



## Thomson Reuters Regulatory Intelligence

### Topical Tracking Service

## **HEALTHCARE AND HEALTH INSURANCE SNAPSHOT**

**December 18, 2023**

The following is a selection of federal and state regulatory actions affecting the healthcare, health insurance and government-funded health insurance sectors for November and December 2023. This bulletin also includes news and analysis from Thomson Reuters Regulatory Intelligence and other Thomson Reuters professional services publications.

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#### HEALTHCARE

##### **Recent Legislative Items**

##### **Federal**

2023 CONG US HR 6363, effective November 16, 2023, amends 42 USCA § 1396r-4 (Adjustment in payment for inpatient hospital services furnished by disproportionate share hospitals) delaying reductions to the Medicaid DSH program until January 20, 2024. The reductions will take effect January 20, 2024, and will continue each year through FY 2027. Amends 42 USCA § 1395w-4 (Payment for physicians' services) extending the physician payment work Geographic index floor from January 1, 2024, to January 20, 2024. Amends 42 USCA § 1395m-1 (Improving policies for clinical diagnostic laboratory tests) delaying by one year the next data-reporting period for certain clinical laboratory tests and the phase-in of payment reductions under the Medicare private payor rate-based Clinical Laboratory Fee Schedule. Amends 42 USCA § 1395iii (Medicare Improvement Fund) increasing the funds, from \$180,000,000 to \$466,795,056, for expenditures from the Fund for services furnished during and after fiscal year 2022. Latest Update available [here](#).

**Alaska**

2023 AK H.B. 112 (NS), effective November 26, 2023, amends several sections relating to pharmacist licensing. Latest Update available [here](#).

**District of Columbia**

2023 DC L.B. 73 (NS), effective November 15, 2023, amends DC CODE § 44-501 (Definitions) updating the definition of "ambulatory surgical facility" and adding definitions of "ambulatory surgery," "operating room," "procedure room," and "surgery." Amends DC CODE § 44-504 (Rules) repealing the requirement that the rules for ambulatory surgical facilities list all outpatient surgical procedures that may be performed in a facility licensed as an ambulatory surgical facility. Note: This Act shall take effect following approval by the Mayor, a 30-day period of congressional review, and publication in the District of Columbia Register. Latest Update available [here](#).

**Michigan**

2023 MI H.B. 4949 (NS), effective February 13, 2024, codifies MI CONST Art. 1, § 28 (Right to reproductive freedom) to provide that the state shall not penalize, prosecute, or otherwise take adverse action against someone for aiding or assisting a pregnant individual in exercising their right to reproductive freedom with their voluntary consent. Latest Update available [here](#).

**New York**

- 2023 NY A.B. 1297 (NS), effective November 24, 2023, adopts NY PUB HEALTH § 2803-o-1 (Required protocols for fetal demise) requiring hospitals to adopt, implement, and periodically update standard protocols for the management of fetal demise. Establishes requirements for the protocol. Latest Update available [here](#).
- 2023 NY S.B. 1783 (NS), effective May 28, 2024, adopts NY PUB HEALTH § 2803-c-2 (Lesbian, gay, bisexual and transgender, and people living with HIV long-term care facility residents' bill of rights) establishing rights for lesbian, gay, bisexual and transgender, and people living with HIV in long-term care facilities. Provides definitions and specifies that it shall be unlawful for a long-term care facility or facility staff to discriminate against any resident on the basis of such resident's actual or perceived sexual orientation, gender identity or expression, or human immunodeficiency virus (HIV) status. Requires the facility to post certain notices alongside its current nondiscrimination policy. Also establishes record keeping and staff requirements. Latest Update available [here](#).

**North Carolina**

2023 NC S.B. 49 (NS), effective December 1, 2023, adopts NC ST § 90-21.10A (Definitions), NC ST § 90-21.10B (Parental consent for treatment) and NC ST § 90-21.10C (Penalty) to establish the requirements for a health care practitioner to obtain written or documented consent from a minor child's parent before providing, soliciting, or arranging treatment for the minor child. Latest Update available [here](#).

**Pennsylvania**

2023 PA H.B. 507 (NS), effective January 20, 2023, adopts PA ST 40 P.S. § 1303.504.1 (Informed consent in pelvic, rectal and prostate examinations) establishing the requirements for informed consent in pelvic, rectal and prostate examinations. Latest Update available [here](#).

**Wisconsin**

2023 WI S.B. 400 (NS), effective December 8, 2023, adopts and amends sections relating to the physician assistant licensing compact. Latest Update available [here](#).

## Recent Administrative Items

### Federal

88 FR 78818-01, effective January 1, 2024, amends, adopts and repeals various rules in the following Parts regarding Medicare Part B payment policies and other CMS programs. Updates include revisions to: payment policies under the Medicare physician fee schedule (PFS) and other policy changes related to Medicare Part B payment; the Rural Health Clinic (RHC) and Federally Qualified Health Clinic (FQHC) Conditions for Certification and Conditions for Coverage (CfCs), respectively, implementing provisions to allow payment under Medicare Part B for services furnished by a Marriage and Family Therapist (MFT) or Mental Health Counselor (MHC); the Hospice Conditions of Participation (CoPs) to include marriage and family therapists (MFTs) or mental health counselors (MHCs) as part of the hospice interdisciplinary team and make changes to the hospice personnel requirements; the Medicare Shared Savings Program (Shared Savings Program) and the Quality Payment Program (QPP); the public reporting requirements of procedure volume data (Part B non-institutional claims) on clinician profile pages of the Compare Tool to include Medicare Advantage (MA) encounter data; and the Ambulance Fee Schedule. Latest Update available [here](#).

### Alaska

2023 AK REG TEXT 653939 (NS), effective January 5, 2024, amends and adopts several sections relating to the licensing of health professionals. Latest Update available [here](#).

### Arizona

2023 AZ REG TEXT 647488 (NS), effective November 8, 2023, amends AZ ADC R9-6-1102 (Health Care Provider Requirements) updating language and references from "sexually transmitted diseases" or "STD" to "sexually transmitted infections" or "STI." Latest Update available [here](#).

