

## **KHN's 'What the Health?'**

**Episode Title:** Health Spending? Only Congress Knows

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**Mary Agnes Carey:** Hello and welcome back to KHN's "What the Health?" I'm Mary Agnes Carey, partnerships editor for Kaiser Health News, and I'm filling in this week for your regular host, Julie Rovner. As usual, I'm joined by some of the best and smartest health reporters in Washington. We're taping this week on Thursday, December 15th, at 10 a.m. As always, news happens fast and things might have changed by the time that you hear this. So here we go. Today, we're joined via video conference by Alice Miranda Ollstein of Politico.

**Alice Miranda Ollstein:** Hello.

**Carey:** Rachel Cohrs of Stat News.

**Rachel Cohrs:** Good morning.

**Carey:** And my KHN colleague, Rebecca Adams.

**Rebecca Adams:** Thanks for having me.

**Carey:** We've got lots of news to discuss this week, so we'll get started. On Capitol Hill, appropriators have reached a framework for an omnibus spending package that, if approved, would fund the government through next September. Lawmakers hope to pass the package by December the 23rd and in the meantime will likely pass a short-term measure to keep the government funded past tomorrow, December 16th. I note that the details of the larger package are still developing, but how do you think it's going to shape health care funding in the months ahead? In particular, I'm thinking about the 4% scheduled cut to Medicare providers, proposals related to pandemic preparedness, Medicaid funding for the territories, and telehealth policy, among others. But please jump in and add whatever you like.

**Ollstein:** Everything you just listed has bipartisan support, which is obviously important and makes them more likely to make it in. But we've seen lots of things in the past that have bipartisan support still fall by the wayside. We're getting into one of those classic end-of-the-year pile-ups. We don't even know how big the pot of money is that all of these different priorities will be fighting over and things are still really fluid at this point. And we have some decisions being made, but the health policy decisions are still downstream of some of these bigger overall spending decisions, so it's kind of a wait and see mode at this point.

**Cohrs:** I think there's agreement that some of these items will, kind of, make it in. So, I think, like you mentioned, funding for the territories' Medicaid programs, that's looking pretty good. Programs to help support rural and state in our hospitals — those, I think there's wide agreement that there's expected to be some, you know, extension of those programs for at least a year, even if it's not as long as some industry players might want, same on telehealth. I think there'll be some relief for doctors and physicians, but it's unclear how much they're going to get. So, they may still be facing a cut, but it might not be a 4% cut. It might be a 2% or a 2.5% cut to their pay, which is

obviously not what they're hoping for. But I think it's, it's getting to be decision time. You know, if we have a week before they have to be done, I think leadership has little patience for these half a percent Medicare changes holding up the bills. So, we're getting to crunch time here, but yeah, I think like Alice said, there's still decisions to be made on some of these other priorities.

**Carey:** Do you think it could fall apart? That they don't get an omnibus package and we just kind of kick it? They don't finish the job, if you will, that so many lawmakers, especially the ones retiring, want done that we might just get a different kind of package?

**Ollstein:** It's possible, but yeah, I think because the top appropriators are retiring on the Republican and Democratic side in the Senate, there's just a lot of desire on their part to get an omnibus done. They don't want to have the capstone of their congressional career be kicking the can. Plus, everyone acknowledges that kicking the can into next year, when you're going to have divided government, it will be a hot mess, to say the least. The chances of cobbling something together that can pass and get broad agreement is just a lot lower next year. And so there's really a feeling on a lot of sides that it's better to get it done now. Of course, you have a lot of conservative House members who want to kick the can into next year so they can have more influence over the process. But whether there are enough of them to force that to happen, um, it doesn't, it doesn't look likely, but you never know.

