



ADVI

TxSCO Update

Dec. 8, 2022



Overview: Notable Updates

Federal

- Prior Auth Proposed Rule
- Lame Duck Expectations
 - Provider Cuts
- HHS' Policy Agenda for 2023
- Notable Reports
 - ASCO report on Prior Auth
 - Hospital Acquisitions Outside of Commuting Zones on the Rise

State

- Leadership Update
 - House Speaker
 - End of tradition?
 - Lt. Gov. Priorities
- 2023 New Members
- Bill Prefiling

Federal Update

Prior Authorization Proposed Rule

Dec. 6, 2022: CMS Proposed Rule, [Advancing Interoperability and Improving Prior Authorization Processes for Medicare Advantage Organizations, Medicaid Managed Care Plans, State Medicaid Agencies, etc.](#)

CMS proposes rule to speed prior authorization process

BY BEN LEONARD | 12/06/2022 06:33 PM EST

The Centers for Medicare and Medicaid Services [proposed a rule](#) Tuesday to require Medicare Advantage plans and other public payers, such as those managing state Medicaid plans, to implement an electronic process for approving medical treatments.

If finalized, the prior authorization rule aims to reduce delays in care by requiring insurers to respond to providers' treatment requests more quickly. It also would bolster patient access to their medical data.

Why it matters: Insurers require that patients receive their approval for certain care in order to evaluate whether the care is medically necessary, with the goal of reducing costs. But delays and a lack of standards among insurers can mean patients wait too long for treatments they need, advocates for reform argue.

"The prior authorization and interoperability proposals we are announcing today would streamline the prior authorization process and promote health care data sharing to improve the care experience," [CMS Administrator Chiquita Brooks-LaSure said in a release](#).

The proposed rule would replace one from [December 2020 that CMS promulgated under the Trump administration](#). CMS said it did so due to "[stakeholder feedback](#)" and to include Medicare Advantage.

Gold Carding highlighted

- "We believe the use of gold-carding and similar prior authorization reduction programs could help alleviate provider burden... **We seek comment for consideration for future rulemaking** on how to measure whether and how such gold-carding or prior authorization exemption programs could reduce provider and payer burden, and improve services to patients. In particular, we seek comment on how CMS and other payers could ensure that such programs benefit diverse populations, including individuals in rural areas, individuals with disabilities, individuals with chronic illnesses, small and minority providers, and providers who disproportionately serve minority and underserved communities.

Lame Duck: Clock Ticking to Address Provider Cuts



With time running out before the Dec. 16 deadline to fund the government and Congress staring down a long to-do list ahead of the holidays, providers want to lock down congressional relief and avoid billions in cuts. | AP Photo

WITH TIME RUNNING OUT, A DEAL ON PROVIDER CUTS REMAINS ELUSIVE

— America's largest provider groups are pressuring Congress to forestall billions in looming reimbursement cuts but a deal is far from near, according to congressional members, staffers and lobbyists, POLITICO's Daniel Payne and Megan Wilson report.

Hospital and physician groups are worried about the 4 percent pay-as-you-go, or PAYGO, cuts worth \$38 billion, according to a calculation by the American Hospital Association. While there is no public estimate available of how much it would cost to fully avert the full 4.5 percent cut for one year, [three lobbyists working on the issue](#) said they've heard it would be more than \$2 billion.