### Colorado

- 2023 IL REG TEXT 632352 (NS), effective November 22, 2023, amends several sections relating to infection control and disease prevention. Latest Update available [here](#).
- 2023 CO REG TEXT 634889 (NS), effective January 1, 2024, adopts rules establishing protections and rights for individuals being treated in behavioral health programs and entities. Latest Update available [here](#).
- 2023 CO REG TEXT 651213 (NS), effective November 30, 2023, amends and repeals sections relating to pharmacist licensing and pharmacy services. Latest Update available [here](#).
- 2023 CO REG TEXT 653057 (NS), effective December 30, 2023, amends 3 CO ADC 717-1:1.15 (Reporting Convictions, Judgments and Administrative Proceedings) clarifying language to require a licensee to inform the board of any felony conviction under the laws of any state or of the United States or plea of guilty or nolo contendere to a felony. Repeals 3 CO ADC 717-1:1.17 (Protections for Provision of Reproductive Health Care in Colorado) and 3 CO ADC 717-1:1.18 (Protecting Colorado's Workforce and Expanding Licensing Opportunities). Latest Update available [here](#).
- 2023 CO REG TEXT 653298 (NS), effective January 14, 2024, amends several sections relating to assisted living facility licensing. Note: This rulemaking permanently adopts a previous emergency rule (2023 CO REG TEXT 656807 (NS)). Latest Update available [here](#).
- 2023 CO REG TEXT 653299 (NS), effective January 14, 2023, amends multiple sections relating to nursing care facilities. Latest Update available [here](#).

- 2023 CO REG TEXT 656807 (NS), effective November 15, 2023, amends several sections relating to assisted living facility licensing. Latest Update available [here](#).

### **Florida**

- 2023 FL REG TEXT 618652 (NS), effective November 23, 2023, amends two sections relating to assisted living facility licensing. Latest Update available [here](#).
- 2023 FL REG TEXT 619294 (NS), effective December 7, 2023, amends 64 FL ADC 64B-9.008 (Out-of-State Telehealth Provider Registration) to update the incorporated form DH5037-MQA-11/2022, Application for Out-of-State Telehealth Provider Registration. Latest Update available [here](#).
- 2023 FL REG TEXT 653492 (NS), effective December 18, 2023, amends 64 FL ADC 64B16-28.120 (All Permits - Storage of Legend Drugs; Prepackaging) updating the incorporated rule chapter FL ADC 59A-4 (Minimum Standards for Nursing Homes), effective August 25, 2023. Latest Update available [here](#).

### **Illinois**

- 2023 IL REG TEXT 632335 (NS), effective November 8, 2023, amends several sections relating to home health licensing. Latest Update available [here](#).
- 2023 IL REG TEXT 658130 (NS), effective November 24, 2023, adopts 77 IL ADC 250.3 (COVID-19 Emergency Provisions -- At-Home Patient Care) authorizing a hospital to apply for an Acute Hospital Care at Home waiver from the requirements of 42 CFR § 482.23(b) and (b)(1) (Condition of participation: Nursing services) in order to provide limited inpatient services directly in a patient's home and establishing the requirements for doing so. Note: This rulemaking continues the previous emergency rule (2023 IL REG TEXT 646995 (NS)). Latest Update available [here](#).

### **Kansas**

2023 KS REG TEXT 651949 (NS), effective December 22, 2023, adopts several sections relating to rural emergency hospital licensing. Note: This rulemaking adopts a previous temporary rule (2023 KS REG TEXT 653850 (NS)) as final. Latest Update available [here](#).

### **Louisiana**

- 2023 LA REG TEXT 650216 (NS), effective November 20, 2023, adopts and amends sections relating to inpatient hospice visitation. Latest Update available [here](#).
- 2023 LA REG TEXT 650217 (NS), effective November 20, 2023, amends multiple sections relating to hospital visitation. Latest Update available [here](#).
- 2023 LA REG TEXT 650221 (NS), effective November 20, 2023, amends sections relating to nursing facility visitation. Latest Update available [here](#).

### **Maine**

2023 ME REG TEXT 649971 (NS), effective November 4, 2023, readopts without change ME ADC 02-392 Ch. 1, § 14 (Direct supervision), ME ADC 02-392 Ch. 1, § 26 (Pharmacist on duty), and ME ADC 02-392 Ch. 1, § 27 (Pharmacy intern). Latest Update available [here](#).

### **Maryland**

2023 MD REG TEXT 647697 (NS), effective December 1, 2023, repeals MD ADC 10.24.01, Certificate of Need for Health Care Facilities, and adopts new MD ADC 10.24.01, Procedural Regulations for Health Care Facilities and Services, establishing procedural regulations governing the Commission's certificate of need (CON) and other health planning programs to streamline and modernize the manner in which health care capital projects are reviewed by the Commission. New regulations align the Commission's procedures for reviewing different

types of health care projects, establish and revise deadlines, establish new criteria for reviewing CON applications based in health equity, and provide the Commission with additional flexibility in monitoring approved projects through implementation and addressing public health emergencies. Latest Update available [here](#).

### **Mississippi**

- 2023 MS REG TEXT 639943 (NS), effective December 21, 2023, adopts 30 MS ADC Pt. 3001, Art. LI (Consulting Pharmacists to Ambulatory Surgery Centers and Multi-Provider Clinics) establishing the duties of consultant pharmacists who advise ambulatory surgery centers or multi-provider clinics. Provides that a consultant pharmacist must report to the appropriate regulatory or licensing agency any serious deficiency or violation noted on his/her consultant report if the deficiency is not corrected or addressed by the permit holder by the date of the next monthly visit by the consultant pharmacist at the permit site. Latest Update available [here](#).
- 2023 MS REG TEXT 649953 (NS), effective November 17, 2023, amends multiple sections relating to the licensing of personal care homes and assisted living. Latest Update available [here](#).
- 2023 MS REG TEXT 649954 (NS), effective November 17, 2023, amends multiple sections relating to the licensing of personal care homes and residential living. Latest Update available [here](#).
- 2023 MS REG TEXT 649956 (NS), effective November 17, 2023, amends sections relating to reportable diseases and conditions. Latest Update available [here](#).
- 2023 MS REG TEXT 649958 (NS), effective November 17, 2023, amends 15 MS ADC Pt. 16, Subpt. 1, R. 41.5 (Governing Authority) establishing the requirements for notifying the Mississippi Department of Health of discontinuation of service or closure of the hospital. Latest Update available [here](#).