**Cohrs:** I just wanted to highlight one interesting piece of reporting this week on the pandemic preparedness piece. I think [Sheryl Stolberg had a good piece in The New York Times](#) that kind of highlighted that the White House is actually lobbying against a bipartisan pandemic preparedness bill, which was interesting to me, just given that the Senate leaders who are championing that bill, you know, are really well respected. And it's not too — it doesn't get too aggressive in public health reforms. It's bare minimum, pretty bipartisan items in there. So I'm interested to see how that plays out. You know, if Congress does force President [Joe] Biden to make a decision on that item, if the White House does oppose it.

**Carey:** And what is new with the covid funding? Is the Biden administration going to prevail in its quest to get an additional \$10 billion to fight covid? Where does that stand?

**Ollstein:** Almost definitely not, I would say. The appetite on Capitol Hill has not been there for months to provide more funding for the pandemic, and I'm sure we'll get into this later, but part of the issue is that the administration keeps putting out these dire warnings, saying we're going to have to cut off all of these health programs and there won't be any more free vaccines and there won't be any more free tests and there won't be any more free Paxlovid and this, that, and the other thing if Congress doesn't pony up the money, and yet, they keep finding money to be able to do some of those things. So that sort of undercuts the case they're trying to make to Congress. And so, the most recent example is that they're doing another round of free tests you can get through the mail. They found the money under the couch cushions for that. And so that, paired with them saying we absolutely need this money. It's a tough message when Republicans are already opposed to more spending on covid.

**Carey:** All right. Well, we'll see how that one plays out. And so, let's go ahead and move on to some other news this week. CVS and Walgreens agreed to pay \$10.7 billion to settle allegations that they didn't properly oversee opioid prescriptions which contributed to the opioid epidemic. This is the latest in a series of settlements against retailers, drug makers and others. How are states and local governments spending this money?

**Adams:** So, I think one of the challenges is that we have a lot of lobbying about — this, this is a nice big pot of money. It's, in all, about \$54 billion out of all the settlements that we've gotten involving state and local governments and all of the different entities that have been suffering so much during this opioid epidemic. Of that, about 70% has to be spent on opioid-related treatment and another 15% on administrative costs. But then there's another 15% that is sort of up for grabs. And where we're seeing a lot of pressure, where families are asking what they can get and how this is going to help them. This has been so devastating to people. And we have grandparents who are taking care of orphaned children. And one of my colleagues in the area, Aneri Pattani, did a great [story recently](#) about a family. And the photographs from this were just devastating because they actually filmed the family — they were talking to the family and the very day they were there, there's this very touching photo of, of a man who's holding the hand of his daughter and his mother. And that very night he passed away from an overdose. And there are so many people who are jockeying for this money. And so it's a very big challenge. How does this get distributed? I mean, there have been also challenges when you think about who's hurt in terms of the geography. This is something that has really been difficult, particularly in rural areas. And Aneri did [another story](#) where she looked at within states, how is this being distributed? And what we're finding is that a lot of the cities are getting this money, not the rural areas where we've had problems. And so that's been a big problem. This is — and I'm referring mostly in this context to the \$26 billion national settlement that was announced earlier this year. There are a variety of different settlements that we're talking about. And so, you know, if you look at Aneri's second story, she has this great map where she talks about how in North Carolina you can really see this concentration of money flowing to the cities rather than the rural areas. Although, there are some states that are doing different things. I think Pennsylvania did its own formula in a different way. So, this is a big issue. This is a big pot of money. It's not as big as, say, the tobacco settlement that Mac and I covered all those years ago, but it is a lot of money that's going to be distributed over time.

**Carey:** So, you have the distribution issue. You have the potential inequity issue. To your point, Rebecca, you have the thought that we want to avoid the mistakes that were made in the tobacco settlement and distribution and so on. But I guess the bigger question is, is it too little too late, right? There's a greater focus on opioids and fewer of those are being prescribed. But according to [a very big story The Washington Post put out this week](#) on this issue, and according to their analysis, fentanyl is now the leading cause of death for Americans [aged] 18 to 49. In this particular story, and if you haven't read it, I really encourage that people do, they talk about the damage that fentanyl has done. And they raise a question that I'd like to raise to the panel: Are lawmakers and federal agencies doing enough to stop this epidemic?