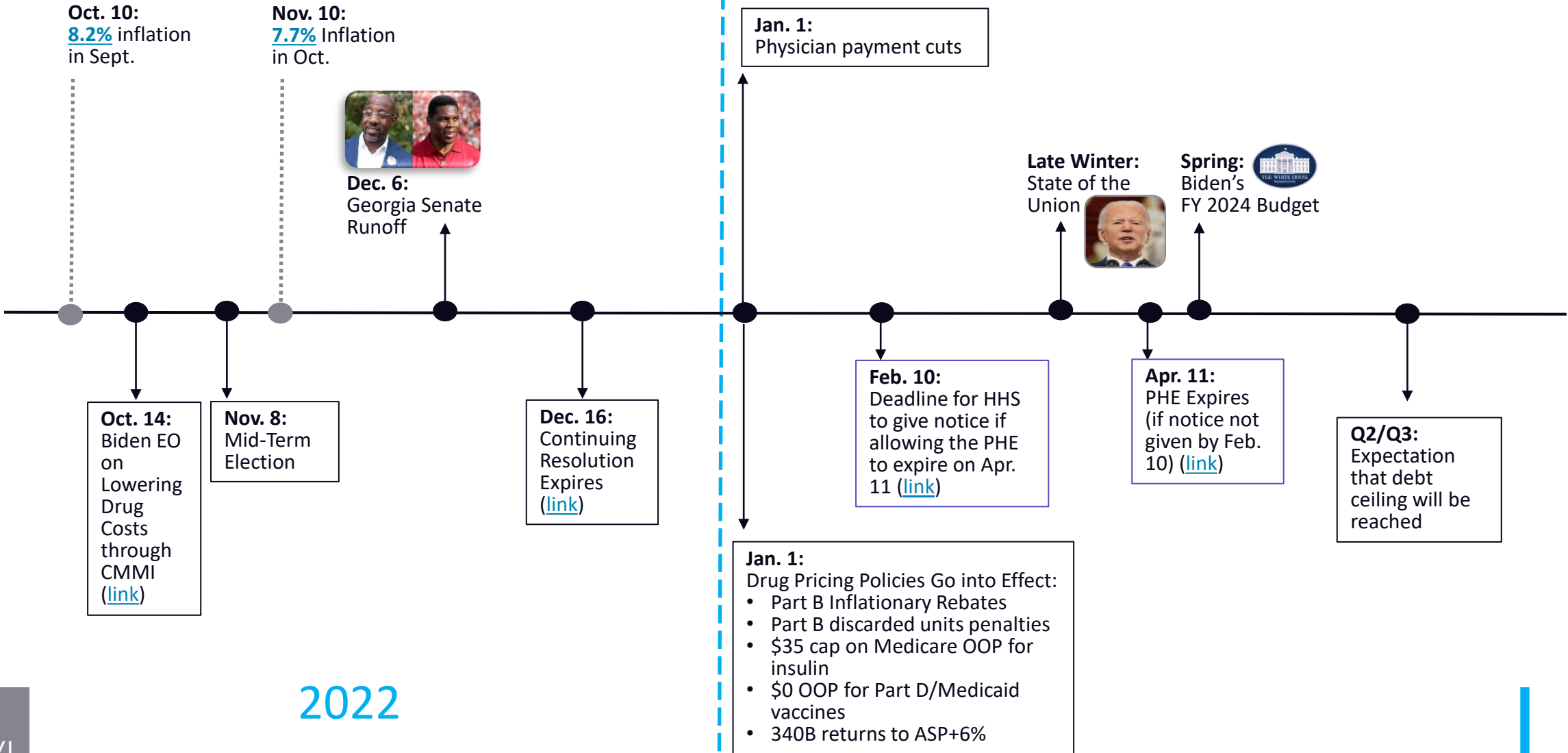
Negotiations over the physician fee cuts are still in the early stages at the committee level, congressional aides and lobbyists said.

“Historically, everybody has just waited until the end of the year,” said Senate Finance Chair [Ron Wyden](#) (D-Ore.), who declined to offer details on the status of the talks. “We’re trying to do better than that, and we’ll have some more to say soon.”

Sen. [Bill Cassidy](#) (R-La.), poised to be ranking member on the Senate HELP Committee in the next Congress, also would not discuss details, only saying providers have made clear that both physician fee schedule and PAYGO cuts are priorities for the end of the year.

Political Timeline

2023



118th Congressional Leadership Roles Solidifying



Sen. Chuck Schumer (NY)

- Retains Senate Majority Leader position



Sen. Mitch McConnell (KY)

- Retains Senate Minority/Republican Leader position, beating Trump-backed Sen. Rick Scott (FL)



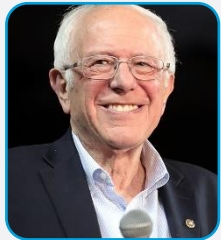
House Democrat/Minority Leader

- Pelosi announced she will not run
- Rep. Hakeem Jeffries elected



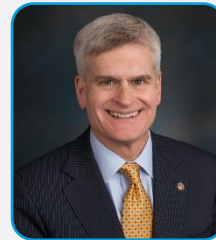
Rep. Kevin McCarthy (CA)