### **Missouri**

- 2023 MO REG TEXT 643551 (NS), effective November 30, 2023, amends sections relating to temporary emergency licenses for nursing home administrators. Latest Update available [here](#).
- 2023 MO REG TEXT 648424 (NS), effective October 3, 2023, terminates the emergency adoption of 20 MO ADC 2220-2.410 (Class B Hospital Pharmacy Compounding for Drug Shortages), which allowed Class B hospital pharmacies to compound medication experiencing drug shortages and which was filed June 21, 2023, became effective July 6, 2023, and expires January 1, 2024. A permanent rule became effective on September 30, 2023 (2023 MO REG TEXT 640053 (NS)). Latest Update available [here](#).

### **Nebraska**

2023 NE REG TEXT 641693 (NS), effective November 12, 2023, amends 175 NE ADC Ch. 9 (Hospitals) to restructure the chapter and update the requirements regarding the licensing of hospitals under the Nebraska Health Care Facility Licensure Act. The amendments update definitions; update requirements for criminal background and registry checks for prospective employees; update requirements for standards of operation, care, and services; modify general requirements; update staff requirements, orientation, and credentials; establish standards for the operation of rural emergency hospitals; and establish requirements for administration, records retention, and off-campus, satellite, and mobile units. Latest Update available [here](#).

### **New Jersey**

2023 NJ REG TEXT 656728 (NS), effective October 16, 2023, readopts NJ ADC 10:48B (Decision-Making for the Terminally Ill) without any changes. The chapter sets forth specific guidelines for the Bureau of Guardianship Services (BGS) when making complex end-of-life decisions on behalf of persons served. Further, the chapter provides specific ethical considerations related to decisions to continue or discontinue medical treatment for a terminally ill person with intellectual/developmental disabilities. Latest Update available [here](#).

### **New Mexico**

2023 NM REG TEXT 642573 (NS), effective December 5, 2023, amends several sections relating to physician licensing and disciplinary actions. Latest Update available [here](#).

### **Ohio**

- 2023 OH REG TEXT 651142 (NS), effective November 30, 2023, repeals, reenacts, and amends multiple sections in OH ADC 4731 (Medical Board) to update the requirements regarding the mandatory reporting of violations for impaired practitioners and procedures for impairment cases. Latest Update available [here](#).
- 2023 OH REG TEXT 652440 (NS), effective December 8, 2023, amends multiple sections relating to requirements for nursing home criminal checks. Latest Update available [here](#).

### **Oregon**

2023 OR REG TEXT 657080 (NS), effective January 1, 2024, adopts OR ADC 851-031-0041 (Governor Declared Emergency) allowing the Board to impose limited RN licenses to individuals holding an active and unencumbered nursing license at the same level in another state or U.S. jurisdiction during an emergency declared by the Governor. Provides procedures for requesting this license, expiration for limited licenses, and reactivation of limited licenses. Latest Update available [here](#).

### **Rhode Island**

- 2023 RI REG TEXT 650992 (NS), effective November 22, 2023, amends 210 RI ADC 50-05-2.4 (Personal Needs Funds - Requirements) to increase the threshold amounts for certain personal needs funds from \$50 to \$75. Provides that when the individuals balance exceeds \$75 the excess shall be deposited into an certain accounts and the amount of petty cash - resident personal needs account must not exceed \$75. Readopts 210 RI ADC 50-05-2.3 (Definitions) and 210 RI ADC 50-05-2.5 (Assisted Living Residences) without any changes. Latest Update available [here](#).
- 2023 RI REG TEXT 652777 (NS), effective November 27, 2023, amends 216 RI ADC 40-20-5 (Therapeutic Radiation Machines) to keep pace with current technology and address future technological advances in therapeutic radiation machines. Adds, amends, and removes definitions; prohibits the use of a therapeutic radiation machine that has not received U.S. Food and Drug Administration (FDA) clearance or premarket approval; updates requirements throughout the rules; and adds requirements for a dedicated quality management program to control the processes used to administer therapeutic radiation with newly acquired, FDA-cleared emerging technologies or previously unused features of a future technology system. Latest Update available [here](#).

### **South Dakota**

- 2023 SD REG TEXT 648786 (NS), effective December 10, 2023, adopts and amends sections relating to nurse licensing. Latest Update available [here](#).
- 2023 SD REG TEXT 650306 (NS), effective December 18, 2023, amends sections relating to the licensing of nursing home administrators. Latest Update available [here](#).

- 2023 SD REG TEXT 652342 (NS), effective November 27, 2023, amends and adopts multiple sections in SD ADC 44:75 (Hospital, Specialized Hospital, Critical Access Hospital, and Rural Emergency Hospital Facilities) to update and clarify the minimum regulations related to operation, physical environment, fire protection, management and administration, physician services, nursing and related care services, dietetic services, medication control, medical record services, hospital diagnostic services, hospital complimentary services, long-term care supportive services, construction standards, additional hospital standards, and swing bed patients' rights necessary for hospitals, specialized hospitals, critical access hospitals, and rural emergency hospitals to maintain the health and safety of patients receiving services in these facilities. Latest Update available [here](#).

## **Texas**

- 2023 TX REG TEXT 651665 (NS), effective December 6, 2023, amends several sections relating to the licensing of nursing facility administrators. Latest Update available [here](#).
- 2023 TX REG TEXT 652563 (NS), effective December 4, 2023, amends 22 TX ADC § 283.12 (Licenses for Military Service Members, Military Veterans, and Military Spouses) to include military service members in the requirements for an interim license. Latest Update available [here](#).
- 2023 TX REG TEXT 652564 (NS), effective December 4, 2023, amends 22 TX ADC § 291.3 (Required Notifications) to require a pharmacy to notify the board in writing if the pharmacy temporarily closes for the loss of a pharmacist-in-charge. Also removes the requirement to return the previously issued license when an application is filed for change of location, change of name, or change of ownership. Latest Update available [here](#).

## **Utah**

- 2023 UT REG TEXT 649890 (NS), effective November 1, 2023, repeals and reenacts UT ADC R432-101 (Specialty Hospital—Psychiatric) to update licensure standards for the operation of a psychiatric hospital. The rule outlines standards of patient care that apply to psychiatric hospital inpatient, outpatient, and satellite services. This rule applies to a licensee that chooses to be licensed as a psychiatric specialty hospital and whose single major service is psychiatric service. If a psychiatric specialty hospital licensee chooses to have a dual service, including psychiatric and substance abuse or chemical dependency, then both of the specialty hospital rules apply. The purpose of this repeal and reenactment is to make significant language and structure changes to replace outdated language with the Utah Rulewriting Manual standards. Latest Update available [here](#).
- 2023 UT REG TEXT 650968 (NS), effective November 9, 2023, amends UT ADC R432-270 (Assisted Living Facilities) to update the licensing and operational standards for assisted living facilities. The amendments include more specific language consistent with the Rulewriting Manual for Utah; updating titles and citations due to the recodification of the Department of Health and Human Services' statute; adding additional training requirements for the facility administrator in addition to core competency training; and making other clarifying and conforming changes. Latest Update available [here](#).