**Cohrs:** I think my colleague Lev Facher, who has a new beat as an addiction reporter, had [a story about this](#), I think maybe last week. But I think compared to the amount of overdose deaths that we see now, it's incredibly high. Lawmakers aren't really planning to do a whole lot, like there hasn't been a ton of activity on the Hill. And I think it's fair to say, like, Congress is a reactive institution. But I think in this case they're not even really reacting. They're like, “we, we tried to do some stuff before,” and now it's kind of a pivot to the pandemic because obviously, they had to. But I think there is just, you know, this ongoing problem and the legal process, like you mentioned, with these settlements is even slower. And that's just kind of the nature of the beast here. But there certainly are experts who are critical of a lack of proactive or imaginative action on this issue. And certainly, I think there is some interest from Republicans and also some Democrats, especially on fentanyl and kind of the big debate around that next year. So, I think that it's not

something that's going to go away. But in terms of treating it as, like, a public health issue, devoting more resources, like, we're really not seeing a lot of activity on that on the Hill.

**Carey:** So, in theory, it could be on the agenda for next year?

**Adams:** Yes. Just to build on Rachel's point, I mean, there are some people who've talked about doing a CARA 2.0. CARA [the Comprehensive Addiction and Recovery Act] was a law that passed a while ago. But I just think even though the need is tremendous, I mean, we're seeing that deaths from opioid overdoses are almost nine times higher than they were 20 years ago, even though there's this need for some additional legislation, some would argue, I just don't see that there's a whole lot of momentum. I mean, I think going back to our previous discussion, there's just not a whole lot I mean, that Congress is going to be able to do next year. There's so many challenges and hurdles to getting anything done legislatively. You know, with Biden being a lame duck president and with Congress having to deal with things like the debt limit and appropriations and all these other things, I really think that we're going to see more action on the regulatory side than the legislative side in the next year or two. Although there are some things that Congress can do. I mean, we may see some action on mental health or pandemic preparedness or other things, but for something like dealing with the opioid epidemic, we're going to have House Republicans focused on oversight. There's not going to be a whole lot of bipartisan support for that sort of thing, and you're losing people like [Republican Rep.] Fred Upton from Michigan, who was instrumental in that previous law. So, I think there's just a lot of obstacles to something like that.

**Carey:** Well, let's move on to abortion. It continues to make headlines in Washington, D.C. and around the country. For example, in Iowa, a judge blocked an effort to ban most abortions in the state. Current state law there bans abortion after 20 weeks of pregnancy. In Texas, a judge in San Antonio dismissed a lawsuit that was filed against an abortion provider who intentionally violated a controversial state abortion law. That law, which is known as Senate Bill 8, allows anyone to bring a lawsuit against someone who, quote, "aids or abets," close quote, in an abortion after about six weeks of pregnancy. Here in D.C., Democratic Senator Tammy Baldwin [from Wisconsin] has introduced a bill that would provide federal grants to pay for travel-related expenses for people seeking abortions. And the measure, which is probably unlikely to pass with Republicans in the House next year, the measure would give priority to people who live in states like Wisconsin that have banned or severely restricted abortion. And this morning, [The Washington Post is out with a story](#) about abortion rights opponents pushing for greater restrictions on abortion pills and tougher enforcement of state bans against the procedure. What do you make of these developments and what legal challenges do you anticipate will continue in the states that limit or outright ban access to legal abortion?

