

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®



Academic and Subspecialty Advocacy Report

Fall 2022



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Academic and Subspecialty Advocacy Workforce

Shortages and maldistribution among pediatric subspecialists create access problems for children with special health care needs. The Academy strongly advocates for funding programs to improve the subspecialty workforce.

Support for Pediatric Subspecialists

In a significant advocacy victory, the AAP secured \$5 million in first-time funding for the Pediatric Subspecialty Loan Repayment Program (PSLRP) in the Fiscal Year (FY) 2022 spending legislation enacted in March. This initial investment is an important step forward in the AAP's efforts to address pediatric subspecialty workforce shortages that limit access to care for children and adolescents.

The Health Resources and Services Administration (HRSA) is now in the process of implementing PSLRP, and it will ultimately determine the answer to key questions, including the specific amount of loan repayment that will be provided, the eligibility criteria, and the application process. The AAP continues to engage with HRSA to ensure the program best meets the needs of pediatric medical subspecialists and pediatric surgical specialists.

Moving forward, the AAP is advocating to expand funding for PSLRP in FY 2023 and beyond. While Congress has not yet completed the FY 2023 appropriations process, both the current Senate and House versions of the FY23 spending bill for HHS include \$15 million in funding for PSLRP, an increase of \$10 million over FY22. Congress will need to finalize spending bills for the fiscal year to bring this funding increase to fruition.

Children's Hospitals Graduate Medical Education Program

Congress provided \$375 million for the Children's Hospitals Graduate Medical Education (CHGME) program in FY 2022, a

\$25 million increase for the federal program that funds training for more than half of pediatric trainees.

As Congress works to develop funding bills for FY 2023, efforts are underway to further boost funding for CHGME. A coalition of health care organizations, including the AAP, has called on Congress to nearly double CHGME's current funding to \$718.8 million. The request reflects the significant shortages of pediatric subspecialists and the disparity in graduate medical education (GME) funding between freestanding children's hospitals and institutions eligible for GME funding through Medicare, which receive nearly double the funding per resident compared to CHGME-funded slots.

While neither the House nor Senate spending bills for HHS has allocated this funding level in their proposed FY 2023 spending bills—with both the House and Senate proposing \$385 million or a \$10 million increase—the AAP will continue to advocate for increased funding to address the disparity between CHGME and Medicare GME and strengthen the pediatric workforce.

National Academies Pediatric Subspecialty Workforce Consensus Study

The National Academies of Sciences, Engineering, and Medicine has undertaken a consensus study on pediatric subspecialty workforce trends. The study, entitled "The Pediatric Subspecialty Workforce and Its Impact on Child Health and Well-Being," will recommend strategies and actions to ensure an adequate pediatric subspecialty workforce to support broad access to high-quality care and a robust research portfolio to advance the care of all children and youth. The committee has solicited public input on the scope of the issue and potential solutions, and the AAP has engaged with the committee to highlight the needs of AAP pediatric subspecialty members.

Physician Payment

Appropriate payment for services provided by all pediatricians is essential to ensuring that all children have access to care. The Academy advocates for increased Medicaid payment for pediatricians and pediatric subspecialists.

Medicaid Payment Parity

On average, Medicaid payment rates are about 70% of Medicare payment rates. There is evidence that quantifies the impact of Medicaid payment equity on access to care, such as the 2018 study, “Increased Medicaid Payment and Participation by Office-based Primary Care Pediatricians.” Over the past decade, there have been several federal legislative efforts to achieve Medicaid payment parity with Medicare rates, including the two-year primary care parity provision of the Affordable Care Act. The Academy has supported these and other efforts to ensure adequate Medicaid payment rates.

In collaboration with the AAP, Representatives Kim Schrier, MD, FAAP (D-Wash.), Kathy Castor (D-Fla.), and Brian Fitzpatrick (R-Penn.) introduced the Kids’ Access to Primary Care Act of 2020 in March. This legislation would align Medicaid payment rates with Medicare for primary care services, including for pediatric subspecialties. AAP is working to develop a companion bill in the Senate.

