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June 24, 2024

**Quick Take on Major Issues:**

- **Hospital operating margins show continued improvement.** Kaufman Hall's latest analysis (click [here](#)) puts April's median operating margin at 3.8%. From January to April, operating margins were up 23 percent year-over-year while operating earnings before interest, taxes, depreciation, and amortization increased 14 percent. Across the U.S., operating margins were up everywhere but the Great Plains region.
- **The New York Times takes on pharmacy benefits managers.** "The job of the P.B.M.s is to reduce drug costs. Instead, they frequently do the opposite. They steer patients toward pricier drugs, charge steep markups on what would otherwise be inexpensive medicines and extract billions of dollars in hidden fees, a New York Times investigation found." Click [here](#) for the complete story. Congress is working to reign in PBMs, but the big three - CVS' Caremark, United Health's Optum RX and Cigna's Express Scripts are spending millions of dollars to fight the legislation.
- **Three new anti-hospital reports have been released (and sent to Capitol Hill).** All the reports are FULL of inaccuracies and misstatements, but will be widely read in D.C. health policy circles. The three organizations releasing their reports receive funding from the anti-hospital billionaire group Arnold Ventures.
  - The newest, against hospital facility fees, comes from The United States of Care, a group founded by former CMS Administrator Andy Slavitt under President Obama. The report attacks hospital facility fees as a major driver for health systems purchasing physician practices. The report, "Behind the Bill" argues that "hospitals are at the center of a massive market failure," with facility fees a leading cause for the consolidation causing higher co-pays and premiums for patients. To read the report, click [here](#).
  - Hospitals are increasingly threatening to leave health coverage networks when insurers don't agree to price increases for medical care, according to a report published by Third Way, a center-left think tank (click [here](#)). The group alleges hospitals are partaking in a "hostage-taking" strategy as health systems become increasingly consolidated. Hospitals that dominate markets in some geographic regions have the power to raise prices and demand that insurers accept those prices in contract negotiations. There is nearly no mention of the fact that insurers have consolidated more than hospitals (click [here](#) for that.)
  - The Committee for a Responsible Federal Budget's report slams tax exempt status. "Research consistently shows that nonprofit hospitals are failing to meet community benefit obligations under all but the broadest (many argue, overly expansive) definitions. Investigative reports highlight instances where such

hospitals prioritize financial gains over community welfare, often neglecting those in need of financial assistance. Furthermore, evidence suggests nonprofit hospitals offer fewer community benefits compared to for-profit hospitals." Click [here](#).

- **AI and cybersecurity in health care** are getting more attention in Congress and the Administration. For a good summary of agency actions and legislative initiatives, click [here](#) for an updated Strategic Health Care report.
- **Hospital-at-Home regulatory flexibilities** from the pandemic era are likely to see favorable congressional action before the end of the year. Both the House Ways and Means Committee and the Energy and Commerce Health Subcommittee have advanced bills that would extend the program for five years, with both panels citing the need to ensure Medicare beneficiaries continue to have access to it. A five-year extension will allow for more time to gather data while allowing hospitals to get their programs off of the ground, Click [here](#) for a good status report.

### **CDC: Telemedicine Use Among U.S. Adults Declining**

The latest findings from the National Health Interview Survey highlight a notable decrease in telemedicine utilization among U.S. adults from 37.0 percent in 2021 to 30.1 percent in 2022. This decline spans various sociodemographic and geographic categories, revealing that women, individuals with higher education levels, and residents of more urban areas were more likely to use telemedicine in 2022. Conversely, older adults covered by Medicare and uninsured individuals aged 18-64 showed lower rates of telemedicine use compared to those with private or public insurance. This type of analysis could potentially impact the push for the telehealth extensions at the end of the year. Click [here](#) to read the report.

### **Judge Rules HHS Overstepped on Web Tracking Rules**

In a ruling favoring hospitals, Judge Mark T. Pittman of the federal district court in Fort Worth, Texas found that HHS exceeded its authority when it issued a guidance last year warning hospitals that tracking visitors on their websites was a violation of health privacy rules. The Judge stated that the Department went too far in a rule last year that sent health systems into a frenzy to quickly get rid of ad-targeting technology from public facing websites in an effort to comply with the HHS guidance. With the ruling, health systems can once again use Google Analytics and Facebook Ads to track visitors to their websites. Click [here](#) for the ruling itself.

### **CBO: 88% of 340B Growth Attributed to Hospitals**

According to a presentation from the Congressional Budget Office, spending in the 340B drug discount program grew 19 percent annually from 2010 to 2021, attributed mainly to hospitals and their outpatient clinics. The presentation also asserted that 73 percent of the drugs are cancer, immunosuppressive, and anti-infectives. Reviewing data from HRSA, the CBO says that 20 percent of the overall growth of the program is due to contract pharmacies. To view the presentation, click [here](#).

