



## Policy Brief

April 30, 2021



### Chiquita Brooks-LaSure Senate Hearings: A New Direction for CMS

The Senate Finance Committee [voted](#) to advance the Biden Administration's nomination for CMS Administrator, Chiquita Brooks-LaSure. During her nomination hearings, she [revealed](#) some of her priorities for CMS, including implementing the new surprise billing legislation within the year, tackling the high cost of prescription drugs and prioritizing health equity. Brooks-LaSure has an extensive background working in the government sector, and her experience likely informed her comments on key health care issues she made during her nomination hearings.

#### **Background of Ms. Brooks-LaSure**

Brooks-LaSure currently [serves](#) as a Managing Director at Manatt Health, a professional services firm. Under the Obama Administration, she [served](#) as the Deputy Director of CMS' Center for Consumer Information and Insurance Oversight, where she oversaw the implementation of the Health Insurance Exchanges. Brooks-LaSure is no stranger to HHS Secretary Xavier Becerra; during his tenure as a Congressman, Brooks-LaSure worked alongside Becerra as a professional staff member for the House Ways and Means Committee. She also played a role during the Biden Administration's transition, co-leading the HHS review team. Brooks-LaSure has testified in front on Congress several times on topics including health disparities, universal health care and maternal mortality.

#### **Key Takeaways from the Senate Finance Hearing**

In her Senate Finance hearing, Brooks-LaSure [touched](#) on a broad range of policy issues, giving some insight into her future direction for CMS. These include:

- **A Public Option:** Brooks-LaSure supports a public option; she expressed her commitment to working with states on different options to expand health care coverage.  
Policy Insight: Due to the disagreement within the Democratic Party on how to expand insurance coverage, public option legislation may be difficult to pass. For this reason, the Biden Administration may rely more heavily on CMS through regulatory efforts, such as Section 1115 waivers, to expand health care coverage.
- **Telehealth Policy:** She wants to work on coverage for the phone or audio-only telehealth options and is willing to consider higher reimbursement rates. When asked about payment parity, Brooks-LaSure noted that safeguards are needed to ensure program integrity.
- **Surprise Billing:** Brooks-LaSure testified that she will work to implement the recently passed No Surprises Act this year. The legislation will end surprise billing and allow parties to negotiate before proceeding to binding arbitration.
- **Drug Pricing Reform:** She expressed a focus on lowering prices for innovative medicines and shared her desire to work on bipartisan solutions to lower prescription drug costs.
- **Other Top Priorities:** In addition to the above topics, Brooks-LaSure stated that health equity and addressing behavioral health holistically are at the top of her priorities list for CMS.



### Congress and Scientific Community Unite to Fight Violent Racism

This month, CDC Director Dr. Rochelle Walensky [declared](#) racism a “serious public health threat,” contributing to disproportionate infections, higher death rates and worse social determinants of health. The COVID-19 pandemic has highlighted the inequities that racial and ethnic minorities face in the United States, including worse health outcomes and higher rates of death. The pandemic has also fanned the flames of race-based violent attacks, particularly against the Asian-American and Pacific Islander (AAPI) community. Keep reading for more on how racism hurts health outcomes and what’s being done to help.

### **Racial inequities erode communities' chances of achieving whole-person health.**

The study of the connection between race and health is not a new one; scientists have [more than 200 years](#) of collective knowledge on the harm racism does to a person's health. Racism can take the form of overt discrimination against someone because of the color of their skin, but it also includes unfair [structural barriers](#) often faced by minority communities. The availability of healthy foods, adequately-paying jobs, safe places to play and pray, and protection from violence all impact people's health.

### **Experiencing racial trauma and violence increases one's likelihood of developing chronic diseases later in life.**

Suffering repeated traumatic events like race-based physical or verbal violence creates significant stress on the body, which has been linked to [negative and lasting](#) health outcomes. The psychosocial stress associated with racial discrimination can be especially [dangerous to children](#), undermining their sense of safety and stability and disrupting brain development. For people of all ages, both direct experiences of racial trauma and second-hand observations (for example, [watching a video](#) of a hate crime on social media) can increase a person's need for health care services.

### **Lawmakers on both sides of the aisle are increasing their efforts to stop racial violence.**

Just last week, the Senate [passed a bill](#) targeting anti-AAPI hate crimes—the first legislative action of its kind. Senate majority leader Sen. Schumer says Congress aims to demonstrate through legislative action that “hate and discrimination against any group [have] no place in America.” In the House, lawmakers are currently considering an [anti-racism bill](#) that would establish a National Center on Antiracism and Health.



### **Protecting the Right to Organize (PRO) ACT: Protecting Workers but Creating Hurdles**

The Protecting the Right to Organize Act (PRO Act) is making a buzz as it circulates through Congress. If passed and signed into law, the Act will make significant changes to federal labor laws and the rights of workers and unions. The bill would override current "right to work" laws

and shorten union election timeframes—measures that could adversely impact employers, including hospitals. The chances of it passing are slim, but it is important to understand the rationale and criticisms of the Act. The American Hospital Association has released a fact sheet on what to expect from the Act; to read it click [here](#). For more on the impact the Act could have on hospital systems and why there is support for the bill, keep reading.

### **What is in the PRO Act and why do supporters see it as necessary?**

The Act is believed to increase workers' rights by attempting to level a playing field that has been traditionally tilted in favor of employers and management. The Act will repeal existing restrictions on unions and override state "right to work" laws that allow employees to opt out of paying union dues. It also [designates](#) new activities as “unfair labor practices,” such as repercussions for employees that take part in strikes or requiring that employees attend employer campaign activities unrelated to their job function. Additionally, the National Labor Relations Board's Congressional reporting requirement would be reinstated and would include measures to guarantee fairness in union elections.