Access to Care

Medicaid and the Children’s Health Insurance Program (CHIP) together provide coverage for approximately 40.6 million children and are a crucial source of coverage for children with special health care needs and other children cared for by academic and subspecialty pediatricians. The AAP is actively working to preserve and strengthen Medicaid and CHIP.

Medicaid and CHIP

Enrollment in Medicaid and CHIP has grown considerably since the start of the pandemic due in large part to a federal Maintenance of Effort requirement preventing states from taking disenrollment actions during the federal public health emergency (PHE). Medicaid/CHIP **enrollment** overall rose 18.3M, or 25.9%, during the COVID-19 pandemic, to a total of 89M people. As of May 2022, an estimated 40.6M, or nearly 56%, of US children were enrolled in Medicaid or CHIP, up from 46.7% in February 2020. Enrollment rates vary considerably by state. Also as of May 2022, children accounted for 45.7% of all Medicaid and CHIP enrollees.

Unwinding

Since March 2020, states have received enhanced federal matching funds conditioned on keeping Medicaid enrollees continuously enrolled for the duration of the PHE. When the PHE ends, state Medicaid agencies will be able to resume normal operations, including processing disenrollments, but will be required to redetermine the eligibility of all enrollees across the 14 months following the end of the PHE – a process being referred to as “The Unwinding.” Medicaid experts caution that this process could result in significant coverage losses, largely due to procedural reasons. In August 2022, the Department of Health and Human Services (HHS) Assistant Secretary for Planning and Evaluation estimated that 5.3 million children may lose coverage, including 3.8 million who would still be eligible. The current PHE expires October 13, 2022, though is expected to be renewed for another 90 days, running into January 2023.

AAP has developed several tools to help chapters prepare for the Unwinding, including an **advocacy action guide**.

outlining what chapters need to know and strategies for local advocacy. The advocacy guide includes links to a template letter that chapters can send to their state Medicaid agency requesting a seat at the planning table and a checklist for chapters to review the unwinding operational plans state Medicaid agencies are required to develop. AAP and national partners are also preparing provider-facing materials to help clinicians communicate the redetermination process to patients.

Streamlining Medicaid/CHIP Proposed Rule

In August, the Biden administration announced a new proposed rule that would reduce red tape and simplify applications, verifications, enrollment, and renewals for health care coverage through Medicaid and CHIP. The proposal from the Centers for Medicare & Medicaid Services (CMS) aims to ensure Medicaid/CHIP-eligible children are enrolled seamlessly and can easily stay enrolled. The Academy has long called for several of these improvements.

Notably, the proposal would eliminate waiting periods for children who become eligible for CHIP and prohibit annual or lifetime caps on CHIP benefits. The proposal also seeks to strengthen the coordination between Medicaid and CHIP, so that if a child is no longer eligible for Medicaid, the transition to coverage through CHIP does not lead to gaps in coverage. Additionally, the rule will require states to take measures to reach families before disenrolling them from health care coverage due to eligibility changes.

The Academy will be submitting comments on the proposed rule and will work to ensure it is finalized.

CMS Mental Health Guidance

In August, CMS **announced** two new guidance documents that seek to strengthen and expand access to health care, including mental health services, for children who participate in Medicaid and the Children's Health Insurance Program (CHIP).

First is an informational bulletin from CMS titled **"Leveraging Medicaid, CHIP, and Other Federal Programs in the Delivery of Behavioral Health Services for Children and Youth."** In the guidance, CMS urges state agencies and stakeholders to use every possible tool offered by Medicaid and CHIP, to provide high-quality behavioral health services to eligible children and youth, even in advance of a formal diagnosis. The guidance includes strategies to improve prevention, early identification, and treatment; expand provider capacity; and increase the integration of behavioral health and primary care. AAP championed this informational bulletin and provided input that wound up being included in the final document.