## **Virginia**

2023 VA REG TEXT 650613 (NS), effective November 27, 2023, adopts and amends sections relating to the discharge of residents from assisted living facilities. Latest Update available [here](#).

## **Washington**

- 2023 WA REG TEXT 654406 (NS), effective November 17, 2023, rescinds emergency rules WA ADC 388-97-1081 (Reimplementation of 3.4 hours per resident day minimum staffing standards), WA ADC 388-97-1082 (Reimplementation of 24-hour registered nurse staffing standards) and WA ADC 388-97-1091 (Reimplementation of registered nurse minimum staffing standards) that were filed under WSR 23-20-105 on October 3, 2023. The rescission is necessary so that the emergency rule text is no longer in effect in response to the Governor's Proclamation 20-18 being rescinded. Latest Update available [here](#).
- 2023 WA REG TEXT 656154 (NS), effective October 24, 2023, amends sections relating to home health licensing. Note: This rulemaking continues the previous emergency rulemaking (2023 WA REG TEXT 647596 (NS)) without changes. Latest Update available [here](#).

## News and Insights

- **U.S. health agency settles HIPAA allegations with New York hospital** (November 22, 2023) available [here](#).

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## HEALTH INSURANCE

### Recent Legislative Items

#### District of Columbia

2023 DC L.B. 124 (NS), effective February 1, 2024, enacts the Prior Authorization Reform Amendment Act of 2023. Latest Update available [here](#).

#### Massachusetts

2023 MA H.B. 4204 (NS), effective March 3, 2024, amends MA ST 118E § 23 relating to health insurance subrogation rights. Latest Update available [here](#).

#### New Jersey

2022 NJ A.B. 5096 (NS), effective November 20, 2023, amends NJ ST 17B:27A-19.25 (Substance use disorder treatment benefits) by replacing the term "abuse" with "use disorder" within the definition of "substance use disorder." Latest Update available [here](#).

### Recent Administrative Items

#### California

2023 CA REG TEXT 650253 (NS), effective November 17, 2023, amends several sections relating to the health care payments data program. Latest Update available [here](#).

#### Colorado

- 2023 CO REG TEXT 652347 (NS), effective December 30, 2023, adopts new 3 CO ADC 702-4:4-2-95 (Contraceptive Benefit Requirements for Health Benefit Plans) with the following sections: Section 1 (Authority), Section 2 (Scope and Purpose), Section 3 (Applicability), Section 4 (Definitions), Section 5 (Rules), Section 6 (Carrier Reporting), Section 7 (Incorporation by Reference), Section 8 (Severability), Section 9 (Enforcement), Section 10 (Effective Date), and Section 11 (History). Adopts new 3 CO ADC 702-4:4-2-

95 Appendix A (Standard Exemption Form for Contraceptive Products). Latest Update available [here](#).

- 2023 CO REG TEXT 652351 (NS), effective December 30, 2023, adopts new 3 CO ADC 702-3:3-1-18 (Concerning the Climate Risk Disclosure Survey) with the following sections: Section 1 (Authority), Section 2 (Scope and Purpose), Section 3 (Applicability), Section 4 (Definitions), Section 5 (Rules), Section 6 (Severability), and Section 7 (Enforcement). Requires insurers, on or before August 31, 2024, and each year thereafter, to submit a completed "NAIC Climate Risk Disclosure Survey." Latest Update available [here](#).
- 2023 CO REG TEXT 653286 (NS), effective January 1, 2024, amends 3 CO ADC 702-4:4-2-43 (Enrollment Periods Relating to Individual and Group Health Benefit Plans) by adding that dependent coverage cannot be terminated, on the basis of age, before the end of the plan year in which the dependent attains age 26. Clarifies other language regarding dependent coverage. Latest Update available [here](#).

### **Florida**

2023 FL REG TEXT 648263 (NS), effective December 19, 2023, amends 69 FL ADC 690-238.001 (Application and Renewal) by removing the requirement that an applicant for initial registration as a pharmacy benefit manager submit Form OIR-C1-2210, Registration Form for Pharmacy Benefit Managers Invoice, and removing the mailing address for submission of the application fee and Form OIR-C1-2210; requiring that registrants renewing their registration submit Form OIR-C1-2209, Registration Form for Pharmacy Benefit Managers, rather than form OIR-C1-2210; and directing registrants renewing their registrations to submit the renewal fee and Form OIR-C1-2209 electronically via the iApply system, rather than by mail. Latest Update available [here](#).

### **Massachusetts**

2023 MA REG TEXT 613543 (NS), effective November 24, 2023, amends and renumbers several sections relating to managed care consumer protections and accreditation of carriers. Latest Update available [here](#).

### **Missouri**

2023 MO REG TEXT 656929 (NS), effective January 1, 2024, amends 22 MO ADC 10-3.070 (Coordination of Benefits) by eliminating paragraph 3 of section (4)(A) regarding the allowed amount used to determine what the Missouri Consolidated Health Care Plan would have paid in absence of the coordination of benefits provision. Latest Update available [here](#).

### **New York**

2023 NY REG TEXT 642959 (NS), effective November 15, 2023, adopts and amends sections relating to pharmacy benefits manager assessments, licensing, and recordkeeping. Latest Update available here. Latest Update available [here](#).

### **Ohio**

- 2023 OH REG TEXT 651139 (NS), effective November 16, 2023, amends several sections under an omnibus insurance regulation. Latest Update available [here](#).
- 2023 OH REG TEXT 651140 (NS), effective November 16, 2023, repeals sections relating to insurance and annuities. Latest Update available [here](#).

### **Oregon**

2023 OR REG TEXT 652780 (NS), effective December 1, 2023, amends sections relating to the all payer all claims data reporting program. Latest Update available [here](#).