### **What challenges does the PRO Act create for health care systems?**

The bill would reinstate a past policy known as “[ambush elections](#),” giving employers only eight days to respond to union campaigns. In comparison, unions have an uncapped amount of time to draw support—greatly skewing discourse between the two sides. The bill would also mandate that employers provide their employees’ personal information in a “searchable electronic format” within two days of a union filing a petition. This raises concerns about privacy violations because the information required consists of workers’ home addresses, personal emails and phone numbers. This information could also be difficult to capture within the allotted two-day period.

### **How likely is the PRO Act to pass?**

The bill passed the House on March 9<sup>th</sup> and moved to the Senate, where it is currently under committee review. Due to the razor-thin majority held by Democrats in the Senate, the likelihood of the Act passing there is slim. Democrats are [exploring](#) the possibility of using the [budget reconciliation process](#) as an avenue to pass some provisions with a simple majority. However, experts believe that the language of the PRO Act will not meet the Senate’s rules for inclusion in a budget reconciliation package. All but three Senators in the Democratic caucus have co-signed the bill; Majority Leader Chuck Schumer pledged to bring the bill to the floor once it receives 50 backers.

## **CMS Releases Draft Hospital IPPS Rule for FY 2022**

This week, the Centers for Medicare and Medicaid Services issued their proposed rule on hospital Inpatient Prospective Payment System (IPPS) rates for fiscal year 2022. The proposed

rule is scheduled to be published on May 10<sup>th</sup>; the unpublished language can be downloaded [here](#). The proposal includes a 2.8% increase to payment rates, 1,000 new Medicare-funded medical residency slots and exclusions of select respiratory-related performance data from quality programs because of the pandemic. The rule also proposes to repeal the requirement to post the median payer-specific negotiated charge on the cost report; this is different from the price transparency rule currently [being litigated](#) by the AHA. AHPA is in the process of analyzing this rule and its potential impact; a detailed summary of IPPS FY 2022 will be included in the next edition of the Policy Brief.

### **President Biden Announces \$1.8T “American Families Plan”**

President Biden has outlined the new American Families Plan, which will be rolled out in the coming months. The Biden Administration views the plan as a core element of its “build back better” strategy and hopes it will generate a strong and inclusive economy in the future. The plan is an ambitious package that calls for \$1 trillion in new spending with another \$800 billion in tax credits. Measures include \$200 billion to fund universal pre-kindergarten, \$109 billion for tuition-free community college for all Americans, \$85 billion to increase grants for low-income and minority students, \$225 billion for maternity/paternity leave as well as leave caused by serious illness. The plan will extend the Affordable Care Act premiums tax credits indefinitely along with other tax credit expansions. To read more about the American Families Plan, [click here](#).

### **Updates to COVID-19 Regulations**

AHPA continues to follow new COVID-19 regulations, guidance and other government actions. The updates below are the latest guidance and other developments since April 19<sup>th</sup> to help mitigate the impacts of COVID-19. For earlier COVID-19 regulations and guidance, visit the previous [Policy Briefs](#).

#### **White House to Invest \$1.7 Billion to Fight COVID-19 Variants**

The Biden Administration is [investing](#) \$1.7 billion from the American Rescue Plan to help states and jurisdictions be more effective in fighting COVID-19 variant mutations. Measures include expanding genome sequencing, the launch of new genome epidemiology research centers and support for national bioinformatics infrastructure.

#### **Revoked: Emergency Use Authorization for Monoclonal Antibody Bamlanivimab**

The FDA has [revoked](#) the EUA for Eli Lilly’s bamlanivimab’s use as a single-dose COVID-19 monoclonal antibody therapy due to the increased spread of COVID-19 variants that are resistant to the therapy. Bamlanivimab is still authorized for joint-use with Lilly’s etesevimab to treat mild-to-moderate COVID-19.

## A Look at the Federal Register

### **CMS Proposal Rule: Medicare Program: FY 2022, Hospital Inpatient Prospective Payment Systems**

The CMS proposed rule updates hospital inpatient prospective payment systems for acute care hospitals and long-term care. The proposed rule also contains changes to Medicaid providers enrollment and changes to Medicare shared saving programs. To read the CMS fact sheet about the proposed rule, click [HERE](#).



### AHPA Resources

#### **High-Level Summary**

- [IPPS FY 2022 Proposed Rule](#)

*A more detailed summary will be released in our next Policy Brief.*

#### **Updated Resources on Price Transparency**

- [Commonalities in State Actions to Promote Price Transparency](#)
- [AHPA's Price Transparency Primer](#)

**Need an easy way to keep tabs on President Biden's Executive Orders?** AHPA is keeping a running list of the latest Executive Orders coming out of the White House. [Click here](#) to download.

## WHAT WE'RE READING...

[Biden Seeks Shift in How the Nation Serves Its People](#) – The NY Times

[“Power to the Patients” Ads Fan Pricing Gripes During Presidential Address](#) – Bloomberg

[Rural Ambulance Crews Have Run Out of Money and Volunteers](#) – The NY Times

[Medicine's Privileged Gatekeepers: Harmful Ignorance about Racism and Health](#) – Health Affairs

[FDA Moves to Ban Menthol Cigarettes and Flavored Cigars](#) – NPR

[Vaccines Appear to Be Slowing Spread of COVID-19 Infections](#) – The Wall Street Journal