**Ollstein:** There's just going to be so much back-and-forth over the coming years. There's already been several states where, as the results of lawsuits making their way through the system, abortion has been banned and then restored and then banned and then restored. And I just keep thinking about how if it's this hard for those of us who track it for our jobs, just think how hard it must be for patients and providers to keep track of these legal changes and navigate it. You know, I keep hearing about patients who are traveling to other states, even though the procedure is currently legal in their home state, because they just don't know if that will still be the case by the time their appointment rolls around in a few weeks, because these developments are happening so quickly. And so, I think, really, tracking all of these court cases and then you have a bunch of state legislatures coming into session in January that have not been in session at all since *Roe v.*

*Wade* was overturned. So, this will be their first opportunity to take action one way or another. And so there's just going to be a lot to keep us busy next year.

**Carey:** So, the answer this is probably obvious in a divided Congress. Is there any potential consensus at all on abortion or will members even talk about it? I mean, they tended to not want to even talk about the Supreme Court decision before the midterms. Is that kind of the status quo? Is this going to just continue to be a battle in state capitols, courtrooms, and heading into the 2024 election?

**Ollstein:** Yeah, I think it's mainly a state story at this point. I think that in Congress you're not going to have the votes to either implement national restrictions or national protections for abortion. However, you are going to see more, sort of, messaging votes that we've seen over the past few years. Lindsey Graham [Republican Senator from South Carolina] has told us that he will reintroduce his 15-week ban next year. So that will put pressure on, especially, like you said, people who might be interested in running for president. Will, they co-sponsor it, will they not? You know, you have people saying "15 weeks doesn't go far enough." You have people saying, "we should leave this question to the states. Our whole argument against *Roe v. Wade* was that it prevented states from being the deciders on this and then here we're coming in trying to implement a national law." So, there's going to be a lot of tension within the conservative movement going forward that we're already seeing right now.

**Carey:** So, let's turn to covid, which is on the podcast, I think, every single week, perhaps. And this was mentioned earlier in our discussion in a nod to concerns over the potential winter surge in cases, the Biden administration did announce, yesterday, that it plans to reopen this partnership with the Postal Service to mail the free at home covid-19 tests to households that ask for them. And this is a program that the administration had previously paused in September. In other covid news and Alice, I know that you were there yesterday, the House Select Subcommittee on the Coronavirus Crisis held their final hearing to discuss how to prevent and prepare for future public emergencies, and they released a final report. Last week, the Democrats on the panel kind of got ahead of that and put out their own findings where they concluded that structural weaknesses, leadership failings, and the spread of misinformation contributed to the deaths of more than a million Americans during the pandemic. Republicans last week found fault with those findings, and they also found fault with the Biden administration's pandemic response, vowing that the GOP will make it a priority in 2023. So, Alice, tell us a little bit about that Dems report. I know you were at yesterday's hearing. What were the key takeaways?

**Ollstein:** Yeah, I think it was a great illustration of just how partisan this has become and the challenges going forward. And it's interesting that we're seeing all of these Republicans putting out their report, Democrats putting out their report, obviously wildly different conclusions on what went wrong during covid and what needs to change going forward. Meanwhile, you have legislation to create a completely nonpartisan, independent commission to investigate the pandemic, and that is currently hanging out in limbo. It could pass before the end of the year. It could get left behind. We just don't know. But I think going to the hearing yesterday was really an illustration of why such sort of 9/11 style commission that's made up of not lawmakers, but hopefully people that can be respected by both sides, might really be necessary. So you had the official Select Subcommittee on the Coronavirus Crisis under a Democratic majority put out about 30 recommendations of what needs to change to make the country stronger against future pandemics. And it ranges from things that Congress appears not likely to do in the short term, like passing more funding for testing and vaccinations and replenishing the strategic stockpile. And a

bunch of, like you said, bigger structural things that Congress is also not poised to do, like implementing universal paid family and medical leave, which they said would make a huge difference, in allowing people to stay home when they're sick and not spread future viruses around. So, it's out there now in the historical record that after all this investigation, this is what the country should be doing, but it's, it's a little depressing that it's coming out right at the moment where Congress is going in the opposite direction of all these recommendations.