## **South Dakota**

2023 SD REG TEXT 653329 (NS), effective November 28, 2023, amends SD ADC 20:06:53:66 (Funding of external review) by eliminating filing fee requirements for the covered person seeking external review of an adverse determination made by a health insurance carrier. Latest Update available [here](#).

## **Utah**

- 2023 UT REG TEXT 654142 (NS), effective November 21, 2023, repeals all rules under Chapter 206 - Privacy of Consumer Financial and Health Information Rule and adopts new rules in their place. Latest Update available [here](#).
- 2023 UT REG TEXT 654147 (NS), effective November 21, 2023, amends and removes sections relating to health insurance coverage for dependents to age 26. Latest Update available [here](#).

## **Virginia**

2023 VA REG TEXT 654585 (NS), effective November 22, 2023, amends 12 VA ADC 5-408-170 relating to managed care health insurance plan provider credentialing and recredentialing. Latest Update available [here](#).

## **Washington**

2023 WA REG TEXT 649778 (NS), effective December 21, 2023, amends multiple sections relating to health care benefit manager registration. Latest Update available [here](#).

## **Recent Guidance**

### **Alaska**

AK Bulletin 2023-7, effective November 28, 2023, revokes AK Bulletin 2023-6 due to improvements in pharmacy staffing stability effective November 28, 2023. Latest Update available [here](#).

### **Arkansas**

AR Bulletin 19-2023, effective November 30, 2023, provides interpretations, notices, and a description of the Arkansas Insurance Department's enforcement policy regarding Share the Savings Legislation enacted by the Arkansas General Assembly in 2023. See 2023 AR H.B. 1481 (NS) for additional information regarding Share the Savings legislation. Latest Update available [here](#).

### **Delaware**

DE Domestic/Foreign 113 (Revised) (#4), effective December 5, 2023, discusses procedures for the collection of the Delaware Health Insurance Individual Market Stabilization Reinsurance Program assessment. Provides background, applicability, calculation method, allocation, due dates, penalties, tax information, distribution plans, program information, and assessment form instructions. Reminds insurers of their obligation to pay the assessment by 3/1/2024. Latest Update available [here](#).

### **Kentucky**

KY Bulletin 2023-5, effective November 21, 2023, explains compliance with statutory requirements for electronic filing of all financial documents, including annual statements. Latest Update available [here](#).

## Massachusetts

MA Bulletin 11-16-2023, effective November 16, 2023, explains new and updated policies Effective October 1, 2023 for mental health coverage in acute medical settings and inpatient psychiatry settings. Latest Update available [here](#).

## Michigan

MI Bulletin 2023-23-INS, effective November 30, 2023, notifies pharmacy benefit managers operating or planning to operate in Michigan that they must submit completed applications along with the application fee beginning January 1, 2024, but no later than March 1, 2024. Provides a URL and contact information for pharmacy benefit managers to consult for further information and for questions regarding the bulletin. See 2021 MI H.B. 4348 (NS) for additional information regarding the Pharmacy Benefit Manager Licensure and Regulation Act. Latest Update available [here](#).

## New Hampshire

NH Bulletin 23-038-AB, effective November 15, 2023, explains billing code requirements for coverage of behavioral health integration services. Latest Update available [here](#).

## New York

NY Circular Letter 2023-7, effective November 16, 2023, provides guidance to facilitate the review and approval of accident and health insurance policy forms and rates by the Department of Financial Services. Notes that this circular letter does not apply to Child Health Plus, Essential Plan, and Medicaid managed care coverage. Latest Update available [here](#).

## Pennsylvania

PA Notice 12-9-2023 (#2), effective December 9, 2023, discusses enforcement of use of forms required under newly-updated laws regarding prior authorization and appeal beginning on 1/1/2024, which have not yet been filed for approval under the new requirements. Latest Update available [here](#).

## News and Insights

- **ACA enrollment to date clocks large increase over last year** (November 22, 2023) available [here](#).
- **Texas businessman pleads guilty to wire fraud for scheme to sell noncompliant health insurance** (November 22, 2023) available [here](#).
- **NAIC surveys highlight ubiquitous artificial intelligence use among U.S. insurers** (December 4, 2023) available [here](#).

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## GOVERNMENT-FUNDED HEALTH INSURANCE

### Recent Legislative Items

#### District of Columbia

2023 DC L.B. 124 (NS), effective November 15, 2023, adopts the Prior Authorization Reform Amendment Act of 2023, establishing requirements for and restrictions on prior authorization. Includes in the definition of "utilization review entity" an individual or entity that performs prior authorization review for a health benefits plan provided through Medicaid. Specifies that a health benefits plan provided through Medicaid may require prior authorization based on a

preferred drug list. Defines "long-term services and supports" and provides that a utilization review entity must provide a decision on long-term services and supports within 30 days, provided that the enrollee has been determined to be eligible for such benefits under Medicaid. Provides that the Department of Health Care Finance may require annual reauthorization for long-term services and supports. Latest Update available [here](#).

### **Illinois**

2021 IL S.B. 3682 (NS), effective December 1, 2023, adopts a new section relating to Medicaid cervical cancer screening services and Medicaid reimbursement rates for breast tomosynthesis. Latest Update available [here](#).

### **Massachusetts**

2023 MA H.B. 4204 (NS), effective December 4, 2023, amends sections relating to facility licensing. Latest Update available [here](#).

### **Michigan**

2023 MI H.B. 4276 (NS), effective February 13, 2024, adopts MI ST 400.105i, prohibiting the department from entering into a contract with a Medicaid managed care organization that utilizes a pharmacy benefit manager unless the pharmacy benefit manager meets certain requirements. Adopts MI ST 400.105j, requiring, by January 15, 2024, and then by January 15 each year thereafter, a pharmacy benefit manager that receives reimbursement, either directly or through a Medicaid contracted health plan, to report certain information to the department. Latest Update available [here](#).