- Elected House Republican leader but 31 votes against portend fractured caucus/challenge for Speaker election



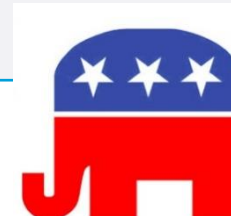
Sen. Bernie Sanders (VT)

- Expected to take over HELP Chairmanship from Sen. Patty Murray



Sen. Bill Cassidy (LA)

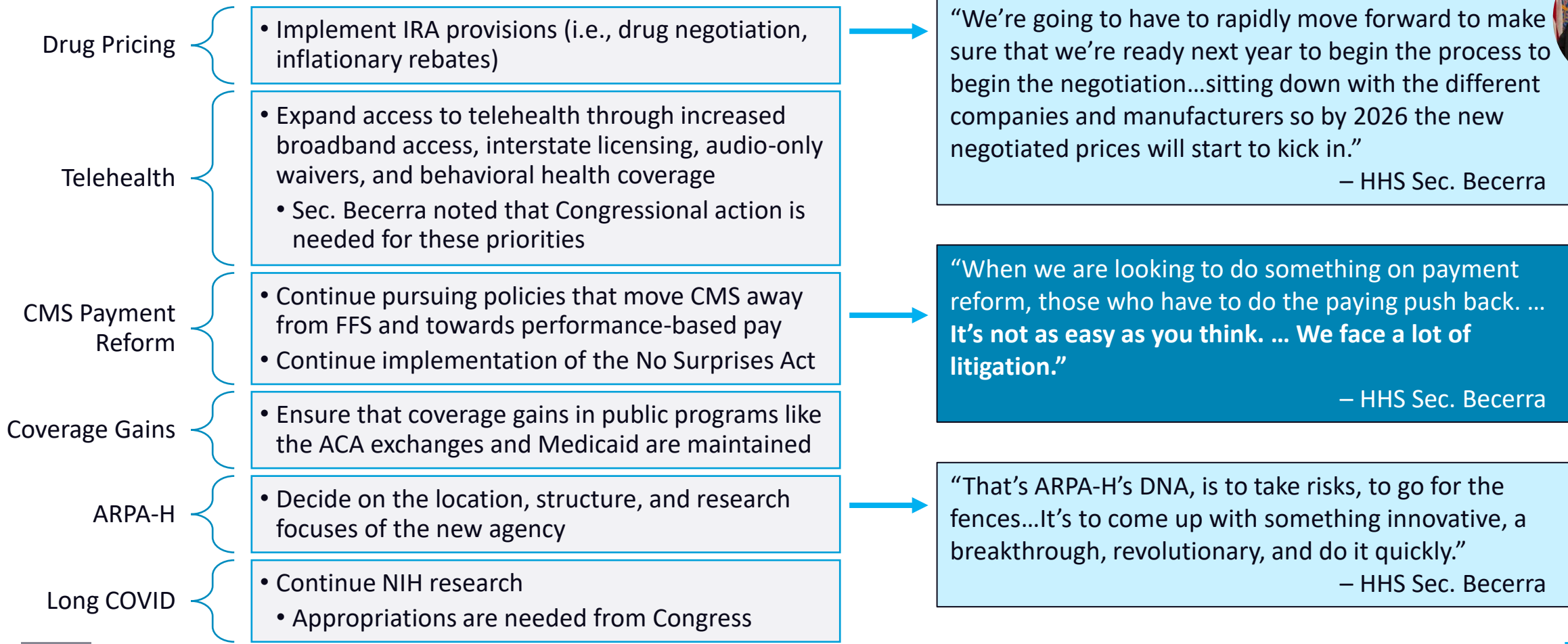
- Expected to be HELP Committee Ranking Member with Sen. Richard Burr retirement





HHS' Policy Agenda Addressed

Nov. 15, 2022: With a Republican majority in the House in 2023, Secretary Becerra stated that HHS will focus on implementing legislation enacted in the past 2 years, including the following priorities.





Executive Order Requests CMMI Demo(s) on Drugs: Will Know More by Jan. 14th



What types of demos might be under consideration?