### **CMS Releases Nursing Homes Inspection Guidance**

CMS issued revised guidance last week on how state nursing home inspection agencies should determine facility compliance with the mandatory staffing rule that takes effect later this summer. Beginning Aug. 8, nursing homes must complete a revamped "facility assessment" to determine the staff, training, and competencies needed to properly care for residents, but the rule

gave little guidance on how to assess nursing homes. The revised guidance provides some clarity stating that while surveyors "should not evaluate the quality" of facility assessments, they will "continue to assess" whether a facility's nursing staff is sufficient. To review the guidance document, click [here](#).

### **Obamacare's Preventative Services Requirements Survive for Now**

The 5<sup>th</sup> Circuit Court of Appeals overturned a lower court's decision that would have imposed a nationwide injunction on the Affordable Care Act's requirements for health plans to cover preventative services. However, it upheld the injunction with respect to the plaintiff, Braidwood Management, that had filed suit raising religious objections to the mandate. The case has now been remanded to the lower court to address the remaining questions over the constitutionality of the formation and prior decisions of the US Preventive Services Task Force. Click [here](#) for the decision from the 5<sup>th</sup> Circuit.

### **Key Senator Proposes Bill to Improve Maternal Health Care Access**

Sen. Ron Wyden (D-OR), Chair of the Senate Finance Committee, unveiled the "Keeping Obstetrics Local Act" last week that looks to enhance accessibility to maternal health care, particularly in rural areas. The proposed legislation would address the financial struggles of maternal health providers by bolstering Medicaid funding to prevent facility closures. Key provisions include increased reimbursement for delivery services, standby payments to maintain services in underserved regions, and mandatory postpartum coverage for up to a year. Additionally, the bill proposes initiatives to strengthen the maternal health workforce and mandates improved data collection on healthcare costs. Sen. Wyden expressed optimism about garnering bipartisan support, emphasizing the need for swift engagement from fellow lawmakers and their staff. One problem the bill could face is the cost and how to pay for it. Click [here](#) for the legislation, and [here](#) to read Sen. Wyden's press release. Click [here](#) to read the Senate Finance Committee's one pager.

### **CBO: U.S. Uninsured Rate to Rise by 2034**

According to a new report from the Congressional Budget Office, the percentage of Americans without health insurance is projected to increase to 8.9 percent by 2034, up from a record low of 7.2 percent observed in 2023. The report attributes this rise to several upcoming policy changes, including the expiration of Covid-era laws that facilitated Medicaid eligibility reviews by states and the cessation of enhanced subsidies for purchasing ACA plans. Additionally, increased immigration to the United States is expected to contribute to the growing uninsured population. As of 2024, approximately 92 percent of the U.S. population is insured, leaving 7.7 percent without coverage, according to the findings. Click [here](#) to read the CBO report in *Health Affairs*.

- The early release of estimates from the 2023 National Health Interview Survey provides insights into health insurance coverage trends in the United States. In 2023, approximately 25.0 million people, or 7.6 percent of the population, were uninsured at the time of the interview, a slight decrease from 27.6 million (8.4 percent) in 2022. Click [here](#) to read the report.

### **Prior Authorization Continues to Cause Havoc on Patient Care; Most Post-Acute Denials Are Overturned**

Prior authorization is still having a huge impact on patient outcomes, physician burnout and productivity, a recent American Medical Association survey found. The survey, asked 1,000 physicians - 400 in primary care and 600 specialists - about prior authorization and its effect on patients, clinicians, and unnecessary spending. 94 percent reported prior authorizations create delays in care and 22 percent said it led to patient opting out of the care completely. The average practice stated that they complete 43 prior authorizations per physician per week and 12 hours per week was spent by physicians and staff on prior authorization paperwork. Click [here](#) for the survey results.

- Medicare Advantage plans limit use of Medicare-covered services, in part, through prior authorization requirements for post-acute care, including care provided by a skilled nursing facility, inpatient rehabilitation facility, or long-term acute care hospital. If an MA plan denies a request for post acute services, MA enrollees and their healthcare providers can challenge the denial by appealing to the MA plan. If the MA plan again denies the prior authorization request, the appeal is automatically sent to the CMS' Independent Review Entity as a Level 2 appeal. Click [here](#) for an excellent analysis from KNG Health.
- Click [here](#) for a report on how health care groups are hoping the latest bipartisan PA reform bill passes Congress this year.

