



NRLN Review



NRLN Review, Summary for February 2022

The NRLN Review provides a monthly report on National Retiree Legislative Network actions, events in Congress and important retirement news.

Direct Contracting Threatens Medicare's Future

NRLN President Bill Kadereit issued a President's Forum message on February 7 which asked NRLN members to read the transcript of testimony presented on February 2 to the Senate Finance Committee Subcommittee on Fiscal Responsibility and Economic Growth by Dr. Susan Rogers, MD, President, Physicians for a National Health Program. (Click here to read the testimony transcript on the NRLN website.)

Dr. Rogers began her testimony with this statement: "To understand how Direct Contracting works and why it threatens Medicare's future, it's important to understand the first wave of Traditional Medicare privatization through Medicare Advantage."

Kadereit wrote: "We know \$20 billion of taxpayer rebate money was used to buy MA vision, hearing, dental, and other benefits denied to 40 million others in original Medicare in 2021; that MA plans cost taxpayers 4% more per enrollee than original Medicare, and now we know Direct Contracting Entities (DCEs) will cost even more and that both original Medicare and MA plans could both be at risk."

Dr. Rogers began her testimony on Direct Contracting with this opening paragraph: "A majority of seniors and disabled Americans choose Traditional Medicare (TM) over Medicare Advantage (MA) because they value the free choice of providers and the power to manage their own care. However, **under the Medicare Direct Contracting (DC) pilot program, millions of beneficiaries who actively chose TM are being automatically enrolled into third-party Direct Contracting Entities (DCEs) without their full knowledge or consent.**"

She noted: "If a senior is auto-aligned into a DCE, **their only way to remove themselves from the DCE is to change primary care providers.** Click here to read the transcript of Dr. Rogers's testimony.

<https://www.nrln.org/wp-content/uploads/2022/02/Medicare-Direct-Contracting-A-Threat-to-Seniors-and-to-Medicare-Future.pdf>

The NRLN announced its opposition to the CMS (Centers for Medicare and Medicaid) Direct Contracting program's threat to Medicare with an Action Alert on December 7, 2021. More than 8,700 letters were sent to President Biden and members of Congress to urge them to stop CMS' dangerous action to destroy Medicare.

Letters to HHS Secretary and CMS Administrator

NRLN President Bill Kadereit sent letters on February 18 to Xavier Becerra, Secretary of Health and Human Services and Chiquita Brooks-LaSure, Administrator of the Centers for Medicare and Medicaid.

The letters requested that the good work of the Center for Medicare and Medicaid Innovation on Accountable Care Organizations (ACOs) to reduce the cost of healthcare and strengthening original Medicare should not be bastardized by Direct Contracting Entities (DCEs) that were ill conceived by President Trump's political appointee.

Medicare Advantage (MA) plans are a prime target of DCEs. Seniors in MA plans should oppose DCEs.

ACOs offer the best chance to contain costs, improve quality of patient care and to advance medical solutions. ACOs must be established as authentic non-profit models that reward clinicians, providers and administrators. ACOs must own original Medicare's centralized control of suppliers, including competitive bidding, and payment without artificial barriers or capitation payment obligations. CMS must restore the provider/supplier governance regulation from 25% back to 75%. The ACO model should be the litmus test for private plans.

ACO's can help secure original Medicare. ACOs are the only model that will achieve cost improvement and better care. Other strategies are perversely complex and cost taxpayers and Medicare more per enrollee.

NRLN Letters Request Information on ACOs

The Centers for Medicare and Medicaid Innovation Center (CMMI) announced on February 24, 2022, that in 2023 it will transition the Global and Professional Direct Contracting (GPDC) Model into the Accountable Care Organization Realizing Equity, Access and Community Health (ACO REACH) Model.

The NRLN is concerned that ACO REACH is just renaming DCEs and CMMI is corrupting the original intent of ACOs.

NRLN President Bill Kadereit sent letters on February 28 to Medicare Trustees and the MedPAC Commission stating that since ACOs will be transitioned to ACO REACH it is imperative that that ACO rebates and incentives be disclosed in their annual reports. This would provide Medicare beneficiaries and Congress a window into the actual financial performance record of ACOs from 2013-2021.

Appeals Court Ruling Favors Medicare Patients

On February 21, NRLN shared with its members information on a federal appeals court ruling that Medicare patients are entitled to an appeal process at the Centers for Medicare and Medicaid Services (CMS) when their hospital stay classifications are changed from "inpatient" to "observation" status.