CMS also released a second informational bulletin called **"School-based Health Services in Medicaid: Funding, Documentation, and Expanding Services"** prompting states to work with schools to deliver on-site health care services, including mental and behavioral health services, to children enrolled in the Medicaid program. This **CNN article** has more.

Premium Subsidies for Marketplace Coverage

As part of the *Inflation Reduction Act* (IRA), Congress passed a three-year extension of enhanced subsidies for people buying their own health coverage on the Affordable Care Act (ACA) Marketplaces. These temporary subsidies were originally passed as part of the *American Rescue Plan Act* and were set to expire in 2022. Through 2025, the IRA extends Premium Tax Credits to those with incomes above 400 percent of the federal poverty level (FPL), caps premiums at a maximum of 8.5% of income, and increases existing ACA subsidies for lower-income people who already qualify.

Litigation Update

This November, the Supreme Court will hear oral arguments in *Health and Hospital Corporation of Marion County, Indiana v. Talevski*, a nursing home case that could ultimately determine whether or not Medicaid enrollees have rights that can be privately enforced in federal court. The Academy will be joining this case as amici to emphasize to the Court the necessity for children enrolled in Medicaid to retain the right to sue when their rights are violated. In addition, AAP is monitoring the status of *Braidwood Management v. Becerra*, a recent challenge to the constitutionality of the ACA's required coverage of certain preventive services, such as Pre-Exposure Prophylaxis (PrEP) for HIV and some forms of contraception.

Gun Violence Prevention

The AAP advocates to reduce the toll of gun violence on children, families, and communities through the implementation of evidence-based public health policies.

Gun Violence Prevention Research

After more than two decades, Congress recognized the need for rigorous scientific research to prevent gun violence in 2020, providing \$25 million split evenly between the NIH and the Centers for Disease Control and Prevention (CDC). Congress has now allocated this funding over the course of three appropriations cycles, and both agencies have used these dollars to fund research and rebuild the pipeline of gun violence prevention researchers. In FY 2023, AAP is urging Congress to provide \$35 million for the CDC and \$25 million for the NIH to expand this research, in line with the funding level requested in President Biden's budget.

Bipartisan Safer Communities Act

In June 2022, President Biden signed into law the *Bipartisan Safer Communities Act*, the first major federal legislation on gun violence prevention in nearly 30 years. Incorporating longstanding AAP priorities, the law will provide \$750 million to support states' use of extreme risk protection order policies, address firearm trafficking through stronger penalties and enforcement, and strengthen background checks by requiring an enhanced review process for buyers under 21 years of age.

Prior to Congress passing the bill, AAP's President Dr Moira Szilagyi **testified** before the Senate Judiciary Committee in support of protecting children from gun violence, and more than 300 pediatricians **submitted testimony** illustrating how gun violence has impacted their patients, communities and lives. AAP issued a **press statement** upon passage of the legislation in the Senate.

The *Bipartisan Safer Communities Act* also contains several significant mental health provisions. Importantly, the bill reauthorizes the AAP-championed Pediatric Mental Health Care Access program for five years and expands the program to allow schools and emergency departments to participate. This program improves mental health access by supporting primary care pediatricians with telehealth consultation by child mental health provider teams, enhancing their capacity to screen, treat, and refer children with mental health concerns. Importantly, Congress also provided an additional \$80 million in direct funding for the program.

Additionally, the bill helps states to implement, enhance, and expand school-based health programs under Medicaid through updated guidance, technical assistance, and state planning grants. Further, the bill improves oversight of states' implementation of Medicaid's Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit to strengthen children's access to comprehensive health care services, including mental health and substance use disorder services even if a child does not have a diagnosis.

U.S. Supreme Court *Bruen* Decision

On June 23, the U.S. Supreme Court struck down a New York statute requiring "proper cause" to receive a concealed carry permit as unconstitutional in *New York State Rifle & Pistol Association, Inc. v. Bruen*. In September 2021, the AAP joined the American Medical Association (AMA), the Medical Society of The State of New York, and the American Academy of Child and Adolescent Psychiatry in an **amicus brief** in support of the New York law. This ruling sets a concerning precedent for a state's ability to enact policies to reduce firearm violence and its impact on children. AAP will continue advocating for comprehensive laws that protect children from gun violence to the greatest extent possible.

