



Weekly Health Care Checkup September 28 – October 2, 2020

IN BRIEF

What Happened This Week? A lot...

President Trump and Democratic Presidential hopeful Joe Biden squared off in the first 2020 debate Tuesday evening. Both candidates sparred over a range of topics throughout the 90 minute event, including [health care](#).

House Oversight and Investigations Committee Chairwoman Carolyn Maloney (D-NY) [released](#) several Democratic staff-led reports ([here](#) and [here](#)) detailing the findings in the Committee's yearlong investigation into the prices of prescription drugs this week. The release of the reports coincided with two days of hearings featuring six drug company CEOs (summary of day one [here](#); summary of day two [here](#)).

House Democrats moved forward with a vote on their [updated](#) HEROES Act late Thursday evening (though the bill is unlikely to move beyond the House in its current form as both parties are still [at odds](#) over the bill's price tag).

Meanwhile, over in the Senate, lawmakers sent the House-approved stopgap spending bill ([H.R. 8337](#)) to the President for signature on Wednesday night. The spending bill funds the government through December 11, 2020. Protections for pre-existing conditions took center stage in the upper chamber soon afterwards (more on that [here](#)).

But perhaps the biggest news of the week came in the wee hours of the morning today, with President Trump [Tweeting](#) that both he and his wife, Melania, have tested positive for COVID-19 and will be quarantining. The diagnosis comes just 32 days before the election...

What to Expect Next Week: The President's COVID diagnosis throws a lot of unknowns into the next few weeks / months, though one thing is expected – he will not be engaging in any in-person official Presidential business or campaign-related for at least the next week or more.

Meanwhile over on Capitol Hill, lawmakers are expected to head home to campaign ahead of the November elections, though Senate Majority Leader Mitch McConnell (R-KY) [confirmed](#) this morning that he still intends to move forward with consideration of Amy Coney Barrett's nomination to the US Supreme Court (despite the latest news of the President's COVID diagnosis). Her confirmation [hearing](#) is expected last three to four days, beginning on October 12.

DEEP DIVE

HHS Secretary Testifies Before the House Select Subcommittee on the Coronavirus Crisis: US Department of Health and Human Services (HHS) Secretary Alex Azar [testified](#) before members of the House Select Subcommittee on the Coronavirus Crisis this morning (Friday, October 2) on the Administration's response to the pandemic. The hearing is the first time Secretary Azar testified since February. As expected Committee Democrats pressed the Secretary on a variety of COVID-related issues, including whether or not [political interference](#) is affecting the work of scientists and public health experts at HHS agencies and whether the Administration plans to develop and implement a comprehensive [national plan](#) to contain the virus. A full summary of the discussion can be found [here](#).

Path Forward for Bipartisan COVID Stimulus Deal Unlikely Ahead of November Elections: House Democrats moved forward with a vote on their [updated](#) HEROES Act late Thursday evening, though the bill is unlikely to move beyond the House as both parties are still [at odds](#) over the bill's price tag (the Democrats' updated HEROES Act is still in the \$2.2 trillion range while a new counterproposal from the White House was estimated to be around \$1.5 trillion). Earlier today, House Speaker Nancy Pelosi (D-CA) suggested that President Trump's coronavirus diagnosis could "change the dynamic" of the negotiations; however, with the government funding [bill](#) now checked off Congress' "must do" list, it is very likely that lawmakers will head home for the October recess to campaign without reaching a deal on the next COVID package.

President Signs Stopgap Spending Bill, Averting Government Shutdown Before Month's End: The Senate voted 84-10 to send the House-approved stopgap spending bill ([H.R. 8337](#)) to the President for signature on Wednesday night – just hours before the current funding bill was set to expire. The measure temporarily funds the government at current levels through December 11 and [extends](#) several health-related programs (originally set to expire November 30). It also holds Medicare Part B monthly premium increases at the 2020 amount (plus 25 percent of the difference between the 2020 amount and the preliminary monthly actuarial rate for 2021) and makes [adjustments](#) to payment requirements under the Medicare Accelerated and Advance Payment Program. President Trump signed the bill after returning to Washington from a campaign trip in the wee hours of Thursday morning. Looking ahead, lawmakers will be expected to take up another funding measure upon their return to Washington for the "lame duck" session of Congress given that this latest bill only temporarily extends funding.

Protections for Pre-Existing Conditions Takes Center Stage in the Senate: On Tuesday, Senate Democratic Leader Chuck Schumer (D-NY) made use of a procedural move which essentially limited debate and forced Senate Majority Leader Mitch McConnell (R-KY) to hold a vote on a bill ([S. 4653](#)) that would prevent the Department of Justice from intervening in support of lawsuits involving the Affordable Care Act (ACA). The measure [failed](#) to pass Thursday given the chamber's Republican majority, though the move effectively forced a handful of Republicans in tight Senate races to vote on the measure ahead of the November elections. Five Republicans up for reelection this year – Sens. Joni Ernst (R-IA), Cory Gardner (R-CO), Dan Sullivan (R-AK), Martha McSally (R-AZ) and Susan Collins (R-ME) – voted to proceed on Schumer's bill.