### **Study: 5 Million Who Received Health Insurance Premium Subsidies Don't Meet Qualifications**

Enhanced premium subsidies, which lower or eliminate the cost of out-of-pocket premiums for people who meet income qualifications, are available through 2025 due to the American Rescue Plan Act and the Inflation Reduction Act. According to right-leaning health policy think tank Paragon Health Institute, as many as 5 million who received the assistance did not actually qualify for them, equating to an estimated \$20 billion in improper spending in 2024. The report surmises that most people underestimated their incomes however, the Administration did not do due diligence to verify. Click [here](#) to read the full report.

### **Study: AI Health Alerts Could Save Lives**

That is according to a new study conducted by New York's Mount Sinai Hospital that AI-powered alerts can warn doctors when their patients' conditions are in danger of deteriorating. Researchers divided 2,740 Mount Sinai medical-surgical unit patients into two groups, one with AI alerts sent live to health care workers and another that monitored patients' conditions without the benefit of AI. Patients in the AI intervention group were 43 percent more likely to receive a more rapid response and were less likely to die within 30 days compared with the control group. To read the study in *Critical Care Medicine*, click [here](#).

### **CMS Set to Shutdown Change Health Provider Funding on July 12<sup>th</sup>**

Following the cyber-attack on Change Health, CMS set up the Accelerated and Advance Payment Program for the Change Healthcare/Optum Payment Disruption (CHOPD) to help providers with payments while they waited for the system to begin working again. Last week, the agency announced that the payments through the program will end on July 12, 2024, that included over 4,200 Part A providers, such as hospitals, totaling more than \$2.55 billion. CMS

states that payments are now going through, and they have already recovered over 96 percent of the CHOPD payments. For more on the program and its conclusion, click [here](#).

### **Rural Hospital Closures Leave Small Towns with Challenging Real Estate Dilemmas**

The profound impact of rural hospital closures on local communities, where these facilities often serve as critical economic and social anchors, is posing a severe challenge for communities on the real estate front. With over 149 rural hospitals in the U.S. closing since 2010, towns face not only healthcare shortages but also economic downturns, as hundreds of jobs are lost and local businesses struggle to survive. The empty hospital buildings pose a dilemma for these communities, with options ranging from repurposing as healthcare facilities to being left vacant, depending on local efforts and available resources. In some cases, abandoned hospital buildings have found new life as educational centers through innovative partnerships with universities and government funding initiatives, providing a model for revitalization in struggling rural areas. Click [here](#) to read the article from *KFF Health News*.

### **Funding for Innovation in Behavioral Health Model Announced**

CMS announced the Notice of Funding Opportunity application for the Innovation in Behavioral Health (IBH) Model, aimed at enhancing care for individuals with Medicaid and Medicare who face moderate to severe behavioral health conditions last week. This state-based initiative, overseen by state Medicaid agencies (SMAs), would integrate behavioral and physical health services while aligning payment structures between Medicaid and Medicare. Up to eight SMAs will be selected to participate, receiving cooperative agreement funding to develop infrastructure and capacity necessary for implementing the IBH Model. These agencies will facilitate the integration of specialty behavioral health practices into comprehensive care settings, supported by upgrades in health information technology, electronic health records, and staffing. CMS plans to announce selected SMAs by mid-December. For more information on applying, click [here](#).

### **Study: Value-Based Care Reduces Hospital Admissions for Kidney Patients**

A recent report by Humana highlights the significant benefits of value-based care (VBC) in managing chronic kidney disease (CKD) and end-stage renal disease. According to the findings, patients enrolled in VBC arrangements experienced a notable 5 percent decrease in unnecessary hospital admissions compared to those under fee-for-service models. This shift has not only led to improved patient outcomes but also contributed to a reduction of more than 12 percent in medical expenses for Humana's Medicare Advantage members with CKD since 2019. Click [here](#) to read the Humana study.

### **Modest Improvement in Diet Quality Among U.S. Adults, Persistent Disparities Remain**

A recent repeated cross-sectional study analyzing data from the National Health and Nutrition Examination Survey between 1999 and 2020 reveals a modest improvement in diet quality among U.S. adults. The proportion of adults with poor diet quality decreased from 48.8 percent to 37.4 percent, while those with intermediate quality increased from 50.6 percent to 61.1 percent, and those with ideal quality increased from 0.66 percent to 1.58 percent. Despite these gains, persistent disparities in diet quality were observed across demographic and socioeconomic factors such as age, sex, race, ethnicity, education, income, and food security status. Click [here](#) to read the report.

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Paul Lee  
Senior Partner  
Strategic Health Care  
Washington, DC  
202-266-2600  
[www.strategichealthcare.net](http://www.strategichealthcare.net)

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