

9/24/2020

Happy Thursday REDC Members!

As tomorrow is one of our company's mental wellness "shut-it-down" days, sending the weekly updated out a day early!

#### **Advocacy Day:**

- First off, thank you to all REDC Members that were able to attend yesterday's advocacy day and share the virtual action alert! It was well attended and we had a lot of traffic on the virtual action alert!

#### **SERVE Act:**

- No updates for this week, as the House and Senate are still conferencing the NDAA.

#### **Telehealth Coverage Deadlines:**

- **Here's an update on the upcoming deadlines. Please let us know if you know of any other plans that have deadlines looming!**
  - **Anthem (previously Sept. 30<sup>th</sup>):** We had a call with Brad Lerner on Tuesday and they said they recently decided (Sept. 18<sup>th</sup>) to extend tele-mental health coverage for them and their affiliates til the end of the year. <https://providernews.anthem.com/georgia/article/information-from-anthem-for-care-providers-about-covid-19-4>
  - **Still Pending ones are as follows for the Sept. 30<sup>th</sup> deadline:**
- Optum (Nationwide): Ending September 30. Notice is here: [https://www.providerexpress.com/content/ope-provexpr/us/en/COVID-19 Provider Updates/COVID-19 IOP-PHP Telehealth Policies.html](https://www.providerexpress.com/content/ope-provexpr/us/en/COVID-19%20Provider%20Updates/COVID-19%20IOP-PHP%20Telehealth%20Policies.html)
- UPMC: Ending September 30<sup>th</sup>. Notice was last updated in September, and still has the 30<sup>th</sup>: <https://embed.widencdn.net/pdf/plus/upmc/22cs5qhtzm/Appendix-A-Covid-Benefits-and-Cost-Sharing.pdf>
- BlueCrossBlueShield of GA, CT, and NY Empire
- UHC: September 30<sup>th</sup>: <https://www.uhcprovider.com/en/resource-library/news/Novel-Coronavirus-COVID-19/covid19-telehealth-services/covid19-telehealth-services-telehealth.html>

### **Here's what we have for October 24<sup>th</sup> Deadline:**

- Medical Mutual: <https://www.medmutual.com/~media/16BD745F0429474181ABE036DB5AE968.ashx>
  - HealthPartners: [https://www.healthpartners.com/ucm/groups/public/@hp/@public/documents/documents/entry\\_222832.pdf](https://www.healthpartners.com/ucm/groups/public/@hp/@public/documents/documents/entry_222832.pdf)
  - Kaiser: <https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>
  - Humana: <https://www.humana.com/provider/coronavirus/telemedicine>
- 
- We have started sending an EDC/REDC letter to Governors and State Commissioners today urging them to require extensions of those telehealth deadlines and transition plans to not leave providers and patients in a lurch
  - Additionally, in working with the mental health community, we'll do a larger sign-on letter to Governors and State Commissioners requesting the same. The larger groups are reviewing/tweaking now and we'll be circulating this out early next week.
  - There are behind the scenes convos with payers including former Congressman Patrick Kennedy with Optum, and others with UHC and UPMC.
  - Lastly, I've been working with the House Ways & Means Committee who oversee these issues. They are considering having Chairman Neal write a letter to the plans.

### **COVID-19 Relief Package Information**

#### **I. COVID Relief Talks Remain Stalled, House Passes Continuing Resolution**

- i. The House passed a Continuing Resolution (CR) to keep the government open and funded through December 11.
- ii. The Senate is expected to pass the CR as this deal was reached between Treasury Secretary Munchin and Speaker Pelosi.
- iii. The Senate will gavel out and will only return to D.C. if a deal on a COVID relief package is reached or to vote on a Supreme Court nominee to replace the late Justice Ruth Bader Ginsburg.
- iv. The House will be in session next week working on another COVID relief package at the urging of moderate Democrats who do not want to go back to their districts without a relief measure passed to campaign.

#### **II. Trump Preparing Health Care Executive Orders**

- i. An announcement is expected today at an event in North Carolina, although details about the health care executive orders from the President are anticipated to be minimal.
- ii. One action could include a promised order meant to safeguard insurance protections for pre-existing conditions should the Supreme Court undercut the ACA. However, protections for pre-existing conditions can only happen through legislation, not executive order.
- iii. Another could prevent patients from receiving “surprise” medical bills.
- iv. Another is meant to address mental health.

