

National Hospice and Palliative Care Organization
Policy Alert

Text of Omnibus Funding Package Released, Includes Telehealth Flexibility Extension

To: NHPCO Provider and State Members

From: NHPCO Policy Team

Date: December 20, 2022

Summary at a Glance

On December 20, Congress released text of the *Consolidated Appropriations Act, 2023*, an omnibus spending package to keep the government funded through Fiscal Year 2023. This legislation includes three major hospice provisions:

- 1) Extension of hospice telehealth flexibilities through the end of calendar year 2024.
- 2) Extension of the IMPACT Act's calculation of the annual update to the hospice aggregate cap, which slows the growth of the cap by using the annual payment update rather than Consumer Price Index for All Urban Consumer (CPI-U) for fiscal year 2032.
- 3) Beginning January 1, 2024, hospices will be able to include marriage and family therapists and/or mental health counselors as part of the interdisciplinary team.

The bill does not include MedPAC's recommendation to wage index and reduce the cap by 20%.

This morning, Congress released the text of the *Consolidated Appropriations Act, 2023*, an omnibus funding package which will keep the government funded through Fiscal Year 2023. We expect that this legislation will be passed and signed by President Biden later this week.

The legislation extends hospice telehealth flexibilities, which were initially enacted as part of the *CARES Act* in 2020, and later extended for 151 days beyond the end of the Public Health Emergency, through December 2024. This allows hospice patients and providers to continue to use telehealth for low touch, face-to-face visits prior to recertification for the hospice benefit. Patients will also be able to continue to participate in telehealth visits from home.

This legislation also extends the hospice aggregate cap calculation to mirror the payment rate increase by one year from 2031 to 2032. This formula was originally included in the *Improving Medicare Post-Acute Care Transformation (IMPACT) Act of 2014*. Before the *IMPACT Act* took effect, hospice reimbursement and the aggregate financial cap were set by two different economic indexes. The new formula has the effect of slowing the growth of the hospice aggregate cap.

Though the *IMPACT Act* will slow the growth of the hospice cap over an extended period, there was an initial threat that this package would include MedPAC's latest recommendation, to decrease the cap by 20%.

Finally, the legislation allows hospices, starting January 1, 2024, to include marriage and family therapists (MFTs) and mental health counselors (MHCs) as part of the hospice interdisciplinary team, in lieu of a social worker. There is no requirement for hospices to use MFTs or MHCs and a social worker is still required if needed under a patient's plan of care.

Members should direct any questions to Logan Hoover, Vice President of Policy and Government Relations at lhoover@nhpco.org with "Omnibus Package" in the subject line.

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