Pediatric Research

The Academy advocates to ensure children benefit from the federal investment in biomedical research through robust research funding and appropriate policies.

National Institutes of Health Appropriations

The National Institutes of Health (NIH) received a \$2.25 billion funding increase in FY 2022 for a total of \$44.959 billion for the agency. Within the overall funding level for NIH, the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD) received \$1.683 billion, accounting for roughly \$100 million of the overall increase allocated to the NIH. NICHD is the single largest funder of child health research within the NIH.

The multi-billion funding increase NIH received in FY 2022 continues a more than half-decade long trend of significant investments in NIH and is a reflection of the strong bipartisan support for robust biomedical research investments. As Congress works to develop spending bills for FY 2023, the AAP has joined partners in calling for \$49.048 billion in funding, or a \$3.5 billion increase, for NIH in the coming year. The AAP has also called for a proportionate funding increase for NICHD of \$133 million, or a total of \$1.816 billion.

Advanced Research Projects Agency for Health

In March, Congress provided \$1 billion in initial funding for the Advanced Research Projects Agency for Health (ARPA-H)

through the FY 2022 appropriations process, bringing to fruition President Biden's vision for a new biomedical research agency. Modeled off the successful Defense Advanced Research Projects Agency, ARPA-H is intended to speed research that can bring biomedical breakthroughs to market.

The Biden administration is currently working to implement ARPA-H with the funding provided by Congress. In May, the Secretary of Health and Human Services announced that ARPA-H will be housed within the NIH, and Dr Renee Wegrzyn was appointed Director of the new agency by President Biden in September. The government also announced that the agency, despite its organizational placement within the NIH, will not be physically located on the NIH campus in Maryland, and states like Massachusetts, Texas, and California are lobbying to be the home of ARPA-H. Further details on key operational and strategic considerations, like how the agency will operate, what types of research it will fund, and the extent to which child health priorities will feature in its work, have yet to be made public.

President Biden's initial proposal for ARPA-H was well received on both sides of the aisle, and it retains significant bipartisan support in Congress. However, there is concern from some congressional Republicans and Democrats that the NIH culture, which is more bureaucratic in nature and generally risk averse, may hinder ARPA-H in fulfilling its mandate. Both the House and Senate have advanced legislation with competing visions for where ARPA-H will be placed within the federal government, and it remains possible that Congress will pass legislation in the coming months directing HHS to implement ARPA-H in specific ways.

As these implementation debates continue, Congress is also considering ARPA-H funding in FY 2023 through the appropriations process. The House of Representatives has proposed a \$1.75 billion increase for ARPA-H in FY23, while the Senate has proposed flat funding for the coming year. These differences will need to be reconciled before final spending legislation for FY23 can be enacted.

PACT Act

The AAP is advocating for bipartisan legislation to bolster the pipeline of pediatrician scientists by addressing the transition from training to full-time pediatrician scientist. Despite years of historic federal investments in biomedical research, NIH extramural research funding remains highly competitive, which can make it difficult for early career pediatricians with research training to obtain independent research funding. This difficulty poses challenges to the long-term recruitment and retention of pediatric researchers

because the availability of research opportunities at this pivotal stage in their career can determine whether they pursue a pediatric research career moving forward.

The Pediatricians Accelerate Childhood Therapies (PACT) Act (H.R. 3773/S. 1357) would address this gap by creating a new trans-NIH career development award for early career pediatricians to help bridge the transition from training to full-time pediatrician scientist. These new awards would be used to fund research as well as activities like attending conferences to seek guidance and mentorship to help in the process of reaching research independence. The PACT Act would also make permanent the Trans-NIH Pediatric Research Consortium, which has played a crucial role in facilitating cross-institute pediatric research collaboration and agenda setting.

