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No End in Sight: Government Shutdown and Impact on Health Programs

We are on track to experience the longest government shutdown on record, with Republicans and Democrats each waiting for the other side to blink first. Over 700,000 federal employees have been furloughed and tens of thousands of government workers are working without pay. The standoff driving the shutdown is whether Congress should extend the enhanced premium tax credits (PTCs) that have been in place since 2021 beyond their current expiration date at the end of the year (see our recent Health Care in Motion on what expiration of the enhanced PTCs will mean for premiums and enrollment). Democrats have been fairly united in their opposition to supporting a short-term continuing resolution (CR) that does not include an extension of the enhanced PTCs. Republicans are seemingly open to the possibility of a compromise on enhanced PTCs, but only if the government opens up first. Read on for more information about what health programs and services are impacted.

What health programs and services are impacted by the shutdown?

The following are some of the major health care and public health safety net programs and how the government shutdown has impacted them.

Medicaid, Medicare, Social Security, and Affordable Care Act (ACA) Marketplace Coverage

Entitlement programs like Medicaid, Medicare, and Social Security are all funded with mandatory spending. This means the funding for these mandatory spending benefits – including Medicaid state funding, most Medicare benefits, social security checks, and marketplace subsidies – will all continue during the shutdown. With the exception of specific Medicare waiver authorities for certain programs (discussed in more detail below) these entitlement programs are generally not impacted by a government shutdown.

However, even though federal funding is still flowing for benefits, the staff at the Centers for Medicare and Medicaid Services (CMS) and Social Security Administration (SSA) who oversee these programs, including answering beneficiary questions and processing paperwork may be furloughed, which could cause delays in answering questions and resolving benefits problems.

ACA and Medicare Open Enrollment

The shutdown occurs against the backdrop of annual Medicare open enrollment (running from October 15 to December 7) and ACA marketplace open enrollment (November 1 to January 31). These open enrollment periods will proceed. CMS has recalled thousands of furloughed workers to assist with support activities. People eligible for open enrollment should make sure to do so to ensure that they are covered in the coming year.

Claims Processing for Specific Medicare Services

There were a number of Medicare-related policy provisions (called "extenders") that expired on September 30, including:

- Telehealth authority for fee-for-service Medicare reimbursement of services provided to patients in their homes and audio-only services (telehealth services provided by Medicare Advantage plans and by certain Accountable Care Organizations are not impacted by the shutdown).
- Updates to the Geographic Practice Cost Index (GPCI), which adjusts Medicare payments to account for the different providers costs depending on geographic areas.
- A popular Hospital at Home Program, a waiver program granted to hospitals that allowed them to deliver inpatient hospital care to people's homes.

Hospital at Home Program

- In November 2020, CMS used waiver authority to initiate the Hospital at Program, which allows acute care hospitals to deliver inpatient care to people's homes.
- Hospitals must submit a waiver request to CMS and CMS must certify that the hospital can provide safe and effective care at a patient's home before the hospital can participate.
- At least one study assessing the program found that patients view the care they received as effective, safe, and convenient and that the program yielded positive health outcomes.

Congress had extended authorization for these provisions in its continuing resolution (CR) passed last spring, but the authorization expired when the CR ran out on September 30. Most expected Congress to include these provisions in a short-term CR to keep the government open, but Democrats and Republicans have not been able to agree on a CR.

CMS has issued a series of confusing and at times conflicting announcements about how it will handle Medicare payments during the shutdown because of the expiration of these extenders. The first announcement on October 1st instructed the contractors who administer Medicare provider payments to hold all Medicare claims (meaning providers could still submit claims, but the payment of those claims would be held). This is fairly common during a short shutdown. Because contractors normally hold claims for 14 days this hold did not cause any immediate disruptions. As the shutdown went past the two-week mark, on October 15th, CMS released two additional announcements. The first seemed to suggest that all Medicare Part B payments to providers would be swept up in the claims hold, causing panic among Medicare providers. However, CMS quickly amended its statement to instruct the Medicare payment contractors to only hold claims impacted directly by the Medicare extenders that had expired. This allowed claims outside of telehealth, hospital at home programs, and for areas not impacted by the GPCI adjustments to continue.