### **New Jersey**

2022 NJ S.B. 2369 (NS), effective January 1, 2024, adopts uncodified sections supplementing NJ ST 30 (Institutions and Agencies) providing requirements to establish a minimum NJ FamilyCare reimbursement rate for traumatic brain injury special care nursing facilities; and an enhanced NJ FamilyCare reimbursement rate for nursing facilities under certain circumstances. Provides for a base per diem reimbursement rate that is \$400 above the special care nursing facility's FY 2022 base per diem reimbursement rate, for a special care nursing facility providing services to a NJ FamilyCare beneficiary residing in a traumatic brain injury unit. Specifies that the division shall reimburse a nursing facility for services provided to a NJ FamilyCare beneficiary residing in a single occupancy room at an enhanced per diem reimbursement rate equal to 150 percent of the nursing facility's base per diem reimbursement rate, provided that, on any date after the effective date of this act, the nursing facility voluntarily delicensed beds in order to establish the single occupancy room in which the beneficiary resides. Specifies how reimbursements received by a nursing facility that are in excess of the facility's base per diem reimbursement rate shall be utilized by the facility. Latest Update available [here](#).

### **Pennsylvania**

2023 PA S.B. 500 (NS), effective January 20, 2024, adopts PA ST 62 P.S. § 443.13 (Medical Assistance Coverage for Pasteurized Donor Human Milk) to establish the requirements for medical assistance coverage for pasteurized donor human milk. Provides definitions and specifies when pasteurized donor human milk is compensable under the medical assistance program. Also specifies certain Department of Health requirements regarding pasteurized donor human milk. Latest Update available [here](#).

### **Recent Administrative Items**

**Federal**

88 FR 65230-01, effective November 17, 2023, amends sections relating to streamlining Medicaid, Medicare savings program eligibility determination, and enrollment. Latest Update available [here](#).

**Arkansas**

2023 AR REG TEXT 648557 (NS), effective November 1, 2023, adopts and amends sections relating to Medicaid covered services and coverage requirements for clinical trials. Latest Update available [here](#).

**Colorado**

2023 CO REG TEXT 658129 (NS), effective December 8, 2023, amends 10 CO ADC 2505-10:8.017 (Habilitative Services) removing the 5-unit daily limit and the 48 unit per fiscal year limit from Habilitative Physical or Habilitative Occupational Therapy. Also removes the 5 unit per date of service limit from Habilitative Speech Language Pathology services. Amends 10 CO ADC 2505-10:8.300 (Hospital Services) requiring, effective January 1, 2024, for services meeting the criteria of an Inpatient Hospital Specialty Drug that would have otherwise been compensated through the APR-DRG methodology, a hospital to submit a request for authorization to the Department prior to administration of the drug. If the request is approved, then the payment will be negotiated between the Department and the hospital on a case-by-case basis. Latest Update available [here](#).

**Delaware**

2023 DE REG TEXT 653190 (NS), effective December 11, 2023, amends the uncodified Title XIX Medicaid State Plan regarding doula services, specifically, to provide doula services as separately reimbursed pregnancy-related services. Latest Update available [here](#).

**Florida**

2023 FL REG TEXT 647250 (NS), effective November 16, 2023, amends 59 FL ADC 59G-4.085 (Early Intervention Services) updating the Florida Medicaid Early Intervention Services Coverage Policy to October 2023, which is incorporated by reference. Latest Update available [here](#).

**Illinois**

- 2023 IL REG TEXT 633512 (NS), effective November 3, 2023, amends sections relating to Medicaid billing and reimbursement. Latest Update available [here](#).
- 2023 IL REG TEXT 633513 (NS), effective November 21, 2023, amends 89 IL ADC 140.88 (Managed Care Organization Provider Assessment) establishing the monthly assessment amount for State Fiscal Years 2024 through 2025. Requires proceeds from the assessment upon a county provider to be deposited directly into the County Provider Trust Fund. Latest Update available [here](#).

**Louisiana**

- 2023 LA REG TEXT 642208 (NS), effective November 9, 2023, amends sections relating to Medicaid personal care services and home- and community-based services waivers. Note: This rulemaking amends a previous emergency rule. Latest Update available [here](#).
- 2023 LA REG TEXT 650215 (NS), effective November 20, 2023, amends 50 LA ADC Pt V, § 2903 (Reimbursement Methodology) providing, effective for dates of service on or after December 1, 2023, payment for DSH eligible services provided through a cooperative endeavor agreement with the Department of Health must be equal to the Medicaid per

diem rate on file for free-standing psychiatric hospitals. Establishes requirements and conditions for the payments. Latest Update available [here](#).

## **Maine**

- 2023 ME REG TEXT 645176 (NS), effective November 26, 2023, amends ME ADC 10-144 Ch. 101, Ch. III, § 67 (Principles of Reimbursement for Nursing Facilities) updating nursing facility reimbursement requirements. Latest Update available [here](#).
- 2023 ME REG TEXT 646616 (NS), effective December 6, 2023, adopts ME ADC 10-144 Ch. 101, Ch. II, § 89 (MaineMOM Services and Reimbursement) to provide coverage of opioid use disorder services for pregnant and postpartum people and their infants. MaineMOM services are separate from ME ADC 10-144 Ch. 101, Ch. II, § 93 (Opioid Health Home Services), and MaineCare will not reimburse a provider for MaineMOM services if the member also receives Section 93 services. Latest Update available [here](#).

## **Maryland**

- 2023 MD REG TEXT 635572 (NS), effective November 27, 2023, relating to telehealth and the Medicaid home- and community-based options waiver. Latest Update available [here](#).
- 2023 MD REG TEXT 637006 (NS), effective November 27, 2023, amends MD ADC 10.09.56.22 (Payment Procedures) providing that subject to budget limitations, program rates shall increase by 4% each year through Fiscal Year 2026. Also adds the Autism Waiver services fee schedule. Latest Update available [here](#).
- 2023 MD REG TEXT 639858 (NS), effective November 27, 2023, amends sections relating to telehealth and Medicaid home health services. Latest Update available [here](#).
- 2023 MD REG TEXT 645937 (NS), effective December 11, 2023, amends sections relating to Medicaid applied behavior analysis services. Latest Update available [here](#).
- 2023 MD REG TEXT 647698 (NS), effective November 27, 2023, amends MD ADC 10.67.08.02 (Behavioral Health Non-Capitated Covered Services) updating the list of procedure codes for substance use disorder services delivered by a community-based provider for which an MCO will not reimburse regardless of diagnosis to add group and individual peer recovery support services. Updates the list of revenue codes for substance use disorder services delivered by an inpatient hospital for which an MCO will not reimburse if billed with a specified primary diagnosis to add administrative days. Provides that an MCO will not reimburse for behavioral health crisis services described in MD ADC 10.09.16 (Behavioral Health Crisis Services). Removes an outdated code table and updates the code table for dates of service on or after October 1, 2015. Also updates internal cross references. Latest Update available [here](#).
- Amends MD ADC 10.09.69.17 (Table of Rare and Expensive Disease Diagnosis) updating the table of REM qualifying diagnoses. Latest Update available [here](#).

