released a notice of proposed rulemaking (NPRM) entitled “Reporting Requirements Regarding Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement.” The proposed rule establishes new reporting requirements for marketplace and short-term, limited duration plans to disclose whether they have a financial relationship with an agent or broker. Additionally, the proposed rule outlines how CMS would decide whether states are enforcing the new surprise billing ban for air ambulance transport and sets up a process for CMS to directly investigate and determine violations against air ambulance providers and facilities if states don’t act. According to a [fact sheet](#) released by CMS, the agency could impose civil monetary penalties on providers, facilities, and air ambulance companies up to \$10,000 per violation for improper balance billing. The proposed rule is the first rule stemming from the No Surprises Act and a part of the Biden administration’s efforts to protect patients from high costs and to make health care more affordable. Comments on the proposed rule are due October 18 ([Modern Healthcare](#), September 10; [CMS](#), September 10; [Federal Register](#), September 16).

COVID-19

- On September 9, CMS announced that in collaboration with the Centers for Disease Control and Prevention, it will be expanding emergency regulations to establish vaccine requirements for all providers and suppliers that participate in the Medicare and Medicaid programs, including nursing homes, hospitals, dialysis centers, ambulatory surgical settings, and home health agencies. The agency is developing an Interim Final Rule with comment period that will be issued in October ([CMS](#), September 9).
- HHS, through the Health Resources and Services Administration (HRSA), is distributing \$25.5 billion to health care providers affected by the COVID-19 pandemic. HRSA will allocate \$8.5 billion in ARP dollars to rural health system providers of Medicare, Medicaid, and CHIP and \$17 billion from the Provider Relief Fund (PRF) Phase 4 for a broad range of providers. The ARP rural grant payments to providers will be based on Medicare reimbursement rates. The PRF Phase 4 payments will be based on providers’ lost revenues and expenditures between July 1, 2020 and March 31, 2021, and will be directed toward

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smaller providers and include bonus payments for providers who serve Medicaid, CHIP, and/or Medicare patients, who tend to be lower income and have greater and more complex medical needs. Providers can apply for funding starting September 29, nearly 11 months after HHS' last release of PRF dollars (HHS, September 10; [Modern Healthcare](#), September 10; [Becker's Hospital Review](#), September 10).

- In expanding COVID-19 vaccinations beyond health care settings, the Biden administration, via an executive order, will mandate all federal workers and contractors that do business with the federal government to attest to their vaccinations status or be required to wear masks and enact social distancing while on the job. The administration is also assigning the Occupational Health and Health Administration to develop rulemaking that will require all employers with 100 or more employees to ensure their workforce is fully vaccinated or require unvaccinated workers to produce negative test results on at least a weekly basis ([Inside Health Policy](#), September 9).
- To ensure supply and affordability of rapid COVID-19 tests, the Biden administration will spend \$2 billion on 280 million COVID-19 tests which will be available to long-term care facilities, community testing sites, critical infrastructure, homeless shelters, prisons and jails, and other congregate settings serving vulnerable populations. The administration will also send 25 million free at-home rapid tests to 1,400 community health centers and food banks to provide free access to testing. Additionally, the administration is mandating Medicaid cover at-home COVID-19 tests for its beneficiaries and expand free pharmacy testing across the country by increasing the number of pharmacy retailers participating in the HHS' free testing program to 10,000 ([Inside Health Policy](#), September 9).
- Moderna and Novavax announced they will be creating combination COVID-19 and flu vaccines before the annual flu season begins in the U.S. Moderna's combination shot would serve as both a COVID-19 booster and flu vaccine while Novavax's combination shot would provide a vaccine for both the flu and COVID-19. Moderna's two-dose COVID-19 vaccine is currently available under emergency use authorization. The company has filed for a full-approval of its vaccine and booster with the FDA ([Politico](#), September 9).

Waivers

- Section 1115
 - On September 3, Montana submitted an [amendment](#) to its section 1115 demonstration waiver titled Montana Waiver for Additional Services and Populations (WASP) to remove expenditure authority for the 12-month continuous eligibility for all non-expansion Medicaid-covered individuals whose eligibility is based on modified adjusted gross income. This amendment removes the Parent and Caretaker Relative group from any coverage under WASP, as this was the only benefit under the waiver. This amendment also seeks to remove cost sharing and copayments for demonstration enrollees to align with the removal of cost sharing from the Montana Medicaid plan effective January 1, 2020. CMS will accept comments on the amendment through October 15.
- Section 1915(c) Appendix K
 - [Delaware](#)
 - Temporarily authorizes the Division of Developmental Disability Services to make retainer payments to providers of residential habilitation services that include personal care whose attendance and utilization for services drops by at least 25% due to COVID-19 containment efforts.

