



PUBLIC POLICY BRIEFING

Troutman Pepper Strategies and
Alston & Bird

Thursday, March 7, 2024

11:00 am ET



HOUSEKEEPING ITEMS

- This is a Zoom webinar
- All webinar participants are automatically muted, and your video is not displayed
- If you would like to ask a question, please use the Q&A function on the taskbar
- Use the chat feature to introduce yourself (name, org, location), share resources, etc.
- For questions following the webinar, reach out to contact@civitasforhealth.org



AGENDA

- Civitas Welcome & Updates – *Jolie Ritzo*
- Government Relations Team Introductions – *Lindsay Austin*
- Public Policy Briefing Overview and Presentation –
GR Team
- Q&A with Members



CIVITAS UPDATES

UPCOMING EVENTS

- [Network News schedule for 2024 is out – Be sure to register!](#)
- [AHIP and HL7 | Demographic Data Standards National Virtual Focus Group Sessions](#)
- [HIMSS – March 11-15 Orlando, FL – Member Meet up, Tuesday, March 12 3:00-5:00 PM ET, Orlando Convention Center Room 224H](#)
- [RISE National 2024 – March 17-19 Downtown Nashville, TN](#)
- [4th Annual SDoH & Health Equity Congress – March 25-26, Las Vegas, NV](#)
- [2024 State Healthcare IT Connect Summit – April 1-4 Baltimore, MD](#)
- [2024 CMS Quality Conference – April 8-10 Baltimore, MD](#)

#CIVITAS2024 UPDATES

Mark your calendars! The "Bridge Between Data and Doing" conference will be held October 15-17, 2024, in Detroit Michigan.

Thank you to our platinum sponsor, InterSystems!

DETROIT



YOUR CIVITAS GR TEAM



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Public Policy Briefing Overview

1. State of Play
2. FY 2024 Status
3. FY 2025 Prospects
4. Recent Health Activity
5. A.I. Spotlight
6. 2025 Leadership Changes
7. Q&A



State of Play

Packed Agenda

- FY24/CR, foreign aid supplemental, farm bill, FAA, PAHPA, surveillance authority, NDAA, tax bill
- FY25 funding and PBR

Slim Majorities

- 219-213 in the House (Rs can lose 2 votes on party line)
- Speaker Johnson still faces threats
- 51-49 in the Senate (3 Independents caucus with Ds)

Election 2024

- Shortened congressional calendar/lame duck
- Trump facing challenging legal and ballot issues
- National policy fights: border (GOP), reproductive rights (DEM), war in Gaza, election integrity

Retirements

- 23 House Dems, 19 House Rs, 6 Senate Dems, and 3 Senate Rs retiring at end of term or running for other office.

Impeachment Inquiries

- Investigations into President Biden and his son, Hunter Biden, may sour bipartisan goodwill left in the House



FY 2024 Status

FY 2024 Appropriations

- CR signed into law March 1, sets funding deadlines for March 8 and March 22
- Fourth CR since the Oct. 1 to avoid a shutdown
- Six bills agreed to/passed House; Ag-FDA, CJS, Energy and Water, Interior-Environment, MilCon-VA, and Transportation-HUD
- Next six bills, including Labor-HHS, face bigger challenges and more likely partial government shutdown on March 23
- Topline for Labor-HHS still unknown, though expected to be below FY 2023 enacted level

<i>FY 2024 Labor-HHS Bill</i>			
	FY23 Enacted	House Version	Senate Version
HHS Total	\$117.3B	\$103.3B	\$117B
ONC	\$66.2M	\$56.2M	\$71.2M
CDC	\$9.26B	\$7.66B	\$9.19B
NIH	\$49.18B	\$43B	\$49.2B

Deal Includes:

- Provides a 1.68% boost in Medicare pay for doctors (bringing total to 2.93% for the year)
- Back-dates funding for Community Health Centers to the beginning of the fiscal year, bringing it an annualized rate of \$4.27 billion a year, a \$270 million increase
 - Extends CHC funding, funding for the National Health Service Corps, and teaching health centers to Dec. 31
- Delays DSH cuts to Jan. 1, 2025
- Includes Alternative Payment Model incentive payment at 1.88% through Dec. 31, 2024
- Low Volume Hospital payment increase and Medicare Dependent Hospital program extended to Jan. 1, 2025
- Extends several HHS national health security authorities

Deal Does Not Include:

- PBM reform, “poison pill” riders, SUPPORT Act reauthorization, PAHPA extension/reauthorization, *Lower Costs, More Transparency Act*

Federal Shutdowns – HHS Impact

HHS

- HHS updated its shutdown contingency plan Dec. 2023
- 55% of HHS staff will be retained and 45% will be furloughed as of day to of a funding hiatus
- 49% of CMS employees will be retained, 33% of CDC staff, 54% of HRSA staff, 16% of SAMHSA, and 81% of FDA (funded by user fees)
- OIG expected to continue Medicare/Medicaid oversight and enforcement activities, in addition to hotline and disclosure programs