### **III. Mental Health, Dental & Childhood Screenings Plunge Amid Pandemic**

- i. Visits have dropped significantly for children covered by Medicaid and CHIP during the COVID-19 pandemic.
- ii. According to a new CMS analysis, the decline may have a long-term impact on some of the most vulnerable children, such as those living in poverty or with special health needs. Among the findings:
  - 1. 22% or 1.7 million fewer vaccinations for children up to age 2 between March and May, compared to that same time last year.
  - 2. About 69% or 7.6 million fewer children saw a dentist.
  - 3. About 44% or 6.9 million fewer children saw outpatient mental health services, and that includes telehealth visits.

### **IV. Senate Democrats Call on the Government Accountability Office to Probe Communications Campaign**

- i. Led by Sens. Murray (D-WA), King (I-ME) and Shaheen (D-NH), the [letter](#) asks why the Trump Administration has begun a \$250 million, taxpayer-funded public service campaign on the coronavirus response so close to Election Day, urging the GAO to scrutinize the effort.
- ii. Politico first reported that HHS was pursuing a \$250 million contract intended to “defeat despair” about the coronavirus, and House Democrats opened a probe earlier this month.

### **2020 Election/SCOTUS Watch**

#### **I. Passing of the late Justice Ruth Bader Ginsburg Ignites Power Struggle Over Whether a Successor Should Be Chosen Before Election Day**

- i. Amid questions about the political feasibility and sheer logistics, here’s how the coming days and weeks are likely to unfold:
  - ii. **Does McConnell have enough time to confirm someone?**
    - 1. Yes, if he has the votes.

2. According to the Congressional Research Service (CRS) estimates that it's taken an average of 40 days for a Supreme Court nominee simply to get a hearing, let alone win the support of the Judiciary Committee and full Senate.
3. The nominee has to be approved by the Judiciary Committee before reaching the floor. Committee Chairman Graham (R-SC), working closely with Majority Leader McConnell (R-KY), can tailor a schedule to their liking.
4. There is also nothing to stop Republican from voting on a Supreme Court nomination after the election in a lame duck session.

**iii. Can Democrats block a nominee on their own or deploy procedural tricks to stop McConnell?**

1. No. Democrats can't do much without help from at least a few Republicans.
2. A simple majority is all it takes under current Senate rules to confirm a Supreme Court nominee since McConnell eliminated the filibuster to confirm Justice Gorsuch in 2017.
3. Democrats can raise objections about a potential nominee, but ultimately, the committee and McConnell decide when the key votes occur.

**iv. How many Republicans need to defect to derail a nomination?**

1. Democrats need 4 Republicans to vote with them to block a nominee. Vice President Mike Pence can break any 50-50 tie.
2. Republicans to watch:
  - a. Lisa Murkowski (R-AK) has already voted against Trump's most recent Supreme Court nominee, Justice Kavanaugh. She also has emphasized that no vacancy should be filled this close to an election.
  - b. Susan Collins (R-ME) has expressed similar sentiments, and faces a tough election this fall where she's tried to emphasize her independent streak.
  - c. Mitt Romney (R-UT) has broken with his party on impeachment and been unafraid to stand in Trump's way at crucial moments in his presidency when they disagree. He hasn't indicated what he would do in the event of a Supreme Court vacancy.
  - d. Other GOP senators to keep an eye on are incumbents who face potentially tough races and may want to boost their bipartisan

credibility, such as Cory Gardner (R-CO), Martha McSally (R-AZ), Thom Tillis (R-NC) and Joni Ernst (R-IA).

i. However, these senators have also stuck close to Trump and may not want to upset his supporters.

**v. Could Mark Kelly factor upend McConnell's plans?**

- a. Sen. McSally is fighting for her political life against former astronaut Mark Kelly. Because the contest is technically a special election, a Kelly win means he could be sworn in as early as the end of November. That would narrow the window for Republicans to approve a nominee during the Senate's lame duck session.

**vi. What happened to the "McConnell rule"?**

- a. When Justice Scalia passed away in February 2016, President Obama moved to nominate Merrick Garland, an appeals court judge, to fill the seat. But McConnell blocked the Senate from voting on Garland's nomination, saying an election-year vacancy should wait until after voters decide.

i. McConnell says there was always a caveat. He said the rule only applies when voters have elected a Senate of a different party than the president. Since the senate and the presidency share the same party, the principle doesn't apply in this scenario.

**Katrina Velasquez, Esq., M.A.**

Managing Principal

**Center Road Solutions, L.L.C.**