**Carey:** But what does that say about our ability as a country to prepare for future pandemics if you can't even agree on a bipartisan 9/11 style panel to assess what went right and what went wrong? I mean, where does that leave us? It's obviously a mess. All right. Well, let's go ahead and move on. Oh, go ahead, Rachel. You want to say something?

**Cohrs:** Oh, I was just going to say that, I think since 9/11, certainly I think the political dynamics have changed. So, I don't know that that's an issue that is limited to pandemic preparedness in terms of agreeing on things. But I think there is quite a bit of agreement actually that there do need to be changes in how our public health infrastructure runs. I think there is just some disagreement about the approach to make that happen. And I think like Alice mentioned, you know, Democrats are more concerned about getting more funding and more authority and Republicans are more focused on giving certain agencies less authority and empowering the states. And I think those are just some fundamental philosophical differences. But I think it's also kind of challenging because this now spans two administrations as well. So, the Biden administration isn't particularly eager to, you know, have their performance evaluated. And obviously, Republicans just are kind of tired, I think, of the [President Donald] Trump focus of the Select Subcommittee as well, because a lot of their work kind of was focused on the prior administration as well. So I think that just kind of complicates the dynamic. But again, it's, I don't think this polarization is something that is limited to pandemic preparedness, unfortunately.

**Ollstein:** And I also want to say that I'm not trying to argue that the 9/11-style commission would be this panacea. You know, we're in such a polarized place that even if that commission came out with something very definitive, it's not clear that a lot of society would believe and accept it at this point. You know, conspiracy theories are so rampant. You know, people's biases are very baked in at this point. So, I just brought it up because what we've had so far are these very, very separate Democratic and Republican responses. And we don't really have any sort of unity opinion, but maybe a unity opinion at this point wouldn't really convince anyone. It's, it's not clear. But, you know, tracking the policy response, I think, is what's really interesting. And the folks in the public health world that have been screaming for so long that changes are needed even now, after more than a million Americans have died from covid, those changes don't really seem to have the support needed to, to be implemented.

**Adams:** I feel like a lot of Americans are just feel like they're past the pandemic. I mean, to Alice's point, people see this through their lens. And, you know, we can't even get people to go out and get the new booster shot. You know, I think something like 14% of people have gone out and gotten the booster shot. So, if people aren't going to protect themselves, they're certainly not going to be paying attention to what a commission or other people say about it. And I think in the next Congress, we're going to hear so much more in terms of polarized views from the House Republicans who are going to be holding all these oversight hearings, that it's just going to make that even more entrenched.

**Carey:** So, I just wanted to get folks take on this move from Florida Governor Ron DeSantis to ask the Florida Supreme Court to impanel a grand jury to investigate what he sees as wrongdoing that's linked to the covid vaccines. Right? We have the medical community that says the vaccine is safe and effective, but the DeSantis administration says that, quote, "the pharmaceutical industry has a notorious history of misleading the public for financial gain," close quote, and that the grand jury will probe the development, promotion and distribution of vaccines purported to prevent covid-19 infection symptoms and transmission. I mean, how will this figure in the debate? Do you think it's just a political ploy? Is it just going to make headlines and go away? Is it going to have any lasting resonance if it's even impaneled, I should say?

**Ollstein:** It's a very striking change from DeSantis because he, for the first few years of the pandemic, really was pushing the message that the vaccines are good and you should take them and, you know, praising the Trump administration for Operation Warp Speed, but saying, "you know, no mandates. We're not going to force you. You know, this is about personal choice and freedom. And now we're going way, way beyond that message to actually the vaccines are dangerous," which, like Rebecca said, at a time when people are very under-vaccinated and really could use the booster to prevent deaths, especially in the older population, which we know Florida has a lot, that could really lead to a lot more hesitancy and skepticism at a time when that would really be damaging for public health.