- Rumors that CMMI is focused on CAR-T specifically
- Politically, this might make sense: CAR-Ts have high prices and are unlikely to be targeted by the IRA (since primarily inpatient utilization)
- CMS attempted a CAR-T demo in Medicaid in 2017

- CMMI tried to tackle Part B drugs in 3 of the 5 drug demos; may revisit
- MedPAC currently studying Part B reform

- Only successful drug demo to date
- CMMI’s Strategy Refresh noted the agency is considering expansion beyond insulin

- Launch prices are viewed as unfinished business from the IRA

- Topic of high scrutiny
 - FDA
 - CMS
 - Congress
 - MACPAC
 - ICER
- Drs. Zeke Emanuel and Richard Frank proposed the “Pay for Drugs that Work” CMMI model
- Lower payment for AA drugs ([link](#))

Signals:

- Health Equity is a priority
- Models (perhaps even EOM) could be mandatory
- OCM/EOM total cost of care could be expanded broader than oncology
- Site-neutrality noted by CMMI in Strategic Refresh (Oct. 2021) to address patient affordability and reduce spending
- Becerra and Fowler noting lawsuits are a hinderance to shifting to PBP
- Protected Classes may be off-the-table

Recap of Past Demos: CMMI & Prescription Drugs

March 2016:

- [Part B Demo Proposed Rule](#)
- Mandatory participation
- Two-phase Part B drug demo:
 1. Reimburse at ASP plus 2.5% and a flat fee of \$16.80 per prescription
 2. Test the application of value-based purchasing tools, potentially including reference-based pricing, indications-based pricing, and risk-sharing agreements
- Oct. 2017: formally [withdrawn](#)

Oct. 2018

- [Part B International Pricing Index \(IPI\) ANPRM](#)
- Mandatory participation
- IPI targeted Part B drugs, would have based reimbursement on 126% of international prices and eliminated buy-and-bill, instead moving to vendor purchasing
- Proposed Rule was never released

March 2019

- [Part D Payment Modernization Model](#)
- Voluntary participation
- Part D and MAPD plans take on two-sided risk for the CMS federal reinsurance subsidy
- Jan. 2021: Trump-led CMS updated the model to eliminate the Protected Class coverage guarantee for 5 of the 6 classes (antiretrovirals would remain protected) starting 2022
- March 2021: Biden-led CMS [reversed](#) that policy change
- CMS allowed the model to expire year-end 2021

March 2020

- [Part D Senior Savings Model](#)
- Voluntary participation
- Insulin manufacturers pay increased Part D Coverage Gap discounts (70% is calculated before the application of supplemental benefits) in exchange for Part D and MAPD plans providing \$35 max copays
- Status: Ongoing

The only notable prescription drug model to be implemented

Nov. 2020

- [Part B Most Favored Nation \(MFN\) Interim Final Rule](#)
- Mandatory participation
- MFN targeted Part B drugs and would have based reimbursement on the lowest per capita GDP-adjusted price of any non-U.S. member country of the OECD.
- This means that instead of ASP + 6% reimbursement, targeted drugs would have been reimbursed at an average rate of ASP – 65%
- CMS projected 19% of beneficiaries would have been forced to forgo treatment because unable to find a willing provider
- Dec. 2020: Court [blocked MFN](#) implementation for improper use of the interim final rule process

3 out of 5 past CMMI drug-related demos focused on
physician-reimbursement for Part B drugs

Notable Reports

ASCO: Oncology Providers Report Prior Authorization Causes Patient Harms

Nov. 22, 2022. An [ASCO survey](#) found that prior authorization causes delayed care and other patient harms. ASCO has updated its position statement on Prior Authorization ([link](#)) to incorporate the survey findings.