CMS

- Medicare = mandatory spending
- Medicaid and CHIP will continue as both programs are appropriated by Congress in advance

ONC

- Employees being furloughed could impact efficiencies and program operations

Other Health Impacts

Covid-19 response and research, including vaccine and therapeutic development, would carry on at HHS
NIH might have to postpone clinical trials for diseases like cancer or Alzheimer's, according to the White House. The NIH Clinical Center will continue to care for patients and admit new patients for whom it is medically necessary.
FDA will continue core functions to handle and respond to emergencies – such as monitoring for and quickly responding to outbreaks related to foodborne illness and the flu

Food stamps for low-income people, the disabled, and others could be delayed

Social Security checks would be delivered, and applications for benefits processed, but people would not be able to verify benefits or replace Medicare cards

FY 2025 Prospects

PBR

- The president's budget request (PBR) to Congress is expected March 11, officially kicking off FY 2025 process

FY 2025 Appropriations

- Many offices have opened their FY 2025 appropriations request process, including for programmatic requests and CDS/CPF
- Other offices are waiting for the PBR and further guidance from appropriations committees

Familiar Challenges

- The *Fiscal Responsibility Act* (FRA) caps FY 2025 discretionary spending
- House conservatives may continue to demand lower spending than FRA caps allow and contentious policy riders
- Process is backed up by FY 2024 with an abbreviated congressional calendar due to the election

FRA Discretionary Caps FY 2024-2025 (in billions)

	Defense	Nondefense
FY 2024	\$886.35	\$703.65
FY 2025	\$895.21	\$710.69



Recent Health Activity – Congress

House

- House passed the *Lower Costs, More Transparency Act* (H.R.5378) in Dec. 2023
 - Extends Community Health Centers funding for several years and delays Medicaid cuts for DSH hospitals
- House passed the *Protecting Health Care for All Patients Act* (H.R.485) prohibiting the use of quality-adjusted life years in coverage and payment determinations
- E&C Health Subcommittee held a hearing on health care spending on Jan. 31 and marked up of 21 bipartisan bills reauthorizing health programs supporting patients and caregivers on Feb. 14
- House voting this week on bills to allow state Medicaid to pay providers a fixed rate for a set of primary care services, reauthorization for state-based maternal mortality committees, and a reauthorization for a state grant program to increase access to dental care

Senate

- Finance hearing on A.I. use in health care on Feb. 8
- HELP passed the SUPPORT Act in Dec. 2023
- HELP hearing on prescription drug costs on Feb. 8

Cassidy Health Data Privacy

Sen. Bill Cassidy (R-LA), RM of HELP Committee, recently released a white paper with legislative suggestions to update HIPAA

The white paper includes suggestions to:

- 1.Update the current framework
- 2.Address health data in the HIPAA “gray area”
- 3.Address health data outside of HIPAA

Civitas responded to the RFI in Sept. 2023

MATCH IT Act

Reps. Mike Kelly (R-PA) and Bill Foster (D-IL) recently introduced the Patient Matching and Transparency in Certified Health IT Act

Creates an industry standard definition for the term “patient match rate” and aims to standardize patients’ demographic elements entered into certified health IT

Digital Health Caucus

New caucus led by Reps. Troy Balderson (R-OH) and Robin Kelly (D-IL) will inform colleagues on “the rapid advancements in digital health innovation, highlighting the potential impacts on patients and the health care system”

Recent Health Activity – Administration

CDC & NIH Priorities

- CDC Director Mandy Cohen shared updated priorities:
 - Forming stronger partnerships with trusted messengers
 - Improving collaboration with doctors on messaging and data-sharing
 - Improving mental health and suicide prevention
 - Preparing for future health crises
 - Ramping up data collection
 - Prioritizing preventive care for families
- NIH Director Monica Bertagnolli said she wants to make it possible for patients with rare diseases who share their EHRs with researchers to be contacted when relevant information – such as new treatments – becomes available

TEFCA

- On Feb. 12, ONC announced that CommonWell Health Alliance and Kno2 were designated as QHINs
- Common Agreement Version 2.0 expected to be adopted by QHINs within first quarter 2024

Upcoming Agency Sessions

- **CMS** Interoperability and Prior Authorization Final Rule Education Session – *March 26 1pm – 2pm*
- **ONC** Health IT Certification Program Developer Roundtable – *March 27 12pm – 1pm*

Cybersecurity

NSC is considering actions to make health and HIT sector more resilient to hacks due to the recent Change Healthcare attack that left millions unable to fill prescriptions

HHS released cybersecurity performance goals for the healthcare sector in January

ARPA-H PARADIGM Program

Announced on Jan. 16, the Platform Accelerating Rural Access to Distributed & Integrated Medical care (PARADIGM) program “will create a multi-functional, rugged electric vehicle platform...by building software that will connect on-board and remote medical devices with any electronic health record (EHR) system.”