**Carey:** All right. Well, that's the news for this week. And now it's time for our extra credit segment where we each recommend a story we read this week that we think you should read, too. Don't worry if you miss it, we'll post the links on [the podcast page](#) at [khn.org](http://khn.org) and in our show notes on your phone or your other mobile device. So, Alice, why don't you go first this week? What's your extra credit?

**Ollstein:** Sure. So, I chose [a series that just came out from Stat's Nick Florko about hepatitis C in prisons](#). I know he's been working on this for years because we were both in the same fellowship cohort at the Association of Health Care Journalism when he first started it. It's just so impressive, very dispiriting information about how prisons withhold hepatitis C treatment and prisoners have to file lawsuits, some of them handwritten, in order to get access to a very simple treatment that could save their lives. And so, really encourage people to check this out.

**Carey:** Rachel?

**Cohrs:** So I chose a story in The Washington Post and the headline is "[From Heart Disease to IUDs: How Doctors Dismiss Women's Pain](#)," by Lindsay Bever. I feel like this is an issue that has been reported pretty extensively, but I think there hasn't been a wholesale change in the industry, necessarily and in insurance coverage and, you know, providers practices, still when it comes to, you know, providing pain relief or taking women's pain seriously. Um, this is a well-documented phenomenon and I thought the story just did a really good job of kind of partnering the, like, kind of mind-boggling anecdotes about, you know, a woman who complained of headaches and her doctors didn't take her seriously and then she had a brain tumor, you know, just like these unbelievable anecdotes, but with data as well, to show that it's not just a bad apple here and there, that it really is systemic treatment of women's pain. And I think obviously how often this is studied, how often treatments and just ways to mitigate that during procedures, you know, haven't been fully explored. I mean, that's, you know, also choices of people who steward those resources and kind of where they want to devote that. But I think it was a very eye-opening story,

just kind of adding to the drumbeat of coverage around women's pain and how to make the health care system work better for women.

**Carey:** It's a critical topic and a very important one. Rebecca.

**Adams:** So, I chose "[Mass Shootings Reopen the Debate Over Whether Crime Scene Photos Prompt Change or Trauma](#)," by Lauren Sausser here at Kaiser Health News. So, here we are at the ten-year anniversary of [the mass shooting at] Sandy Hook [Elementary School in Newtown, Connecticut] and we're having this debate over whether seeing the gruesomeness of death, seeing what happens to people's bodies in these mass shootings, whether that would galvanize opposition and some change in America, whether it would be kind of an Emmett Till moment or whether that's disrespectful of the victims and whether the images could be misused in some way. And, so it's just a reminder of how different America is than most of the industrialized world when it comes to gun deaths and there's a debate going on about how to get ahead of that and how to come to grips with what people live with and whether seeing the images of victims who've been shot, what impact that might have in the future.

**Carey:** My extra credit is a piece by Amit Kumar published in Scientific American. It's called "[Kindness Can Have Unexpected, Positive Consequences](#)." It takes a look at the work of researchers who studied random acts of kindness and these are defined as an action done with the primary intention of making somebody else who isn't expecting the gesture feel good. Those who perform the gestures don't expect anything in return. Key findings include that both performers and recipients of the acts of kindness were in more positive moods than normal after the exchanges, and it was clear that the performers undervalued their impact. Recipients felt significantly better than the kind actors expected, and the recipients were also reliably rated these acts as bigger than the people performing them did. So, a key takeaway here is kindness can be contagious. Okay, that's our show for this week. As always, if you enjoyed the podcast, you can subscribe wherever you get your podcasts. We appreciate it if you left a review and that helps other people find us too. Special thanks, as always to our ace producer, Francis Ying. And also, as always, you can email us with your comments or questions. We're at [whatthehealth@kff.org](mailto:whatthehealth@kff.org). Or you can tweet me. I'm [@MaryAgnesCarey](https://twitter.com/MaryAgnesCarey). Alice?

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**Carey:** We'll be back in your feed next week. Until then, be healthy.