Patient Harms

- 80% reported significant impact on patient health (e.g., disease progression)
- 36% reported loss of life
- 96% reported delays in treatment
- 94% reported delays in diagnostic imaging
- 93% reported patients being forced onto a second-choice therapy
- 87% reported patients being denied therapy
- 88% reported increased patient out-of-pocket costs

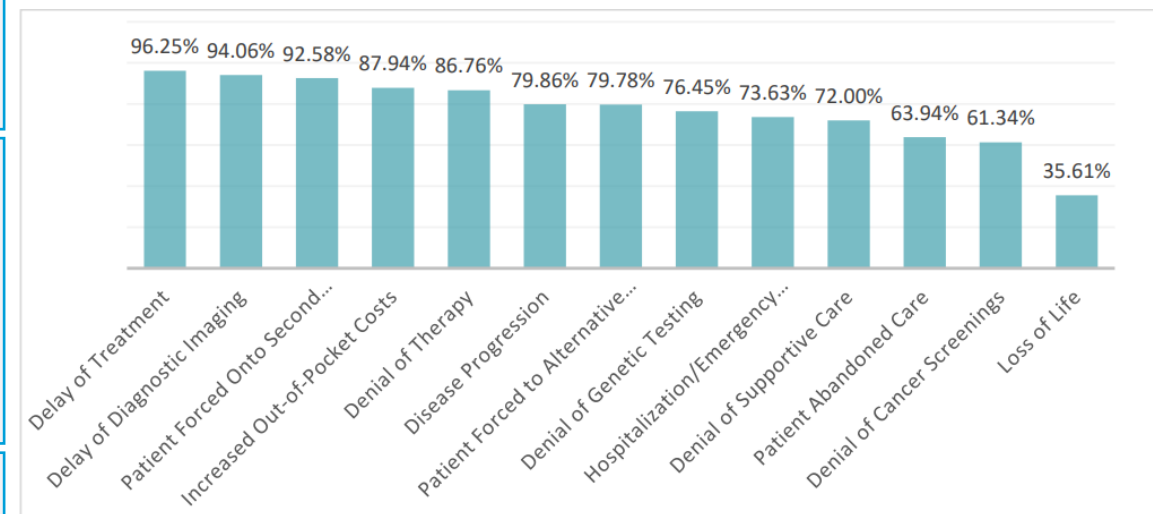
Practice Hurdles

- 97% report onerous documentation needed to demonstrate necessity
- 97% report response delays from insurance companies
- 96% report unsuccessful appeals
- 94% report obstructive appeal processes
- 91% report a lack of clinical expertise by prior authorization reviewers
- 91% report a lack of clinical validity of prior authorization programs
- 91% report a lack of transparency in the process

Notable Findings

- Payers take five business days to respond to a prior authorization request
- Prior authorization requests are escalated beyond the initiating staff member 34% of the time
- Prior authorizations are perceived as leading to a serious adverse event for a patient with cancer 14% of the time
- Prior authorizations are “significantly” delayed (by more than one business day) 42% of the time

Patient Harms



Survey administered June 27-July 30, 2022 with 300 respondents (distributed to 7,276 US ASCO members). Most respondents reported completing up to 50 prior authorizations per week (n = 160, 56%) and spending up to 40 hours per week on them (n = 151, 53%). Billing Staff led on the role most frequently initiating prior authorization (n = 92, 31%); over half of respondents reported having up to two staff in their practice working exclusively on prior authorizations (n = 152, 52%).

ASCO Publishes In-Office Dispensing Trends (2010-2019)

