



At the intersection of business and health

Newsletter - March 2024



#### Health Cost and Affordability Policy Issues and Trends To Watch In 2024

While issues of health care cost and affordability may not be at the forefront of this year's election, they remain a major [concern](#). Health spending in the United States is projected to grow by 5% between 2023 and 2024, to a total of \$4.9 trillion. Three of the top trends - Click below to see all eleven:

- **Will price transparency requirements drive down costs?** These exist to allow consumers to compare prices across hospitals and providers.
- **How will new drugs and therapies impact health spending and outcomes?** Obesity, one of the most common health conditions in the U.S., saw new treatments enter the spotlight in 2023 – most notably, the use of semaglutide and tirzepatide drugs for weight loss. While the coverage of these drugs is still being debated by many health plans and the long-term effects have yet to be determined, they have become an extremely popular option for patients and shown promise in other clinical trials.
- **Which policies might address out-of-pocket health care costs and consumer medical debt?** Many people don't have enough [savings](#) to pay for typical deductibles and out-of-pocket maximums.

Source: KFF analysis of National Health Expenditures Accounts (NHEA)

[Read All Eleven Issues & Trends](#)

News You Can Use

## Johnson & Johnson Sued for Breach of Fiduciary Duties

### What Does This Mean for Employers?

This class action lawsuit - brought by an employee - alleges J&J breached its fiduciary duties by mismanaging its employee drug benefits, which resulted in employees significantly over paying for certain drugs. Fiduciary responsibilities apply to any ERISA-covered employer sponsored health plan. This is one of a number of impending lawsuits brought for lack of compliance with recent transparency rules. This suit alleges a failure to exercise prudence in selecting a pharmacy benefit manager (PBM), resulting in a specific drug - which was available through some pharmacies for less than \$30 - costing over \$10,000 under the J&J health plan. It goes on to allege an average mark up of 498% on generic-specialty drugs above what it costs pharmacies to acquire those same drugs. Risks from breaches could include big fines, and there can be *personal liability* to restore plan losses.

While this case plays out in court, employers – as ERISA plan sponsors – should carefully consider their fiduciary obligations. At a high level, actively engage in a prudent process when selecting and overseeing plan service providers and vendors, including prescription drug and PBM vendors. Consider that ERISA does not mandate a singular or one-size-fits-all approach to fiduciary decision making. Rather, ERISA requires employers to consider the totality of facts and circumstances of their own situation. National Financial Partners has summed up important employer action steps. Click below.

[NPF Insights](#)

---

## Medical Minute



### Measles Alert

[The Centers for Disease Control and Prevention \(CDC\) is issuing this Health Alert Network \(HAN\) Health Advisory](#) to inform of an increase in global and U.S. measles cases. [Measles](#) (rubeola) is a highly contagious viral illness and can cause severe health complications, including pneumonia, encephalitis (inflammation of the brain), and death, especially in unvaccinated persons. One person infected with measles can infect 9 out of 10 unvaccinated people. **Measles is almost entirely preventable through vaccination.** MMR vaccines are safe and highly effective. Employers - this is a great time to review your plan coverage and emphasize measles vaccinations as part of your preventative care strategy.

### Colorectal Cancer:

# The Preventable Cancer *Anybody* Can Get

[Colorectal cancer](#) (CRC) is the [third most common cancer](#) in the US. It is also largely preventable and is often treatable when diagnosed early. Every spring, employers/purchasers are encouraged to share simple, but essential, reminders to inspire more people to get checked starting at age 45 (or earlier if family history is present).

Colorectal cancer is diagnosed in both men and women. The American Cancer Society estimates the number of colorectal cancers in the United States for 2024 are:

- About 106,590 new cases of colon cancer (54,210 in men and 52,380 in women)
- About 46,220 new cases of rectal cancer (27,330 in men and 18,890 in women)

The rate of people being diagnosed with colon or rectal cancer each year has dropped overall since the mid-1980s, mainly because more people are getting screened and changing their lifestyle-related risk factors. But this downward trend is mostly in older adults. In people younger than 55, rates have been increasing by 1% to 2% a year since the mid-1990s. **Overall, the lifetime risk of developing colorectal cancer is about 1 in 23 for men and 1 in 25 for women. (Each person's risk might be higher or lower than this, depending on their own risk factors for colorectal cancer).**

In the United States, colorectal cancer is the third leading cause of cancer-related deaths in men and the fourth leading cause in women. It's expected to cause about 53,010 deaths during 2024.

Employers - An opportunity to include CRC in your preventative care strategy.

[Questions For the Doctor](#)

[Risk Factors](#)

---

## Advocacy



Please join the National Alliance for an [April 18th](#) webinar:  
"ERISA Preemption: Navigating the Federal-State Legal Maze".  
**NO COST.** [Register Here.](#)

*Beginning with a unanimous Supreme Court decision in [Rutledge v.](#)*

***PCMA (2020), which allowed the State of Arkansas to regulate pharmacy benefit managers' payments to pharmacies for self-insured (ERISA) plans, state legislatures have become more active in seeking to regulate aspects of self-insured plans. (Including Oklahoma).***

***For employee and employer representatives, an understanding of the ERISA federal preemption law is crucial for navigating the current tangle of state and federal regulations. This webinar will demystify how to effectively navigate the federal-state legal maze for ERISA health plans.***

\*\*\*\*\*

## **U.S. House Bill to Establish an NPSB**

On March 8, 2024, U.S. Reps. Nanette Barragán (CA-44) and Dr. Michael Burgess (TX-26), members of the Energy and Commerce Subcommittee on Health, [reintroduced](#) the [National Patient Safety Board Act \(H.R. 7591\)](#), legislation that would establish a National Patient Safety Board (NPSB) - a nonpunitive, collaborative, and independent board within the Department of Health and Human Services. This landmark legislation is a critical step to improve safety for patients and healthcare providers by coordinating existing efforts within a single independent agency solely focused on addressing patient safety in health care.

## **Oklahoma Medical Debt**

### **Can people with commercial insurance afford to use it?**

One in five Oklahomans had some type of medical debt in collections in 2022 according to [The Urban Institute](#) - one of the highest rates in the country. The median amount owed is \$900.

Oklahomans facing medical debt lawsuits could get some relief under Bill 4148. This bill would require health-care providers or third-party debt collectors to tell the court they made the patient aware of the costs of care before a debt-collection lawsuit can proceed. It would also give some enforcement powers to an existing state law, the [Transparency in Health Care Prices Act](#), passed in 2021. This law requires health-care providers post the cash price for the top 20 services offered by that provider.

**Oklahoma Watch - Read More On Medical Debt**

**HB 4148**



The Oklahoma Business Collective on Health  
c/o OSU Center for Health Systems Innovation  
1111 W 17th Street  
Tulsa, OK 74104

Website: [drivinghealthvalue.org](http://drivinghealthvalue.org)

[thecollective@okstate.edu](mailto:thecollective@okstate.edu)

Want to change how you receive these emails?  
You can [update your preferences](#) or [unsubscribe from this list](#).