Prior to the vote on Schumer's bill, Leader McConnell attempted to advance a separate GOP-backed pre-existing conditions [measure](#) on Wednesday, though that proposal failed to move forward after a handful of Republicans (Cruz (TX), Lee (UT), Paul (KY)) joined Democrats – who argued that the Tillis proposal did not go far enough – in opposing the measure. In response to this opposition, Tillis countered that the bill was never intended to serve as a replacement to the ACA, but instead, "demonstrates the commitment of Republicans to protect Americans with pre-existing conditions, regardless of the future of Obamacare."

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Trump and Biden Square Off in First Presidential Debate of 2020 Election: President Trump and Democratic Presidential hopeful Joe Biden squared off in the first 2020 debate Tuesday evening. Both candidates sparred over a range of topics throughout the 90-minute event, including health care. At one point, Biden expressed concern that conservative Judge Amy Coney Barrett's nomination (and likely eventual confirmation) to the Supreme Court would shift the balance of power and – as a result – raise fresh threats to health care access given that the high court is slated to hear a [case](#) in November against the Affordable Care Act (ACA) brought by several states represented by Republican Governors and Attorneys General, and joined by the Trump Administration. Biden also suggested that the Republican majority in the Senate should hold off on confirming Barrett until after the 2020 elections to “let the people decide” who they want to replace the late Justice Ruth Bader Ginsburg. In response, Trump pointed to the fact that he was elected in 2016 to serve for four years, and as a result, was within his boundaries as President to appoint a replacement to the court. When asked about his long-promised but not-yet-delivered ACA replacement plan, Trump called the ACA a “disaster” and briefly said his Administration wants to replace the law with “something that's cheaper and better,” though he did not offer any additional details beyond that. The next debates are scheduled for October 15 and October 22; the vice presidential debate is scheduled for October 7.

President Trump Nominates Amy Coney Barrett to Serve As Next Supreme Court Justice, Senate Confirmation Hearing to Begin October 12: On Saturday September 26, President Trump officially [nominated](#) conservative Judge Amy Coney Barrett of the 7th Circuit Court of Appeals to be the next US Supreme Court Justice, succeeding Ruth Bader Ginsburg after her passing earlier this month. If confirmed to the lifetime appointment – as expected, given the Republican majority in the U.S. Senate – Barrett's confirmation clearly would shift the balance of power on the Court and – beginning with the current session – raise fresh threats to abortion rights and health care access (seven days after the November 3, 2020 elections, the Court is slated to hear oral arguments in a challenge to the constitutionality of the ACA, and more than one dozen cases challenging state abortion restrictions in federal appellate courts could reach the Supreme Court in the coming years).

Shortly after President Trump's announcement, Senate Judiciary Committee Chairman Lindsey Graham (R-SC) [outlined](#) a formal timeline for consideration of Judge Barrett's nomination. The confirmation hearing will last three to four days, beginning on October 12. Opening statements by Judiciary Committee members and the nominee will occur on Monday, October 12. The questioning of Judge Barrett will begin on Tuesday, October 13. Testimony by those who know Judge Barrett best and legal experts is expected to follow.

Looking ahead, Senate Republicans – who hold a 53-47 majority in the Senate – are almost certain to confirm Judge Barrett to the Supreme Court before the November 3 elections. During the first year of the Trump Administration, Senate Republicans changed the filibuster rules to allow Supreme Court nominees to be confirmed by a majority of the Senate, rather than requiring 60 votes. So far, only two Republican Senators have indicated they would not vote to confirm Judge Barrett prior to the elections (Sens. Collins (R-ME) and Murkowski (R-AK) and it is unlikely there will be any more defections. At this point, there is little the Democratic Senate minority can do to stop the confirmation process. It's possible that a handful of Democratic Senators will attempt to use procedural moves in an attempt to at least slow down the confirmation process, though a more likely scenario is that lawmakers will stick to airing their grievances during the hearings rather than refrain from participating in the process.

House Approves Several Bipartisan Health Bills Under Suspension This Week: The House approved a number of health-related bills (under suspension) earlier this week, including one ([H.R. 4439](#)) that extends the FDA's priority review vouchers for rare pediatric disease treatments for four more years, a Medicaid maternity coverage bill ([H.R. 4996](#)), and a number of other measures seeking to address mental health / substance abuse / suicide. Click [here](#) to view the full list of bills.