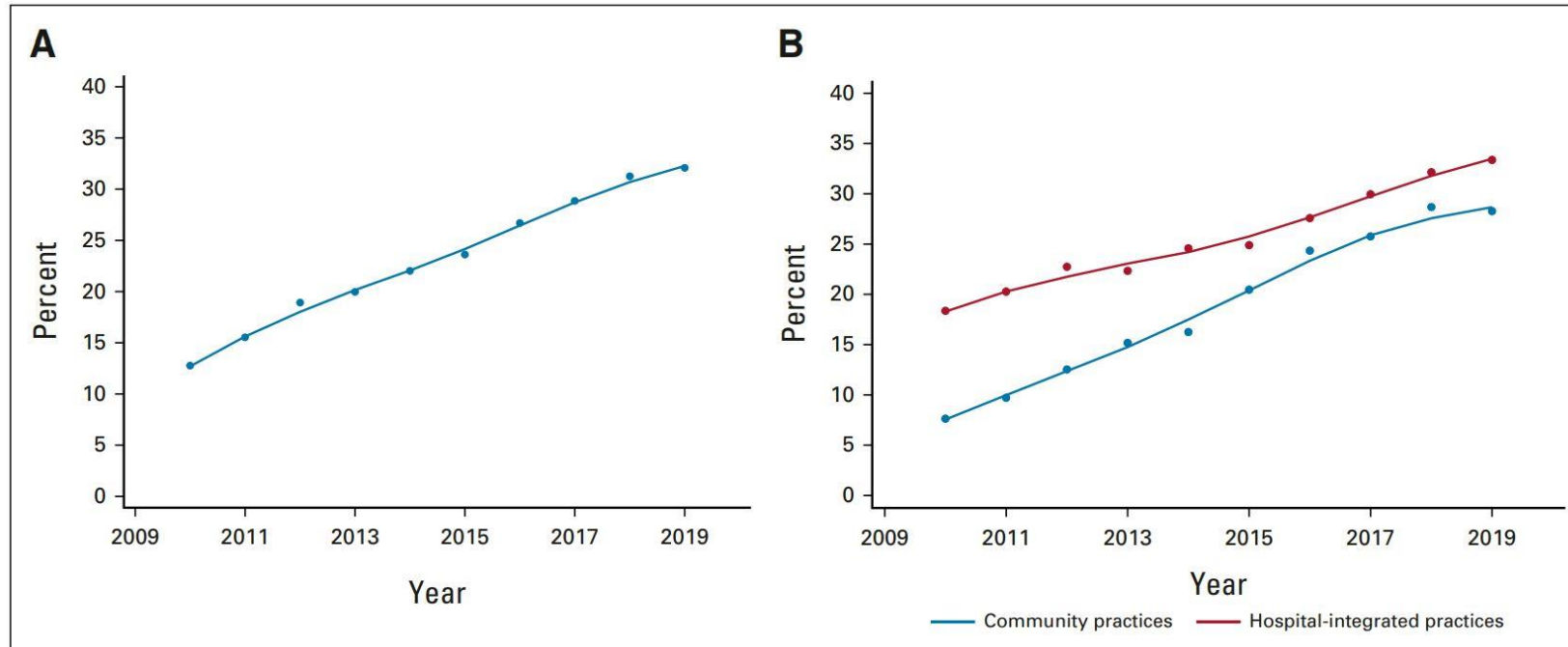


FIG 1. National trends in (A) share of oncologists with medically integrated dispensing, and (B) share of oncologists in community practices and in hospital-integrated practices with medically integrated dispensing. NOTE: Lines are the lowest smoothed curves of annual shares (bandwidth = 0.8).

Trends (from 2010-2019)

- Overall, share of oncologists in practices with medically integrated dispensing increased 12.8% to 32.1%
- Community oncologists
 - Increased 7.6% to 28.3%
- Hospital-based oncologists in dispensing practices
 - Increased from 18.3% to 33.4%

Hospital Consolidation: Acquisitions Outside of Commuting Zones on the Rise

Nov. 7, 2022: Health Affairs, [“The Rise of Cross-Market Hospital Systems and Their Market Power in The US”](#)

Authors: Brent D. Fulton, Daniel R. Arnold, Jaime S. King, Alexandra D. Montague, Thomas L. Greaney, and Richard M. Scheffler