You may recall the NRLN has issued Action Alerts on this issue that has resulted in retirees not being aware they were misclassified as "under observation" by hospitals. After release, if they spent weeks in rehab centers, they received bills for tens of thousands of dollars.

This ruling could result in significant financial savings for Medicare Part A patients. If a senior needed skilled nursing care following a stay in a hospital, Medicare would not cover the cost unless he/she was in the hospital as an "inpatient" for at least three days (not including the date of discharge). There was not a process to appeal to Medicare a hospital's classification of "outpatient."

Under the court's decision, Medicare beneficiaries whose status was changed from "inpatient" to "observation" can now appeal the hospital's classification to Medicare. The Court of Appeals for the Second Circuit upheld the trial court decision that had found that Medicare's lack of appeals procedures on this issue violates the Due Process Clause of the constitution.

To learn how to file an appeal with Medicare, click here to read the booklet *Medicare Appeals*.

<https://www.medicare.gov/Pubs/pdf/11525-Medicare-Appeals.pdf>

NRLN Legislative Committees' Work

The NRLN's Legislative Advisory Committee (LAC) composed of Judy Stenberg, Chairwoman, Deb Morrissett, Joe Mazzei, Al Duscher and Bob Martina submitted the following bills for the Legislative Action Planning Committee (LAPC) to consider for action during its February 7 conference call. The LAPC includes Bill Kadereit, Chairman, Judy Stenberg, Alyson Parker, Bob Martina and Ed Beltram. The LAPC's actions included:

H.R.6202, Telehealth Extension Act of 2021, would ensure permanent access to telehealth for patients across the country by ending outdated geographic and site restrictions on where patients can receive approved telehealth services. It also temporarily extends emergency authorities established during the COVID-19 pandemic that authorize a wide range of providers and services via telehealth.

-- Letters were emailed on February 7, 2022, to Committee on Energy and Commerce Chairman Frank Pallone (NJ-06) and Ranking Member Cathy McMorris Rodgers (WA-05) and Committee on Ways and Means, Chairman Richard Neal (MA-01) and Ranking Member Kevin Brady (TX-08) requesting Committee votes on H.R.6202. The letters noted that on June 8, 2021, letters were emailed to the Subcommittee on Health Chairwoman Anna Eshoo and Ranking Member Brett Guthrie requesting a vote on **H.R.1332, Telehealth Modernization Act**. It seems to the NRLN that **H.R.6202 and H.R.1332** bills should be combined and passed.

S.2603 Commission on Retirement Security Act of 2021, would establish within the executive branch the Commission on Retirement Security to (1) conduct a comprehensive study of the state of retirement security, and (2) submit to Congress recommendations on how to improve or replace existing private retirement programs. The Commission would be charged with doing a comprehensive review of private benefit programs existing in the United States, with a particular focus on the historical movement from the defined benefit model to the defined contribution model.

-- The NRLN is supporting (including Action Alert) **S.1770, Retirement Security and Saving Act**, with the NRLN proposal to clarify that a pension plan fiduciary does not have to recoup overpayments, but if it does, it must be done within three years of the initial overpayment. (Now there is no limit to back years.) The company may not recoup more than 10% of the amount of the overpayment per year, and it may not recoup against a beneficiary of a participant. In addition, **S.1770** includes the NRLN's proposed amendment that would amend the Employee Retirement Income Security Act (ERISA) and IRC Section 420 to reduce the Section 420 surplus transfer limits from 125% to 110%, subject to the requirement that annual plan surplus transfers may not exceed the combined annual life insurance and health insurance benefits or 1.75% of plan assets whichever is lower. As the result of supporting **S.1770** the LAPC concluded that **S.2603** is listed on the NRLN's Report Card to have a low priority and is superseded by another bill of higher relationship to the NRLN's Legislative Agenda.

H.R.6352/S.3399, Domain Reform for Unlawful Drug Sellers (DRUGS) Act, would provide the U.S. Food and Drug Administration (FDA) the authority to suspend websites run by criminal networks that traffic fentanyl, counterfeit medications, and other illegal drugs. According to the National Association of Boards of Pharmacy (NABP), about 95 percent of the 35,000 online pharmacies operating at any given time do not comply with applicable laws and pharmacy standards, peddling illicit opioids and other counterfeit, falsified, substandard, or unapproved prescription drugs to unsuspecting patients. The U.S. Food and Drug Administration (FDA) has specifically cited registry and registrar inaction as an obstacle to stemming the tide of illegal online drug sales, despite the industries' contractual authority to terminate service.