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House Oversight Committee Releases Reports Following Yearlong Investigation into Rx Drug Pricing Practices, Conducts Two-Part Hearing with Pharma Execs: House Oversight and Investigations Committee Chairwoman Carolyn Maloney (D-NY) [released](#) several Democratic staff-led reports ([here](#) and [here](#)) detailing the findings in the Committee's yearlong investigation into the prices of prescription drugs this week. The release of the reports coincided with two days of hearings featuring six drug company CEOs. During the first hearing (which took place Wednesday, September 30), representatives from Teva and Bristol Myers Squibb testified, as did the former Celgene CEO. When asked about whether companies were raising drug prices to maximize profits, witnesses alternatively suggested that the price increases were necessary to cover the cost of research and development, though many Committee members pointed to findings in the report suggesting that the CEO of at least one company – Celgene – ordered an emergency price increase so Celgene could meet its quarterly revenue targets. A full summary of Day 1 can be found [here](#). A full summary of Day 2 can be found [here](#).

Senate Democrats Introduce Proposal to Set Up New Public Health Infrastructure Program: A group of Senate Democrats – led by Senate HELP Committee Ranking Member Patty Murray (D-WA) – [introduced](#) legislation this week that would establish a new public health infrastructure program aimed at strengthening the country's public health system – including the nation's ability to respond to the COVID-19 pandemic. The \$4.5 billion funding the bill provides for the program would increase incrementally over a period of five years and then remain at that level beginning in year six. The funding would be distributed through grants to state, territorial, local, and Tribal health departments and increased investments at the Centers for Disease Control and Prevention (CDC). The text of the Public Health Infrastructure Saves Lives Act can be found [here](#); a summary of the bill can be found [here](#).

HHS Announces \$20 Billion in New Phase 3 Provider Relief Funding: Earlier this week, HHS [announced](#) it will be distributing \$20 billion in new funding to health care providers. According to the Department, providers that have already received Provider Relief Fund payments will be invited to apply for additional funding that considers financial losses and changes in operating expenses caused by the coronavirus. Previously ineligible providers, such as those who began practicing in 2020 will also be invited to apply, and an expanded group of behavioral health providers confronting the emergence of increased mental health and substance use issues exacerbated by the pandemic will also be eligible for relief payments. Providers can begin applying for funds on Monday, October 5, 2020.

UPCOMING COVID / HEALTH-RELATED CONGRESSIONAL HEARINGS

TBA

ADMINISTRATION ANNOUNCEMENTS

Department of Health and Human Services

- [HHS Teams Up with The Rockefeller Foundation to Share Best Practices for Increased COVID-19 Testing](#)
- [Remdesivir Now Available Directly from Distributor Following Administration's Successful Allocations to States and U.S. Territories](#)
- [Trump Administration Announces \\$20 Billion in New Phase 3 Provider Relief Funding](#)
- [HHS Announces Funding for Health Information Exchanges to Support Public Health Agencies – STAR HIE Program Funds Five Organizations to Improve Interoperability of Health Data](#)
- [HHS Selects Third Pilot Site to Demonstrate Better Approach to Disaster Medical Care](#)
- [HHS' AHRQ Establishes National Nursing Home COVID Action Network](#)
- [SAMHSA Remains Committed to the Nation's Mental Health](#)
- [Trump Administration Deploys Abbott BinaxNOW Tests to States](#)

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- [Promising Practices for Promoting Flu Vaccinations for Dually Eligible Beneficiaries During COVID-19](#)

Centers for Medicare & Medicaid Services

- [2021 Medicare Advantage and Part D Plan Information Now Available on Medicare.gov Ahead of Medicare Open Enrollment](#)
- [CMS Releases Medicaid and CHIP Enrollment Trends Snapshot Showing COVID-19 Impact on Enrollment](#)
- [CMS Updates COVID-19 Testing Methodology for Nursing Homes](#)
- [CMS Releases New Tools to Streamline Certification for Labs Testing for COVID-19](#)

Food and Drug Administration

- [FDA Updates SARS-CoV-2 Reference Panel Comparative Data](#)
- [USDA and FDA Sign Memorandum of Understanding to Enhance Collaboration, Efficiency on U.S. Dairy Exports](#)
- [FDA Issues Final Guidance for Certain Labeling Recommendations for Breast Implants](#)
- [Click here for the full list of all new FDA updates.](#)

Guidance Documents from the Centers for Disease Control and Prevention

- [Click here for the full list of all new CDC updates.](#)

National Institutes of Health

- [NIH to Assess and Expand COVID-19 Testing for Underserved Communities](#)
- [Investigational COVID-19 Vaccine Well-Tolerated and Generates Immune Response in Older Adults](#)
- [NIH Funds First Nationwide Network to Study Rare Forms of Diabetes](#)
- [About 14% of Cerebral Palsy Cases May Be Tied to Brain Wiring Genes](#)
- [NIH-Funded Study Sheds Light on Abnormal Neural Function in Rare Genetic Disorder](#)

QUICK LINKS

- [Additional Mehlman Castagnetti Resources on COVID-19](#)
- [Johns Hopkins University Map of Global Cases of Coronavirus](#)
- [CDC Map of Coronavirus Cases in the US](#)
- [CMS COVID-19 Stakeholder Call Recording/Transcripts](#)
- [Kaiser Family Foundation: State Data and Policy Actions to Address Coronavirus](#)

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