Behavioral Health Information Technology (BHIT) Initiative

In early Feb. ONC + SAMSHA announced a \$20 million investment over 3 years to advance HIT in behavioral health care and practice settings

BHIT Initiative will identify and pilot a set of behavioral health-specific data elements with SAMHSA’s Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUPTRS BG) and Community Mental Health Services Block Grant (MHBG) grantees

ONC will also develop a behavioral health information resource

Regulatory Activity

Agency/Rule	Status	Comments Due	RIN
CMS - Interoperability and Prior Authorization	Final rule published Feb. 8, 2024	N/A	0938-AU87
CMS - 2025 Medicare Physician Fee Schedule (PFS)	Proposed rule expected by July 2024	TBD	TBD
OCR - Rulemaking Implementing Provisions of the Health Information Technology for Economic and Clinical Health (HITECH) Act, as Amended	NPRM expected in 2024	N/A	0945-AA04
OCR – Proposed Modifications to the HIPAA Privacy Rule to Support Reproductive Health Care Privacy	NPRM published April 2023	Comment deadline passed	0945-AA20
OCR & SAMHSA - Confidentiality of Substance Use Disorder (SUD) Patient Records	Final rule published Feb. 16, 2024	N/A	0945-AA16
OIG - Amendments to Civil Monetary Penalty Law Regarding Grants, Contracts, and Information Blocking	Final rule published in July 2023	N/A	0936-AA09
ONC & CMS - Disincentives for Health Care Providers that have Committee Information Blocking	Proposed rule Published Nov. 2023	CMS currently reviewing comments	0955-AA05
ONC - Health Data, Technology, and Interoperability: Certification Program Updates, Algorithm Transparency, and Information Sharing	Final rule published Jan. 2024, effective Feb. 8	N/A	0955-AA03
ONC - Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability	NPRM expected 2024	N/A	0955-AA06

A.I. Spotlight

House A.I. Task Force

- 24-member bipartisan task force will be led by Jay Obernolte (R-CA) and Ted Lieu (D-CA)
- Task force is responsible for recommending regulatory standards as well as ensuring America continues to spur investment and innovate in the space

Senate A.I. Workgroup

- The Senate workgroup, led by Sens. Chuck Schumer (D-NY), Martin Heinrich (D-NM), Mike Rounds (R-SD), and Todd Young (R-IN) are already working on legislation
- Have held dozens of forums and meetings with tech executives over the last several months
- Unclear if Congress will be able to pass A.I. legislation with a packed calendar in an election year

ONC A.I. Transparency Rule

- ONC's HTI-1 final rule, published in Dec. 2023, includes new transparency requirements for A.I. and predictive technologies in certified HIT
- First attempt by HHS to regulate A.I. following Biden's Oct. 2023 executive order for federal departments and agencies to regulate A.I. use



2025 Committee Leadership Changes

House E&C

- Chair Cathy McMorris Rodgers (R-WA), retiring
- *Next in line:* Brett Guthrie (R-KY, current chair of Health subcommittee) or Bob Latta (R-OH)
- Frank Pallone expected to remain lead for Dems

House Appropriations

- Chair Kay Granger (R-TX), retiring
- *Next in line:* Tom Cole (R-OK) seen as early favorite
- Rosa DeLauro expected to remain lead for Dems

House W&M

- Jason Smith (R-MO) and Richard Neal (D-MA) expected to remain as leaders, regardless of party control



Senate HELP

Bernie Sanders (I-VT) may retire (no official announcement)
Bill Cassidy (R-LA) expected to remain as leader, regardless of party control

Senate Finance

Ron Wyden (D-OR) and Mike Crapo (R-ID) expected to remain as leaders, regardless of party control

Senate Appropriations

Patty Murray (D-WA) and Susan Collins (R-ME) expected to remain as leaders, regardless of party control

Other Significant Health Retirements

Anna Eshoo (D-CA), Mike Burgess (R-TX), Mitt Romney (R-UT), Joe Manchin (D-WV), and Mike Braun (R-IN)

2025 Leadership Changes

Mitch McConnell & Senate GOP

- Senate Minority Leader Mitch McConnell (R-KY), first elected to the U.S. Senate in 1984, is stepping down from leadership after the November election
- Sens. John Cornyn (R-TX) and John Thune (R-SD) are seen as most likely successors
- Cornyn and Thune have officially entered the race, but others may soon as well
- Political fundraising may be key to choosing the next Republican leader

Other Leaders

- Senator Majority Leader Chuck Schumer (D-NY), House Speaker Mike Johnson (R-LA), and House Minority Leader Hakeem Jeffries (D-NY) are expected to remain in their current roles
- Sen. John Barrasso (R-WY) is running for Republican Whip

Cornyn Dominates Contributions to Colleagues, Candidates

The Texas senator's contributions between 2019 and 2023 dwarf those of his potential rivals to be the next Republican leader.



John Cornyn (R-Texas)
\$26.1 million



John Thune (R-S.D.)
\$3.63 million



John Barrasso (R-Wyo.)
\$2.16 million

Source: Federal Election Commission
Chart: Jon Meltzer/Bloomberg Government
Photos: Getty Images

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Q&A

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SCAN

