

## HOUSE WAYS & MEANS QUESTIONS SEC. BECERRA ON FY 2024 HHS BUDGET REQUEST

### EXECUTIVE SUMMARY

On March 28, the House Ways and Means Committee held a [hearing \(video feed\)](#) to discuss the Department of Health and Human Services' (HHS) [budget request](#) to Congress for fiscal year (FY) 2024. Committee members on both sides of the aisle aired grievances with some of the Centers for Medicare and Medicaid Services' (CMS) rulemakings, especially the implementation of the No Surprises Act (NSA) related to the independent dispute resolution (IDR) process. Members also found common ground stemming from concerns that the Physician Fee Schedule (PFS) is leading to physician underpayment. However, Democrats and Republicans differed in their opinions of recent proposed changes to Medicare Advantage (MA) risk score calculations, with Republicans arguing that the changes would harm access to care, while Democrats argued that the proposed changes do not go far enough to reign in plans.

The panel also engaged in a robust discussion on long-term care (LTC), skilled nursing facilities (SNF), and other types of institutional and home-based care. Generally, members said that facilities are in need of more oversight to improve care quality. The discussion also turned to workforce shortages in both hospitals and care facilities, with lawmakers expressing bipartisan interest in remedying the issue, though Republicans focused more heavily on the impact of vaccine mandates on hospital staff. Questions about behavioral health, telehealth, Medicaid funding, and antimicrobial resistance were also prominent topics during the hearing.

### OPENING STATEMENTS

**Chair Jason Smith (R-MO)** ([statement](#)) characterized the HHS budget request as “harmful,” asserting that it provides subsidies for the wealthy, offers false hope for Medicare solvency, and stifles innovation. He elaborated that Medicare is facing cuts in the budget, and he said that it reduces patients’ access to health care. Chair Smith emphasized that access to care in rural areas is among his top priorities.

**Ranking Member Richard Neal (D-MA)** touted the success of the Affordable Care Act (ACA) and said that the budget request would strengthen the program. Premium tax credits, child care, behavioral health care, drug pricing, elder care, TANF, and many other policy points are critically important to Democrats’ priorities, he said. The Ranking Member stressed that Medicaid is the largest payer of long-term care (LTC) and said that he intends to discuss surprise billing regulations.

## WITNESS TESTIMONY

HHS Secretary Xavier Becerra ([testimony](#)) [explained](#) that the FY 2024 budget proposes \$144 billion dollars in discretionary funding and \$1.7 trillion dollars in mandatory funding. He stressed that HHS aims to prioritize preventative care and “wellness care.” The Secretary gave a nod to Ranking Member Neal as well, noting that LTC is often unaffordable and requires a remedy. Improving substance use disorder (SUD) and behavioral health infrastructure, as well as bolstering home- and community-based services (HCBS), and child care, were included in Secretary Becerra’s discussion.

## DISCUSSION AND QUESTIONS

### CMS Rulemaking

- Ranking Member Neal said that he and former Ranking Member Kevin Brady (R-TX) had clear intent when passing surprise billing legislation, and the Ranking Member called for HHS to [implement](#) the law as intended. The Secretary said that there is still a “great deal of work” needed to operationalize the regulations.
- **Rep. Brad Wenstrup (R-OH)** said that HHS’s implementation of the NSA unfavorably tips the scale in favor of insurers, asserting that the Secretary directly violated the law, which led to a backlog of claims. The Secretary replied that the number of disputes was grossly underestimated.
- Regarding CMS’s hospital price transparency [rule](#), Chair Smith was concerned about compliance issues and submitting actionable data. Secretary Becerra said that roughly 30 percent of providers are still not compliant, and he said that HHS is helping providers come into compliance without hurting smaller providers.
- **Rep. Adrian Smith (R-NE)** characterized the three new CMS Innovation Center (CMMI) models [announced](#) recently as “ineffective and counterproductive.” Secretary Becerra said that CMMI intends to test these models on a small scale to mitigate risk then expand the model if it is successful.
- **Rep. Suzan DelBene (D-WA)** was pleased with HHS’s efforts to reduce prior authorization administrative burdens, and she encouraged CMS’s [proposed rule](#) to include shorter timeframes.
- **Rep. Carol Miller (R-VW)** praised HHS’s new graduate medical education (GME) [slots](#), though she was frustrated that it did not prioritize rural areas despite such intentions. The Secretary concurred, noting that part of the issue is a lack of training facilities in rural areas.
- **Rep. Blake Moore (R-UT)** and Secretary Becerra agreed that improving CMS quality measures and evaluating their efficacy will help reduce unnecessary costs in Medicare.
- The Agency for Healthcare Research and Quality’s (AHRQ) all-payer claims databases were a topic of interest for **Rep. Don Beyer (D-VA)**, and he supported a national level database. The Secretary said that comparing this data would expose best practices and mistakes to avoid repeating.
- **Rep. Mike Carey (R-OH)** supported a waiver that allows emergency medical services (EMS) personnel to receive reimbursement if they do not take a patient to the hospital. However, he

expressed concerns about SUD and fentanyl in the U.S., which the Secretary said that HHS is working hard to combat.