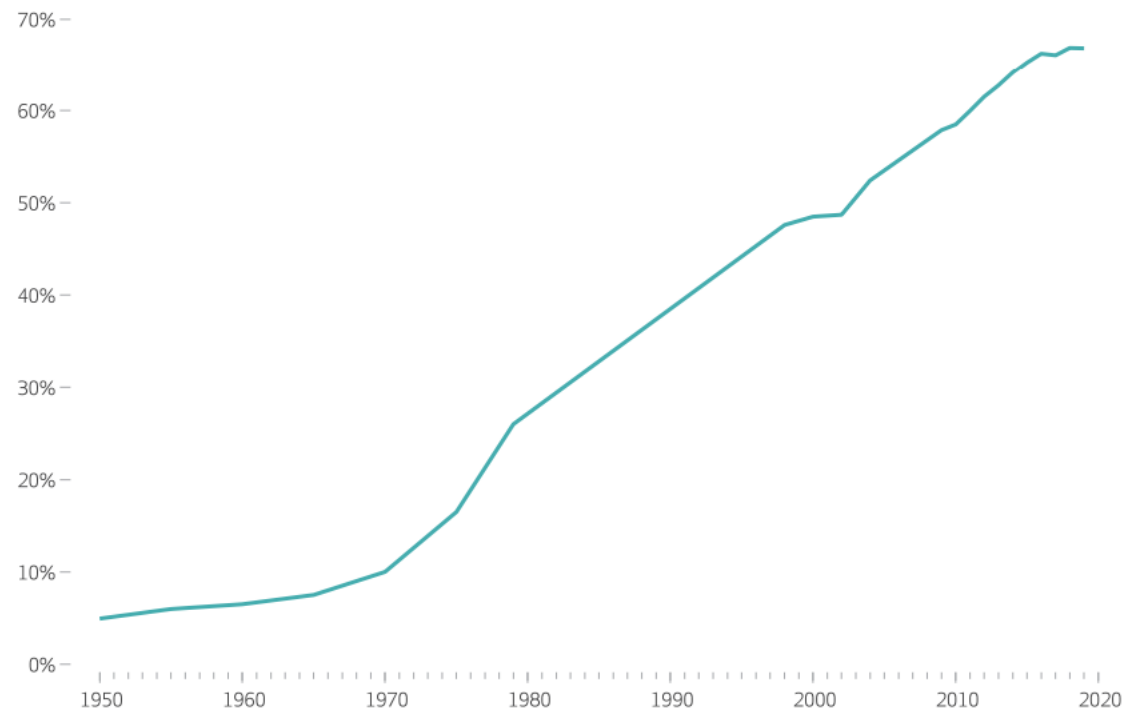
Hospital Consolidation Across Markets

- Health Affairs study found that more health systems are targeting to acquire hospitals outside of their existing geographic regions.
- **55% of the 1,500 hospitals targeted for a merger or acquisition between 2010 and 2019 were located in a different commuting zone than the acquirer.**
- During that same period, the number of health systems located in urban commuting zones that “potentially” could wield increased cross-market negotiating power grew by 54%.
- The researchers claim the finding “warrants concern and scrutiny” due to possible anti-competitive power during payer negotiations.

EXHIBIT 1

Share of US hospitals in hospital systems, 1950-2019

Hospitals in hospital systems



HealthAffairs

State Update

88th Legislature – Leadership Updates

- Last week, the Texas House Republican Caucus overwhelmingly voted to support current Speaker Dade Phelan for another term; Speaker Phelan had an easy time fending off a challenge from Freedom Caucus member, Tony Tinderholt.
- The House Committee on Administration met earlier this week to consider proposals for changes to the rules that govern the House; of note is one proposal that would end the tradition of minority party members from serving as committee chairs.
- Last week, Lt. Governor Dan Patrick announced his legislative priorities for this session, from the perspective of the large amount of budget surplus that will be available for appropriation during the 2023 legislative session.
 - Property tax relief;
 - Electric grid reliability;
 - Border security and law enforcement;
 - Education and school security (specifically mentioned the need to address nursing shortage via repayment programs);
 - Moving Texas forward, which includes investment in the state mental health system; and
 - Election integrity