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SPAs

- Administrative SPAs
 - California ([CA-20-0021](#), effective August 1, 2020): Extends the Quality and Accountability Supplemental Payment (QASP) Program to December 31, 2021, and revises quality measures.
 - Massachusetts ([MA-21-0017](#), effective May 14, 2021): Approves update to the definition of undue hardship for estate recovery; updates the state's determination of cost effectiveness for estate recovery; clarifies the process for exempting certain assets from estate recovery for American Indians and Alaska Natives; and updates the limitation to estate recovery for any premiums paid on behalf of the member.
 - North Dakota ([ND-21-0014](#), effective July 1, 2021): Approves updated language on advance directives to coincide with state law changes.
 - Wisconsin ([WI-21-0014](#), effective November 1, 2021): Approves an exception to establishing a Recovery Audit Contractor (RAC) program after its contract with its current RAC vendor ends in October 2021.
- Eligibility SPAs
 - Wyoming ([WY-21-0010](#), effective April 1, 2021): Removes the restriction that requires Lawful Permanent Residents to have 40 qualifying work quarters under Title II of the Social Security Act for the purposes of Medicaid eligibility.
- Payment SPAs
 - California ([CA-21-0029](#), effective October 1, 2021): Approves updates to the Current Dental Terminology (CDT) procedure codes in alignment with current dental industry and federal code standards and updates previous CDT procedure codes eligible for Proposition 56 supplemental payments with new CDT codes.
 - Georgia ([GA-21-0007](#), effective July 1, 2021): Approves a 5.9% rate increase for specialized nursing home mechanical ventilator care.
 - Illinois ([IL-21-0013](#), effective June 9, 2021): Increases the inpatient, per diem rate for safety net hospitals to \$630 for inpatient psychiatric services.
 - Louisiana ([LA-21-0009](#), effective May 1, 2021): Approves amendments to the provisions governing the Professional Services Program removing information related to programs no longer in operation, clarifying the reimbursement methodology for certain providers and services, and providing for a rate restoration related to neonatal critical care services.
 - New Hampshire ([NH-21-0034](#), effective April 1, 2021): Revises the quarterly nursing home supplemental payment for dates of service in the quarter ending June 30, 2021.
 - New York ([NY-21-0009](#), effective April 21, 2021): Revises the add-on fee-for-service reimbursement for public (non-state government) operated ground emergency medical transportation (ambulance) providers.

State Updates

- In a response [letter](#) released September 7, the Texas Health and Human Services Commission (HHSC) accepted CMS' offer to extend the Delivery System Reform Incentive Payment (DSRIP) program, the Uniform Hospital Rate Increase Program (UHRIP), and the Quality Incentive Payment Program (QIPP) for FY 2022. HHSC will submit a waiver amendment to extend DSRIP for \$2.49 billion and request a one-year extension. HHSC will also submit a pre-print to continue the UHRIP based on the reimbursement rate increases for each class as they existed in SFY 2021 and also request immediate approval of the pending

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pre-print for QIPP as proposed for SFY 2022. The letter also outlines Texas' longer term commitment to collaborate on state-directed payments with CMS as required under its 1115 waiver. The letter creates a path forward for providers to continue to receive state directed payments through the end of the public health emergency, with the state and federal entities work towards reaching agreement on the other payment programs ([State of Reform](#), September 8).

- On September 9, Ohio Governor Mike DeWine (R) announced the state will seek to reinstate Medicaid work requirements, appealing the Biden administration's revocation of its 1115 demonstration waiver. In August, CMS withdrew approval of the "community engagement" requirement Ohio had hoped to implement to determine Medicaid eligibility. The measure was approved under the Trump administration and requires all new adult group beneficiaries under 50 years of age to complete 80 hours per month of employment, education, or job skills training. While Governor DeWine and the Ohio Medicaid department are advocating for the requirement to be kept in place, it is estimated that over 18,000 beneficiaries would lose Medicaid coverage under the requirement ([The Columbus Dispatch](#), September 9).

