

INSIGHTS

House Energy and
Commerce Health
Subcommittee
Marks Up 17
Health Care Bills

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On May 17, 2023, the House Energy and Commerce Health Subcommittee marked up 17 bills regarding cost, transparency, and access in healthcare. The majority of the bills were bipartisan and passed unanimously. Broadly speaking, these bills covered:

- pharmacy benefit managers (PBMs)
- drug pricing
- organ donation protocols
- price transparency
- Community Health Center funding
- 340B programs in hospitals
- site neutrality payments

These bills now move to the Full Committee for consideration. No date was announced.

OPENING STATEMENTS

Subcommittee Chairman Brett Guthrie (R-KY-2), in his opening [statement](#), said that the intention of the 17 bills that were to protect and promote access to healthcare for patients and create more transparency in the market. He was encouraged by the fact that the majority of the bills were drawn up in a bipartisan fashion. Ranking Member Anna Eshoo (D-CA-16) was in favor of the bills as well and said she was looking forward to passing them in a bipartisan fashion. Full Committee Chair Cathy McMorris Rodgers (R-WA-5) [stated](#) that these bills would make healthcare more affordable and patient friendly. She went on to say that healthcare is too expensive and the government has given more money and resources to corporations than it has to patients. Full Committee Ranking Member Frank Pallone (D-NJ-6) said he was glad the committee was finding a bipartisan path forward to make healthcare more affordable to the American people.

LEGISLATION IN THE MARK UP

[H.R. 3281](#), the Transparent PRICE Act which increases accountability and transparency in billing, was the basis for a legislative package that included:

- an extension and increase funding for rural Graduate Medication Programs (GME) for 6 years.
- site-neutral payments for infusion services, with hospital outpatient departments being paid the physician-fee schedule rate for any infusion provision.
- language giving more guidance to the FDA and generic drug manufacturers in the hopes that will get generic drugs faster to market.

H.R. 3281 also included a manager's [amendment](#) which added language from the following bills:

- [H.R. 2559](#), the Strengthening Community Care Act of 2023 – continues and slightly increases funding for Community Health Centers and for the National Health Service Corps until 2025.
- [H.R. 2547](#), the Special Diabetes Program for Indians Reauthorization Act of 2023 – continues funding for the Special Diabetes Program for Indians through 2025.
- [H.R. 2550](#), the Special Diabetes Program Reauthorization Act of 2023 – continues funding for the Special Diabetes Program through 2025.
- [H.R. 1613](#), the Drug Price Transparency in Medicaid Act of 2023 – requires PBM to disclose all pricing when asked, disallows spread pricing, and ensures pass-through pricing is given to the pharmacy.
- [H.R. 2665](#), the Supporting Safety Net Hospitals Act – continues Medicaid Disproportionate Share Hospital (DSH) funding to hospitals through 2026.
- [H.R. 2679](#), the PBM Accountability Act – creates reports by PBMs to plans and insurer reports to the GAO regarding discounts, covered drug lists, plan participants, patient out-of-pocket costs, etc. Also commissions a GAO study on pharmacy networks and who uses them.
- [H.R. 3248](#), the Diagnostic Lab Testing Transparency Act – a bill to require clinical laboratories to post pricing on their websites for certain services including the discount cash price and the deidentified min/max rates.
- [H.R. 3262](#), To increase transparency of certain health-related ownership information – a bill to require

hospitals, free-standing emergency departments, physician-owner practice, ASCs, etc. to report and disclose data on ownership related information, including any info on changes in ownership and mergers. The Department of Health and Human Services (HHS) will report this data annually.

- [H.R. 3282](#), the Promoting Transparency and Healthy Competition in Medicare Act – requires Medicare Advantage plans and pharmacy benefit managers to report annually on services they provide, including the number of denials due to prior authorization and the amount of incentive payments made to providers.
- [H.R. 3237](#), To provide for requirements for outpatient departments – requires off-campus outpatient department providers to use a unique identifier so Medicare can track utilization in settings.

H.R. 3281, as amended, was approved 27-0.

[H.R. 2666](#), the Medicaid VBPs for Patients (MVP) Act – provides access to cell and gene therapies to Medicaid patients while giving states the ability to use VBP and other aspects to get the best pricing. Some Democrats were concerned that this bill might have the unintended consequence of increasing Medicaid drug prices, creating a loophole where manufacturers wouldn't have to use the Best Price standard anymore.

Passed 16-11.

[H.R. 3285](#), the Fairness for Patient Medications Act – ensures patients do not pay more for medications than what insurers pay for the prospection drug. Congressman Pallone did voice that since they didn't have a CBO score, he was not going to vote yes; however he might change his mind if they get the cost before the full committee mark up.

Passed by voice vote.

[H.R. 3284](#), the Providers and Payers COMPETE Act - requires the Secretary of HHS to submit an annual report on the impact of certain Medicare regulations on provider and payer consolidation.

Passed 27-0.

[H.R. 3290](#), To ensure transparency and oversight of the 340B drug discount program – Requires hospitals to annually report out how many patients are being helped through 340B along with total costs and total savings – the Secretary of HHS will report this data out on their website annually in a searchable format. Democrats, notably Congressmen Eshoo and Pallone were concerned that Health Resources

and Services Administration (HRSA) lacked the resources to make this reporting happen.

Passed 16-12.

[H.R. 1418](#), the Animal Drug User Fee Amendments of 2023 – a bill to reauthorize the animal user fee act.

Passed 29-0.

[H.R. 2544](#), the Securing the U.S. Organ Procurement and Transplantation Network Act – a bill to fund and transform the organ transplant & procurement network.

Passed 28-0.

[Amendment](#) to strike the Hyde Amendment from the CHC and NHSC funding in the package bill. This amendment offered by Rep. Lori Trahan (D-MA) would enable abortion services to be paid for under these programs (the Hyde amendment prohibits federal funds to be used for abortions.). Failed 13-17.

All other [amendments](#) noticed for the hearing were offered and withdrawn.

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