

06/18/2021

Good Afternoon REDC Members,

Below is your policy update for the week but before we kick off, the Supreme Court announced yesterday in a 7-2 decision that the plaintiffs in **the case against the ACA had no legal standing to proceed further.**

The two dissenters in were Justices Alito and Gorsuch. There is still an opportunity for the plaintiffs to refile, but it is unlikely since SCOTUS ruled that the case had no standing. **The ACA continues to remain intact!**

## I. SERVE Act & DoD Updates

- Last Friday we met with Defense Health Agency staff on items related to the SERVE Act, TRICARE contracting issues, and other military families issues. Overall, the staff took significant notes about the issue, but did not give any assurance one way or another that they'd be taking action. We'll keep the pressure on them.
- **SERVE Act Update:**
  - **New Co-Sponsors:**
    - Senate SERVE Act:
      - Sen. Michael Bennet (D-CO)
      - Sen. Dianne Feinstein (D-CA)
        - **Note: These two Members have never supported eating disorders policy, so this is a positive step!**
    - House has no official new co-sponsors, but their team did say that they have a ton to add!
- **NDAAs schedule has finally been announced!**
  - House will draft and review the first round of the NDAA in Committee (called a "markup") on **July 28th** in the Subcommittee, and September 1st in the Full Committee.
  - Senate has not yet announced their markup time period, but we expect it to be in September due to the significant delays in the President's Budget.
- **Earmarks Are Back:**
  - The previously banned policy of "earmarks" has officially been revived in Congress, which includes the House and Senate Armed Services Committee. Earmarks are inclusions within the federal appropriations and NDAA process for local pet projects that can specifically designate where funding is going (i.e. to a business, nonprofit, specific project, etc.).
  - **Guidelines:**

- The House & Senate Armed Services Committee are now following the footsteps of the Appropriators, which will have new limited guidelines for earmarks which **only limits the amount of earmarks each member of Congress can request to 10 projects for community project funding.**
- These guidelines include that earmarks can only be for **research and development** accounts for the military services and Pentagon, as well as construction projects for active-duty services, Guard, Reserve and defense-wide accounts.
- Lastly, the new revamped version **cannot be earmarks for for-profit entities** as a means to prevent abuse.
- Lastly, they must be submitted to both Appropriations and Armed Services projects to be both authorized and appropriated.

## II. Telehealth

- The REDC is leading legislation that would provide telehealth coverage for essential health benefits (as necessary) under ACA plans.
  - The draft legislation is attached and led by Sen. Smith (D-MN) and Rep. Schrier (D-WA).
  - We are working on securing a meeting with the White House Domestic Policy Council to discuss this bill idea and learn more about their receptivity to the idea and their plans on moving telehealth coverage forward.
    - Members of the Telehealth Working Group will join the virtual meeting once it is secured.
  - Based on the discussion with the WH DPC, we can move forward on strategizing if the legislation can be integrated into an upcoming reconciliation bill or can be done through the regulatory process.
- The Senate Finance Committee held a hearing earlier this week entitled, "Mental Health Care in America: Addressing Root Causes and Identifying Policy Solutions." **The recording of the hearing and witness testimony can be found [here.](#)**
- One of the topics that received significant attention was telehealth.
  - At least 6 different members (including Committee Chairman Wyden (D-OR) and Ranking Member Crapo (R-ID) indicated broad support for expansion, which would include:
    - Removing the 6-month in-person requirement under Medicare before telehealth consultations can take place.
    - Retaining audio-only coverage
    - Providing payment parity
    - Although telehealth provides more flexibilities for Americans to access their health care, there needs to be consideration for how health disparities are addressed. Individuals with lower incomes or have serious mental illness may not benefit

from telehealth because of digital literacy issues or lack of technological availability.

- Last week, the Senate held a hearing on the FY22 Health & Human Services (HHS) budget with Secretary Becerra testifying.
  - Telehealth was raised by two members and the clips of the exchanges are below.
  - Sen. Thune (R-SD) asked about HHS steps to preserve telehealth.
    - Becerra called for flexibilities within Medicare as Congress moves forward, and commented “you can do a lot of good health care without ever even having to see the person you’re providing treatment to.”
      - [About 1 minute](#)
  - Sen. Cantwell asked about reimbursement rates and continuation of telehealth.
    - Becerra said flexibility and accountability are of utmost importance, mentioning that both video and audio-only have benefits.
      - [About 2 minutes](#)
- **REDC Endorses Telemental Health Care Act**
  - The bipartisan bill led by Sens. Smith (D-MN) and Cassidy (R-LA) would remove the statutory requirement that Medicare beneficiaries be seen in person within 6 months of being treated for mental health services through telehealth.
  - As a refresher, the end-of-year package permanently expanded access for Medicare patients to be treated in their home and other sites for mental health services, but unfortunately put in place an arbitrary requirement that requires the patient to be seen in-person before they could receive telemental health services.
  - The full press release that mentions the REDC can be found [here.](#)
- **[Deloitte Telehealth Report](#)**
  - In a survey of 2,009 individuals the consultancy firm found 82% of respondents who went on a virtual visit said they were satisfied with the experience.
    - 28% felt the experience lacked the human touch; 21% said doctors couldn't collect vital statistics and 17% cited connectivity issues.

### III. Health Insurance

- **Open Enrollment**
  - More than 1.2 million Americans have bought coverage on Healthcare.gov since the ACA's special enrollment opened in mid-February and ends on August 15.
  - Roughly 1 million Healthcare.gov shoppers have returned to the marketplace and selected a plan that costs \$10 or less per month due to the new financial subsidies included in March's COVID relief bill.

- **Nevada Makes Public Option Bill Official**
  - Governor Sisolak signed legislation making Nevada the second state to offer a version of the public option on its ACA exchange.
  - The bill requires insurers to offer plans starting in 2026 that reduce premiums by at least 5%, with an aim toward cutting them by 15% over 4 years.
  - It also instructs the state to apply for a federal waiver that would allow union plans to be sold on the exchange.
- **Colorado Passes Health Reform Bill**
  - Governor Polis has signed legislation aimed at reducing health insurance premiums.
  - Some have referred to the bill as a public option, but it does not actually create a government-backed plan to compete on the private market. Rather, it calls insurers to offer a standard plan in 2023 the cuts premiums 15% over 3 years.
- **UnitedHealthcare Delaying ER Policy**
  - After facing mounting criticism from hospitals and doctors groups, the company said it would delay a policy that would scrutinize payments for non-urgent emergency room visits.
  - The company issued a statement that the policy will be halted until the end of the pandemic.

#### IV. Parity

- Attached is the testimony from Dr. Bendat of Psych Appeal that details the flawed external review process for parity claims.
- Also, the monthly state parity working group slide deck is attached that details movement on state-level parity legislation.
- **The Parity Implementation Assistance Act (S. 1962) was introduced last week in the House and Senate.**
  - Led by Sens. Murphy (D-CT) and Cassidy (R-LA) and Reps. Cardenas (D-CA) and Fitzpatrick (R-PA) would authorize \$25 million a year over 5 years in annual grants to states to support their oversight over health insurance plans' compliance with MHPAEA.
  - States would be required to collect and analyze parity compliance reports that are required under the Consolidation Appropriations Act of 2021.

Have a great weekend,  
Allison & the Center Road Solutions Team