Private Sector Updates

- Pennsylvania and Massachusetts can both expect to see new Medicare Advantage (MA) plans enter the market in the near term. Capital Blue Cross and WellSpan Health System [plan](#) to team up to offer new MA options for beneficiaries in central Pennsylvania. The new collaboration enables the two payers to engage in stratified care management – with Capital focused on wellness issues and WellSpan engaged in complex management for high-risk members. The partnership will affect members and providers in Adams, Cumberland, Franklin, Lancaster, Lebanon, and York counties. Additionally, UMass Memorial will debut a new MA plan called MassAdvantage in time for this year's open enrollment. UMass Memorial Ventures, the holding company for the UMass Health System, Shields Managed Care Solutions, and SCAS CM Holdings jointly own the plan. Both product launches will go live January 1 ([Health Payer Specialist](#), September 10).
- UnitedHealth Group's pharmacy benefit management arm, OptumRx, has secured a contract with Point32Health, the not-for-profit parent company formed through the merger of Harvard Pilgrim and Tufts Health Plan. Under the [agreement](#), OptumRx will serve the provider's 2.3 million members over three years starting January 1, 2023. Point32Health members will have access to retail, specialty, and home delivery pharmacy network through the partnership. The payer and provider estimate the agreement will save commercial, direct, and Medicare customers between 12-16% over the course of the contract. Point32Health operates in Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island. It posted \$8.3 billion in written premiums last year, according to the National Association of Insurance Commissioners. OptumRx is expected to work in collaboration with CVS Caremark to ensure a smooth transition ([Health Payer Specialist](#), September 10).
- After the telehealth boom in 2020 driven by the COVID-19 pandemic, hospital virtual visits are leveling off to below 20% of total medical appointments, which is still 38 times higher than before the COVID-19 pandemic. According to KLAS Research and CCM, hospitals are using telehealth services most frequently for primary care and behavioral health, and providers have shown an early interest in expanding telehealth into chronic care management and urgent care in the near term. Hospital executives report that integrating their telehealth solution with their electronic health record system is less of a challenge now, but there remain major barriers to advancing telehealth services. The lack of patient access to technology and broadband issues prevents patients, especially those in rural areas, from accessing virtual care options. Hospitals and other entities are currently largely reliant on grant funding to address these challenges. Government funding for improved technology and broadband access would present a more stable and permanent solution ([Fierce Healthcare](#), September 9).

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Sellers Dorsey Updates

- Sellers Dorsey members look forward to seeing and connecting with colleagues, clients, and peer professionals at upcoming conferences this month. We are excited to attend AHIP's National Conference on Medicaid and Medicare, NASHP Annual State Health Policy Conference, and Healthcare Innovation and Investment Conference, and we are proud to sponsor America's Essential Hospitals Medicaid Summit, MHPA Annual Conference 2021, and North Texas State of Reform Health Policy Conference.
 - Our experts Leesa Allen, Gabe Roberts, and Karla Richardson will be speaking on value-based payment initiatives and how programs must adapt to the challenges of the COVID-19 pandemic at [America's Essential Hospitals Medicaid Summit](#) on September 20.
 - Managing Director Gary Jessee will be moderating a panel with four state Medicaid directors on September 24 at [MHPA21](#) to discuss priorities in state policy and implications for Medicaid managed care plans.
 - Senior Strategic Advisor Janice Fagen will be speaking on a panel discussing new approaches to care and addressing social determinants of health at [North Texas State of Reform Health Policy Conference](#) on September 30. For more information on events Sellers Dorsey is attending this year, [visit here](#).
- The future of telehealth, health inequities, and Medicaid expansion – these are some of the topics covered in a recent recorded joint interview with Sellers Dorsey Medicaid leaders and former Medicaid directors Mari Cantwell (CA) and Gabe Roberts (TN). Mari and Gabe joined Erin O'Malley, Senior Policy Director at America's Essential Hospitals in June for their conference VITAL2021, where Mari and Gabe contributed their perspectives on how state health care policy has changed in response to the COVID-19 pandemic. [Watch segments of their conversation and read a brief summary transcript](#).
- Last week we released a special edition of the Sellers Dorsey Digest focusing on state budgets that were recently enacted and how states are spending their dollars on Medicaid and health care initiatives for FY 2022. Check out this [updated summary here](#).
- Value-based care is a core area of expertise at Sellers Dorsey. Our team of experts have hands-on experience to implement proven concepts and insight to develop effective new approaches. [Check out this example](#) of how we helped two physician groups design a quality-based payment program.



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