#### Physician Pay

- Chair Smith was concerned that the budget does not address impending pay-as-you-go (PAYGO) cuts, to which the Secretary replied that seniors' benefits will be protected under the FY 2024 budget request.
- **Rep. Danny Davis (D-IL)** discussed access to care concerns stemming from physician shortages, which he attributed to lower Medicare provider payment rates. He called for a Medicare payment increase for 2024 along with inflation-based payment increases. Secretary Becerra assured him that HHS's FY 2024 budget proposal would increase physician pay.
- **Rep. Ron Estes (R-KS)** characterized physician reimbursement as unstable, to which the Secretary agreed that the department will examine impacts on rural areas before proposing rates in the PFS.
- **Rep. Jimmy Panetta (D-CA)** expressed concerns that the PFS is inadequate to address payment concerns for physicians and geographic adjustments. The Secretary said that Congress could waive certain neutrality requirements.

#### Medicare Advantage

- In response to Chair Smith's concerns, the Secretary assured him that MA policy changes would improve the program and correct overpayments — not strip benefits from patients. Chair Smith maintained that MA plans would either cut benefits or raise premiums as a result of CMS's policy proposals, and he referenced a recent [letter](#) from House GOP lawmakers to HHS and CMS leadership.
- **Reps. Vern Buchanan (R-FL)** reiterated Chair Smith's concerns surrounding MA, and Secretary Becerra explained that MA reimbursement will increase under CMS proposals.
- **Rep. Lloyd Doggett (D-TX)** called for HHS to go beyond MA risk adjustment changes and scrutinize other overpayments in the program.
- **Rep. Randy Feenstra (R-IA)** echoed his GOP colleagues' concerns around changes in MA risk adjustments and negative impacts on beneficiaries.

#### At-Home Care & Elder Care

- Rep. Smith referenced that many waivers that will immediately sunset when the COVID-19 public health emergency (PHE) ends on May 11, including those addressing critical access hospitals, SNF admittance, and LTC facilities. Secretary Becerra agreed to work with Rep. Smith on congressional efforts to make these policies permanent.
- Rep. Blumenauer expressed concerns that for-profit hospice, to which Secretary Becerra said that oversight in this industry is critical, and he called for additional funding to handle this issue.
- Rep. Pascrell expressed disappointment in the SNF industry and called for more transparency over privately-owned SNFs. He claimed that private equity underpays its workforce, expressing that "you get what you pay for." Secretary Becerra said that minimum staffing

levels are part of HHS's approach to addressing these concerns, and he foreshadowed an impending CMS rule to implement new requirements in this area.

- **Rep. Beth Van Duyne (R-TX)** reiterated her colleagues' concerns about safety in the hospice business. She characterized her concerns as bipartisan and called for action. The Secretary said that CMS is acting "aggressively" to go after fraud and abuse, which he said that the budget request would support.
- **Rep. Michelle Steel (R-CA)** reiterated many of her colleagues' concerns around hospice care and Medicare certifications.
- **Rep. Linda Sanchez (D-CA)** stressed the importance of HCBS, noting that unpaid caregiving for families is a "growing issue" in the U.S. The Secretary said that HHS is boosting HCBS funding and acknowledged that these issues will be exacerbated by growing populations of those in need of this care. He added that HHS hopes to empower states to perform their own oversight.

#### Drug Development, Approval & Coverage

- Rep. Buchanan was concerned that CMS will not cover a new Alzheimer's drug, though the Department of Veterans' Affairs (VA) will cover the medication. Secretary Becerra did not commit to reassessing the coverage, despite Rep. Buchanan's request, though he agreed that the issue is important.
- **Rep. Darin LaHood (R-IL)** inquired about the application of the coverages with evidence development (CED) process as it related to Alzheimer's medications and access to clinical trials — referencing a February 2023 [letter](#) he sent regarding the issue — and the Secretary said that HHS is working on the issue and encouraged working with lawmakers to improve clinical trial hurdles.
- **Rep. Brian Fitzpatrick (R-PA)** said that CMS's decision not to cover aducanumab would be determinantal to patients, to which the Secretary agreed to work on the issue.
- In response to **Rep. David Schweikert's (R-AZ)** concerns about health care innovation to reduce costs, the Secretary reiterated his aim to address preventative care. They specifically discussed the pre-diabetes population, and Rep. Schweikert said that HHS needs an "all-in" approach to addressing these types of conditions that drive costs.
- **Rep. Drew Ferguson (R-GA)** referenced antimicrobial resistance, which he characterized as a "system failure." The Secretary said that Congress must act to create a robust market for developing these products.