2023 New Members



Phil King
SD-10



Mayes Middleton
SD-11



Tan Parker
SD-12



Pete Flores
SD-24



Morgan LaMantia
SD-27



Kevin Sparks
SD-31



Angela Orr
HD-13



Stan Gerdes
HD-17



Ellen Troxclair
HD-19



Christian Manuel
HD-22



Terri Leo-Wilson
HD-23



Janie Lopez
HD-37



Erin Gamez
HD-38



Lulu Flores
HD-51



Caroline Harris
HD-52



Richard Hayes
HD-57



Frederick Frazier
HD-61



Ben Bumgarner
HD-63



Kronda Thimesch
HD-65



Mihaela Plesa
HD-70



Carrie Isaac
HD-73



Suleman Lalani
HD-76



Carl Tepper
HD-84



Stan Kitzman
HD-85



Salman Bhojani
HD-92



Nate Schatzline
HD-93



Venton Jones
HD-100



John Bryant
HD-114



Mark Dorazio
HD-122



Josey Garcia
HD-124



Charles Cunningham
HD-127



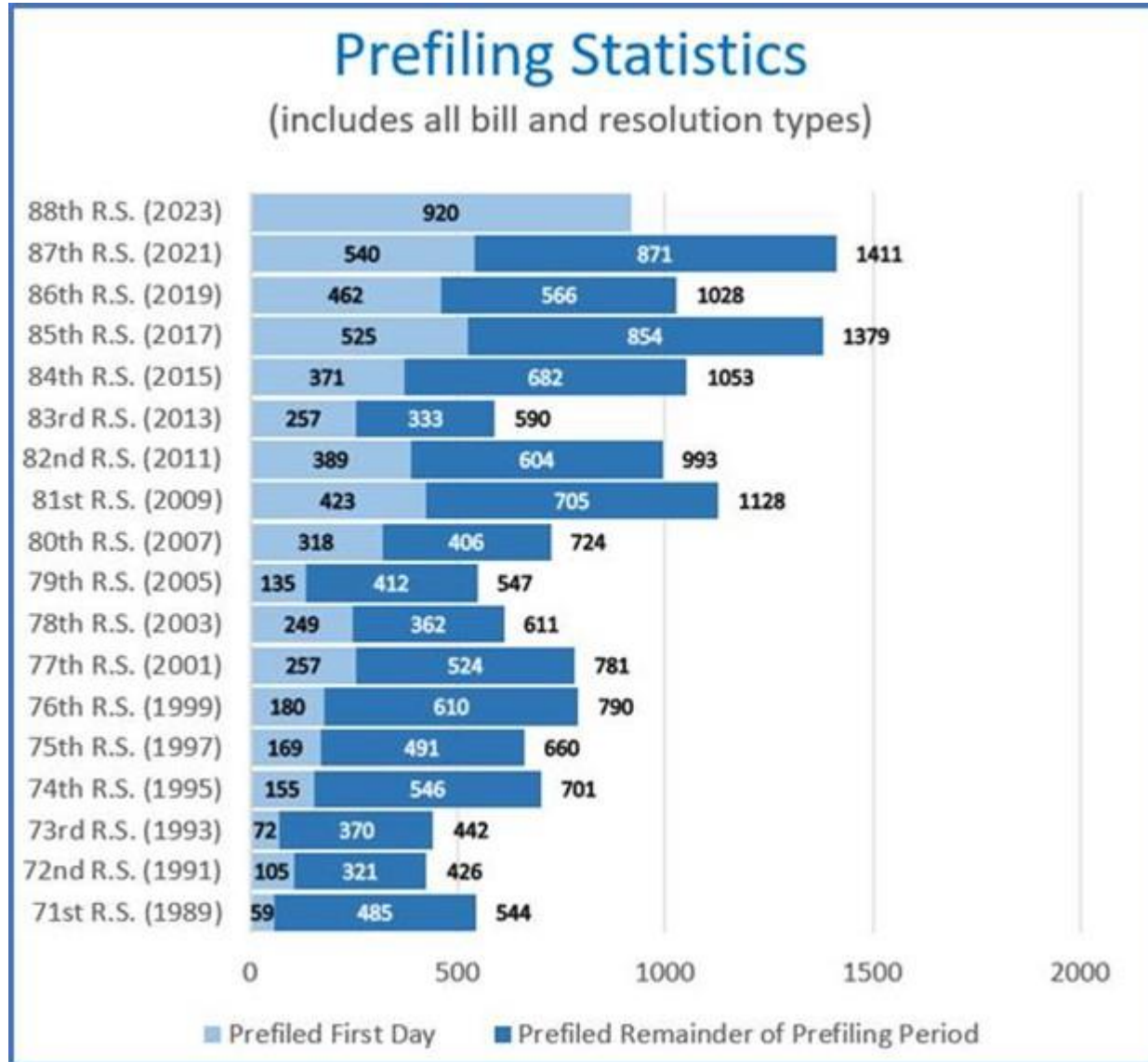
Mano DeAyala
HD-133



Jolanda Jones
HD-147

(Mostly) New Faces at the Capitol

88th Legislature – Bill Prefiling





hello@advi.com

202.509.0760

1000 F St NW
Suite 650
Washington, DC 20004