On October 21, CMS issued a third announcement, ending the claims hold for most Medicare services, including the holds on GPCI affected providers. Telehealth services are still subject to a claims hold (with the exception of those for behavioral or substance use disorder treatment, which remain covered) as well as payments for the Hospital at Home program. CMS also released a series of telehealth Frequently Asked Questions for providers.

Health care providers are hopeful that when the government reopens, the telehealth payment and Hospital at Home program provisions will be retroactively approved and they will be paid by Medicare. However, retroactive

payment is not guaranteed. Indeed, CMS has advised providers to present beneficiaries with an Advance Beneficiary Notice of Noncoverage, a form provided to beneficiaries when a Medicare services is expected to be denied and alerting beneficiaries that they may be responsible for the cost of the service. The risk of nonpayment may be a bigger financial sacrifice for smaller providers who already operate with very narrow margins and may not be willing or able to track down patient payments for services CMS does not end up covering retroactively.

SNAP and WIC

The Supplemental Nutrition Assistance Program (SNAP), which provides food assistance funding to states who in turn distribute these benefits to millions of low-income families, will run out of money by the end of October. October benefits had already been disbursed and were not impacted by the shutdown, but without Congressional appropriations, the United States Department of Agriculture (USDA), the agency that oversees SNAP, says it cannot make payments for November. This would mean food assistance would be cut off heading into the Thanksgiving holiday.

Advocates maintain that this is a manufactured crisis being wielded by Republicans to inflict maximum political pain on Democrats and that USDA could in fact redirect money to continue SNAP, at least on a short-term basis, using contingency reserve funding. It is unclear if USDA is willing to do this. In the meantime, states are scrambling to message potential changes to SNAP beneficiaries (such as advising them to purchase shelf-stable food with the assistance they received in October). Some states are declaring state emergencies to allow use of emergency state funds to fill gaps if federal funding lapses.

The USDA is dealing with a similar funding cliff for the Women, Infants, and Children program (WIC), a federal program that provides supplemental nutrition and education to low-income individuals who are pregnant or postpartum as well as infants and children. That program was slated to run out of funding in mid-October, but the USDA tapped other funding sources, including tariff revenue, to keep the program afloat. Like SNAP, WIC funding goes to states who in turn disburse benefits for eligible beneficiaries. States are using similar strategies to deal with anticipated WIC funding lapses as for SNAP, including allocating state emergency funding.

Public Health Programs

A number of federal public health programs are also impacted by the government shutdown. In an unprecedented move, the Administration used the shutdown as a pretext for issuing thousands of Reduction in Force (RIF) notices, terminating federal employees across federal health agencies, with specific aim at the Substance Abuse and Mental Health Administration (SAMHSA) and the Centers for Disease Control and Prevention (CDC). While some of the CDC RIFs were later rescinded, the move has added to the chaos and uncertainty among federal career staff and weakened the ability of federal programs to continue core public health functions, including public health data collection and surveillance. Federal workers have filed a lawsuit challenging the authority of the Administration to issue RIFs in the midst of a government shutdown.

While most federal grant programs – including funding for the Ryan White HIV/AIDS Program, CDC HIV prevention programs, the Community Health Center program – will continue direct services activities for now, there may be disruptions to services and grant drawdowns if the government shutdown drags on. Federal agencies spelled out detailed plans for continuous service provision in contingency planning documents ahead of the shutdown, including utilizing carryover funding, advance appropriations, and user fees to ensure continued funding. Agencies also announced that some activities, including many data collection, public outreach/assistance, and surveillance activities would be paused.

What's Next

No one knows how this government shutdown will end. While both sides seem open to a potential compromise on the enhanced PTCs, getting to a place of agreement under such high political stakes for both Democrats and Republicans will be a major feat. It is clear that as the shutdown drags on, the impact to individuals and families who depend on government programs will only deepen.

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