## **Massachusetts**

- 2023 MA REG TEXT 645509 (NS), effective November 1, 2023, relating to Medicaid reimbursement and rates for hearing services. Latest Update available [here](#).
- 2023 MA REG TEXT 648301 (NS), effective November 24, 2023, repeals 101 MA ADC 452.00 (Supplemental Rates for Workforce Investment for Certain Health and Human Services Programs), which established the payment rates for workforce investment for certain Health and Human Services programs. Beginning July 1, 2023, the rates for all services described in 101 MA ADC 452.00 will revert to the applicable rates set forth in the corresponding "parent" rate regulation for each service. Latest Update available [here](#).
- 2023 MA REG TEXT 649411 (NS), effective November 24, 2023, repeals 101 MA ADC 433.00 (Rates for Certain Health and Human Services Programs), which established increased payment rates based on updated labor statistics salary information for certain

Health and Human Services programs. The rates for all services described in 101 MA ADC 433.00 will revert to the applicable rates set forth in the corresponding "parent" rate regulation for each service. Latest Update available [here](#).

### **Mississippi**

- 2023 MS REG TEXT 653045 (NS), effective December 1, 2023, amends 23 MS ADC Pt. 223, R. 4.8 (Reimbursement) providing that, effective May 12, 2023, the 15% rate increase for private duty nursing services will remain in place. Latest Update available [here](#).
- 2023 MS REG TEXT 653046 (NS), effective December 1, 2023, amends 23 MS ADC Pt. 214, R. 1.3 (Drugs Subject to Exclusion or Otherwise Restricted) clarifying that drugs used to treat obesity are covered. Latest Update available [here](#).
- 2023 MS REG TEXT 655161 (NS), effective January 1, 2024, amends 23 MS ADC Pt. 200, R. 5.4 (Tobacco Cessation) adding coverage for 12 in-person or telehealth tobacco cessation counseling sessions per State Fiscal Year when provided by a physician or other licensed practitioner that has prescriptive authority, operating within their scope of practice. Latest Update available [here](#).

### **Missouri**

- 2023 MO REG TEXT 642102 (NS), effective November 30, 2023, amends 13 MO ADC 70-4.120 (Department is the Payer of Last Resort, Department's Claim for Recovery, Participant's Duty of Cooperation) removing language limiting recovery to funds dedicated to past medical expenses. Also updates the definition of "medical expense" and "medical expenses." Latest Update available [here](#).
- 2023 MO REG TEXT 649552 (NS), effective January 30, 2024, amends 13 MO ADC 70-15.160 (Outpatient Hospital Services Reimbursement Methodology) to remove sections (1) through (4) and update all documents incorporated by reference and used to create the outpatient simplified fee schedule. Note: This rule was previously adopted as an emergency (2023 MO REG TEXT 647497 (NS)) and is adopted here as final with certain changes and corrections. Latest Update available [here](#).

### **Ohio**

- 2023 OH REG TEXT 651399 (NS), effective January 1, 2024, rescinds and replaces OH ADC 173-42-03 (PASSPORT program (Medicaid-funded component): enrollment and reassessment of individuals) to update the signature requirements to continue enrollment in the PASSPORT program. Removes references and requirements to use of form ODA1044. Provides that during an emergency declared by the governor or a federal public health emergency, ODA's designee may collect the individual's handwritten or electronic signature on the enrollment agreement on a date later than the date the individual agrees to continue in the program, but no later than the next reassessment of the individual. Makes other clarifying changes. Latest Update available [here](#).
- 2023 OH REG TEXT 652645 (NS), effective January 1, 2024, amends, rescinds and replaces several sections relating to Medicaid waivers. Latest Update available [here](#).

### **Oregon**

2023 OR REG TEXT 652369 (NS), effective December 1, 2023, amends and repeals several sections relating to Medicaid waivers. Latest Update available [here](#).  
2023 OR REG TEXT 653866 (NS), effective December 1, 2023, amends several sections relating to Medicaid reimbursement. Latest Update available [here](#).

### **Rhode Island**

2023 RI REG TEXT 647816 (NS), effective December 12, 2023, amends 210 RI ADC 30-05-2.5 (Coverage Groups in RItE Care) to establish broader Medicaid eligibility criteria for former foster care youth. Includes former foster youth based on their participation in foster care in a state or Tribe within a state other than Rhode Island, up to age 26 who are eligible under the SUPPORT Act of 2018. Previously, this only applied to individuals who aged out of the Rhode Island foster care system. Amends 210 RI ADC 30-05-2.6 (Excluded Medicaid Coverage Groups), 210 RI ADC 30-05-2.8 (Overview of RItE Care Services) and 210 RI ADC 30-05-2.9 (RItE Care In-Plan Capitated Benefits) to update the time period regarding postpartum coverage from 60 days to 12 months. Readopts the other sections in 210 RI ADC 30-05-2 (Medicaid Managed Care Delivery Options) without any changes. Latest Update available [here](#).

### **South Dakota**

2023 SD REG TEXT 652337 (NS), effective November 27, 2023, amends several sections relating to Medicaid covered services, billing and reimbursement, and medical records. Latest Update available [here](#).

### **Texas**

2023 TX REG TEXT 645395 (NS), effective November 26, 2023, amends multiple sections relating to Medicaid reimbursement. Latest Update available [here](#).

### **Utah**

2023 UT REG TEXT 652213 (NS), effective November 1, 2023, amends UT ADC R414-515-2 (Definitions) making clarifying and technical changes to definitions regarding the scope of inpatient long-term acute care (LTAC) hospital services available to Medicaid members to treat disorders other than mental disease. Amends UT ADC R414-515-5 (Service Coverage) providing that prior authorization is approved for 28 days rather than 7 days. Makes other clarifying and technical changes. Amends UT ADC R414-515-8 (Reimbursement Methodology) making clarifying and technical changes. Latest Update available [here](#).