#### Workforce Shortages

- Rep. LaHood said that health care workforce issues are still an issue despite passage of the Technical Reset to Advance the Instruction of Nurses (TRAIN) [Act](#) in 2022. He asserted that CMS is inaccurately returning nursing school funds through recent [guidance](#). The Secretary said that he will have a call with CMS and Rep. LaHood after the hearing.
- Nursing shortages were among **Rep. Terri Sewell's (D-AL)** top concerns, elaborating that more nurses are becoming traveling nurses who can then charge more for their services. The Secretary said that HHS's budget would improve workforce pitfalls. He said that access to child care enables nurses — who are predominantly in the nursing field — to return to work.

- Reps. Miller and **Claudia Tenney (R-NY)** asserted that workforce shortages are worse in rural areas, claiming that vaccine mandates exacerbated this concern. The Secretary told Rep. Miller that it would be “irreconcilable” for health care providers not to be vaccinated for COVID-19.
- **Rep. Michelle Fischbach (R-MN)** said that required staffing ratios would force a reduction in patients served by a facility. Secretary Becerra said that the Biden administration values quality care over all else, though Rep. Fischbach pushed back that these staffing requirements lead to shutting down facilities.

#### Behavioral Health

- **Rep. Mike Thompson (D-CA)** said that he and **Rep. Mike Kelly (R-PA)** have a bill in the works to promote brain research as a means to understand the root causes of behavioral health symptoms and request technical assistance from HHS. Secretary Becerra agreed to look at this legislation.
- Rep. Chu intends to release a bill soon that would provide underserved groups with gun safety and suicide resources, noting that the Asian American and Pacific Islanders (AAPI) community has a disproportionately high rate of suicide by gun violence. The Secretary concurred with her concerns.
- Rep. Beyer was happy to see that HHS is advocating for investments in behavioral health care infrastructure.


#### Drug Pricing

- **Rep. Kevin Hern (R-OK)** said that the IRA harms rare disease drug development, noting that IRA policies would harm efforts to cure spina bifida, which affects his family.
- **Rep. Nicole Malliotakis (R-NY)** said that pharmacy benefit managers (PBM) are “crushing” local pharmacies and elaborated on consolidation in the drug pricing supply chain. The Secretary assured her that HHS is working in this space to address lawsuits and work to formulate rules to address oversight.

#### Telehealth

- Rep. Schneider spoke in favor of access to telehealth, noting that he will soon introduce his Primary and Virtual Care Affordability Act which would extend health savings account (HSA) high deductible health plans (HDHP) to waive telehealth deductibles. He also announced his cosponsorship of the Telehealth Expansion Act, which would make current telehealth flexibilities permanent.
- Rep. Thompson said that, as the two-year telehealth extension continues, many of these flexibilities should be made permanent for Medicare beneficiaries. The Secretary said that interstate licensing is among these concerns and agreed that expanding many of these policies is “absolutely” needed.

### Other Topics of Discussion

- Chair Smith asserted that the budget would increase taxes on small businesses and fail to reduce the deficit. Secretary Becerra stressed that Medicare solvency and improving Medicare benefits can benefit the goal of deficit reduction, both of which can be accomplished by this budget.
- **Rep. Earl Blumenauer (D-OR)** thanked HHS 1115 waiver creativity to address social determinants of health (SDOH). He also called on HHS to legalize cannabis on a national level.
- Work requirements for the Temporary Assistance for Needy Families (TANF) program were raised by **Rep. Lloyd Smucker (R-PA)**, though he and the Secretary differed on their points of view on the policy.
- In response to a question from Rep. Hern about individual coverage health reimbursement arrangements (ICHRA), Secretary Becerra said he would work on affordable health plans that do not violate the ACA.
- Rep. DelBene supported the Kidney Innovation Accelerator, KidneyX, and she requested increased funding for the program. The Secretary concurred and welcomed more funding for the program.
- **Rep. Greg Murphy (R-NC)** noted that he has lost patients due to antimicrobial resistance, and he called on his colleagues to act on the phenomenon. He said that IRA drug pricing policies are stifling innovation in this space, though the Secretary pushed back on this assertion.
- **Rep. Judy Chu (D-CA)** praised HHS's Title X family planning grant funding request, inquiring about the interception of the PHE expiring and Title X. Secretary Becerra assured her that HHS is working to maintain health coverage for Medicaid beneficiaries during the unwinding process.
- In response to **Rep. Gwen Moore (D-WI)**, the Secretary explained that HHS will improve access to Medicare and Medicaid by covering services at the community-level.
- **Reps. David Kustoff (R-TN)** and **Dan Kildee (D-MI)** inquired about HHS's recent press on migrant child labor violations. While Rep. Kustoff expressed frustration with the Department, Rep. Kildee was glad that HHS is looking into the issue and aiming to increase funding to address the issue.
- Rep. Panetta said that he will introduce the Combatting Illicit Xylazine Act  today to address concerns about the drug.