-- The LAPC supported the LAC's recommendation that Alyson Parker, NRLN Executive Director, contact Senator Amy Klobuchar's office gain clarification whether this bill would prohibit importation of all legal prescription drugs from Canada or just counterfeit and illicit drugs like fentanyl. If it prohibits the importation of all prescription drugs, the NRLN will oppose the bill.

The reason the LAC/LAPC thought it is better to contact Senator Klobuchar, the only co-sponsor, rather than Senator Marco Rubio, the sponsor, is that Senator Klobuchar introduced **S.259 Safe Affordable Drugs From Canada Act of 2021**. This bill would require the Food and Drug Administration (FDA) to set regulations within 180 days of enactment permitting Americans to import prescription drugs from licensed Canadian pharmacies. The bill stipulates there must be a valid prescription issued by a U.S. physician for drugs for personal use and not greater than a 90-day supply.

A member of Senator Klobuchar's staff informed Alyson that Senator Klobuchar supports the safe importation of prescription drugs from Canada through her bill, the Affordable Drugs from Canada Act. It is not our intent of **S.3399** to prohibit all prescription drugs from Canada. Senator Klobuchar's staff is currently working with Senator Rubio's office and advocates to make sure **S.3399** targets those illicit drugs and does not impair the ability for Americans to get safe, legal prescription drugs from Canada. The LAPC will make a decision on **S.3399** during its March conference call.

The four letters supporting **H.R.6202, Telehealth Extension Act of 2021**, have been posted in the NRLN Archives in Letters to Washington at: <https://www.nrln.org/letters-to-washington-2/>

H.R.6202, Telehealth Extension Act of 2021, has been posted on the NRLN website Bills webpage at: <https://www.nrln.org/legislative-action-network/#/bills>. The Bills webpage feeds the NRLN Report Card.

Key News Articles Posted in February

During February 58 links to news articles related to retirement issues were researched and posted daily IN THE NEWS on the NRLN website home page. The headlines below are links to the articles. Or, read the articles at www.nrln.org under IN THE NEWS in the right column. Scroll down the right column and click on the headline to access the article you want to read. Below are some of the headlines.

[**What the Rise in Inflation Means for Your Retirement Savings Right Now**](#) ~ Feb 01

[*Mark Cuban's Cost Plus Drug Company offers discounted drugs, but can it change the pharmaceutical industry?*](#) Feb 02

[**Medicare to cover 8 free COVID-19 tests per month in policy reversal**](#) ~ Feb 03

[*Opinion: Social Security's current calculus can push the elderly into poverty when a spouse dies*](#) ~ Feb 03

[**Pandemic-Fueled Shortages of Home Health Workers Strand Patients Without Necessary Care**](#) ~ Feb 03

[*New Website Aims To Streamline Reimbursement For Covid Tests*](#) ~ Feb 07

[**Will Social Security run out of money?**](#) – Jan 8

[*Sanders calls on Democrats to bring up drug pricing bill in Senate*](#) – Feb 9

[**Biden administration purchases 600k doses of new COVID-19 antibody drug**](#) – Feb 10

[*Congress is passing a wave of bipartisan bills as Biden's big plans stall*](#) – Feb 11

[**Five obstacles Biden faces in battle against inflation**](#) – Feb 12

[*Living only on Social Security can be difficult. There are many resources that can help struggling seniors*](#) – Feb 14

[**Letter to HHS Secretary Xavier Becerra Opposes Direct Contracting**](#) – Feb 15

[*Medicare Extra Help Income Limits for 2022*](#) – Feb 15

[**Physicians Slam Industry Push to 'Fix'—Not End—Medicare Privatization Scheme**](#) – Feb 16

[*The cost of long-term care is rising amid staffing shortages*](#) – Feb 17

[**Joe Biden Is Quietly Pursuing the Creeping Privatization of Medicare**](#) – Feb 18

[*10 details too many people get wrong about Social Security, Medicare*](#) – Feb 19

[**Social Security fixes could animate post-midterms agenda**](#) – Feb 22

[*It's time to get rid of Social Security's not-so-hidden tax*](#) ~ Feb 23

[**Are Your Parents Paying Their Medicare Premiums?**](#) ~ Feb 23

[*CMS overhauls Direct Contracting model to include new requirements on governance, health equity in 2023*](#) ~ Feb 24

[**'Band-Aid on a Tumor': Critics Blast Biden Rebrand of Trump's Medicare Privatization Scheme**](#) – Feb 25

[*Heart attack signs women should watch out for*](#) ~ Feb 25

[**Five Healthcare IT Trends To Watch out For In 2022**](#) ~ Feb 26

[*CMS redesigns controversial Medicare direct contracting model*](#) ~ Feb 28