### **Washington**

- 2023 WA REG TEXT 649769 (NS), effective December 9, 2023, amends WA ADC 182-531-0150 (Noncovered physician-related and health care professional services—General and administrative) removing vaccines recommended or required for the sole purpose of international travel from the list of noncovered services. Amends WA ADC 182-531-0950 (Office and other outpatient physician-related services) clarifying the immunization reimbursement requirements. Also provides that the agency reimburses injectable drugs at actual acquisition cost and makes other clarifying changes. Latest Update available [here](#).
- 2023 WA REG TEXT 656155 (NS), effective October 24, 2023, amends sections relating to Medicaid waiver programs. Note: This rulemaking continues the previous emergency rulemaking (2023 WA REG TEXT 647597 (NS)) without change. Latest Update available [here](#).

## **Recent Guidance**

### **Federal**

- CMS Transmittal R12267CP, effective January 1, 2024, updates the Prospective Payment System (PPS) base payment rate and the Geographic Adjustment Factors (GAFs) for the Federally Qualified Health Center (FQHC) Pricer. Transmittal available [here](#).

- CMS Transmittal R12288CP, effective January 1, 2024, updates the payment limit for CY 2024 Rural Health Clinics (RHCs) in Chapter 9, Section 20.2 - "Payment Limit under the AIR" of the Claims Processing Manual. Transmittal available [here](#).
- CMS Transmittal R12361CP, effective August 1, 2023, updates Chapter One of the Medicare Claims Processing Manual to include newly created and utilized Payer Only Codes. Latest Update available [here](#).
- CMS Transmittal R12365DEMO, effective July 1, 2024 and April 1, 2024, implements the GUIDE Model, a demonstration testing alternative payment models and support for people with dementia and their caregivers. Transmittal available [here](#).
- CMS Transmittal R12371BP, effective January 1, 2024, implements the CY 2024 rate updates and policies for the ESRD PPS and to implement the payment for renal dialysis services furnished to beneficiaries with AKI in ESRD facilities. This Recurring Update Notification applies to Publication 100-02, Medicare Benefit Policy Manual, Chapter 11, Section 50. Transmittal available [here](#).
- CMS Transmittal R12372CP, effective January 1, 2024, provides a summary of the policies in the CY 2024 MPFS Final Rule and to announce the Telehealth Originating Site Facility Fee payment amount. The attached recurring update notification applies to publication 100-04, chapter 12, section 190.5, chapter 13, section 20.2.4, and chapter 18, section 240. Transmittal available [here](#).
- CMS Transmittal R12376CP, effective April 1, 2024, instructs the contractors and Shared System Maintainers (SSMs) to update systems based on the CORE 360 Uniform use of CARC, RARC and CAGC rule publications. These system updates are based on the CORE Code Combination List to be published on or about February 1, 2024. This Recurring Update Notification (RUN) applies to chapter 22, section 80.2. Transmittal available [here](#).
- CMS Transmittal R12381CP, effective January 1, 2024, informs contractors of new Clinical Laboratory Improvement Amendments of 1988 (CLIA) waived tests approved by the Food and Drug Administration. Since these tests are marketed immediately after approval, the CMS must notify its contractors of the new tests so that the contractors can accurately process claims. There are 80 newly added waived complexity tests. This Recurring Update Notification applies to Chapter 16, section 70.8 of the Internet Only Manual (IOM). Transmittal available [here](#).
- CMS Transmittal R12384CP, effective April 1, 2024, implements new International Classification of Diseases, 10th Revision, Procedure Coding System (ICD-10-PCS) procedure codes to the Medicare Severity – Diagnosis Related Groups (MS-DRG) Groupers and Medicare Code Editor (MCE) version 41.1, effective for discharges on and after April 1, 2024. This Recurring Update Notification applies to chapter 3, section 20.3.4. Transmittal available [here](#).
- CMS Transmittal R12385BP, effective January 1, 2024, manualizes changes to the hospice interdisciplinary group (IDG) to include Marriage and Family Therapists (MFTs) or Mental Health Counselors (MHCs). In the CY 2024 Physician Fee Schedule Final Rule (X FR X), we finalized modifications to the hospice conditions of participation to permit MFTs or MHCs to serve as members of the hospice IDG (§§ 418.56 and 418.114). Transmittal available [here](#).
- CMS Transmittal R12389CP, effective January 1, 2024, provides instructions for the CY 2023 clinical laboratory fee schedule, mapping for new codes for clinical laboratory tests, and updates for laboratory costs subject to the reasonable charge payment. This RUN applies to chapter 16, section 20. Transmittal available [here](#).
- CMS Transmittal R12390DEMO, effective July 1, 2024, implements all of the tenants of the Making Care Primary (MCP) model as it relates to claims-based payments. The Making Care Primary (MCP) model is a demonstration testing alternative payment models and support to primary care organizations. MCP is designed to test whether implementing new

payment methodology and care delivery goals can reduce program expenditures and improve outcomes on key measures. Transmittal available [here](#).

- CMS Transmittal R12393PI, effective January 1, 2024, updates Chapter 10 of CMS Pub. 100-08 with instructions regarding the implementation of certain provider enrollment regulatory provisions in the Calendar Year (CY) 2024 HH PPS final rule. Transmittal available [here](#).
- CMS Transmittal R12396CP, effective January 9, 2024, makes updates to chapter 32, sections 320.3.3 and 370.1 of the Medicare Claims Processing Manual Pub. 100-04 to coincide with the NCD updates in CR 13390, "International Classification of Diseases, 10th Revision (ICD-10) and Other Coding Revisions to National Coverage Determinations (NCDs)-April 2024." Transmittal available [here](#).
- CMS Transmittal R12397OTN, effective December 21, 2023, provides clarification to the A/B MACs regarding the Medicare guidance/policy as described in Chapter 12, section 30.5 of the Medicare Claims Processing Manual that relates to the complex administration of CPT codes 96401-96549. Transmittal available [here](#).
- CMS Transmittal R12398CP, effective January 1, 2024, updates annually in order to implement fee schedule amounts for new and existing codes, as applicable, and apply changes in payment policies. The update process for the DMEPOS fee schedule is located in publication 100-04, Medicare Claims Processing Manual, chapter 23, section 60. Transmittal available [here](#).
- CMS Transmittal R12399CP, effective April 1, 2024, provides the Medicare contractors with the April 2024 Bi-Annual ICD-10-CM updates. This recurring update notification applies to chapter 23, section 10. Transmittal available [here](#).

### **News and Insights**

- **U.S. health enforcement agency reports \$3.44 billion in expected recoveries** (December 13, 2023) available [here](#).