Pediatric Devices

Children need drugs and medical devices designed to meet their needs. The Academy is continuing efforts to advocate for policies that promote access to safe and effective drugs and medical and surgical devices for children.

Pediatric Drug and Device Programs

Two important programs that aim to increase children's access to safe and effective drugs and devices were set to expire on September 30 but received a short-term reauthorization in the Fiscal Year 2023 Continuing Resolution (CR).

The Pediatric Device Consortia program provides grants to nonprofit pediatric medical device consortia, which assist scientists and innovators, particularly small businesses, with technical and financial resources to improve the number of medical devices available to children. Congress created this program in 2007 to address the need for improved pediatric medical devices, and it has been renewed ever since.

The Best Pharmaceuticals for Children Act (BPCA) at NIH funds the pediatric study of older, off-patent drugs that are not reached by the other pediatric drug laws. The BPCA NIH program fills an essential gap in pediatric drug research and has resulted in 17 drug labels changed with important new

pediatric information. Nine additional drugs are awaiting label changes after data has been submitted to the FDA.

Because the CR only reauthorized these programs into December, Congress will need to pass additional legislation to continue these programs into the new year.

Practice of Evidence-Based Medicine

Physicians must be free to practice medicine based on their own clinical judgment and expertise, free of inappropriate political interference. The AAP advocates vigorously to protect the integrity of the patient-physician relationship and access to care for all patients.

Reproductive Health

In June, the U.S. Supreme Court rescinded the constitutional right to abortion care in ***Dobbs v. Jackson Women's Health Organization***, overturning nearly 50 years of federal legal protections established in *Roe v. Wade*. The Court's decision allows states to determine the legality of abortion services and the terms under which it can be provided. In response to the ruling, the Academy issued a **statement** highlighting the grave consequences it poses to adolescent access to comprehensive reproductive health care and joined with organizations representing more than 400,000 physicians to **condemn** the ruling. Pediatricians are also speaking out about the **harms to young patients** posed by abortion restrictions and the need for lawmakers to **invest in children**. The AAP has **urged the federal government** to use all available tools to protect access to abortion care and the evidence-based practice of medicine and will continue to support efforts to ensure comprehensive reproductive health care is available nationwide.

Gender-Affirming Care

As of September 2022, Alabama and Arkansas have passed bans on the provision of GAC to minors that have been placed on hold by federal courts pending appeal, and the AAP has been leading the medical community in opposition to these laws. In August, the AAP **submitted** an amicus brief to the 11th Circuit Court of Appeals in ***Reverend. Eknes-Tucker***

v. Marshall opposing Alabama's request that its GAC law be allowed to take effect; the court has not yet ruled on Alabama's request. The AAP led a similar amicus brief to the 8th Circuit Court of Appeals in ***Brandt et al. v. Rutledge et al.*** the challenge to Arkansas's gender-affirming care ban, in response to a similar request that the state's law be allowed to take effect; the law remains blocked.

In Texas, the state Supreme Court has allowed the Texas Department of Family and Protective Services to continue investigations into the provision of GAC as child abuse and neglect after the state's efforts to do so were previously blocked by a lower court. In a separate lawsuit, ***PFLAG v. Abbott***, the plaintiffs obtained a temporary restraining order. While this lawsuit will have a hearing in December, the original lawsuit, ***Doe v. Abbott***, is scheduled for a hearing on the merits of the challenge this fall. The AAP **submitted** a fourth amicus brief in this case supporting the plaintiffs.

In a related effort, the Florida Agency for Healthcare Administration issued a **proposed rule** to ban Medicaid coverage of gender-affirming care (GAC) for transgender and gender-diverse children, adolescents, and adults. The AAP and Florida Chapter of the AAP (FCAAP) submitted a **joint comment letter** opposing this proposed rule. Despite opposition from medical experts and LGBTQ advocates, Florida finalized the rule, and it went into effect in late August. Several civil rights organizations filed a lawsuit challenging the rule, ***Dekker et al. v. Marstiller et al.***

Since the rule took effect, the Florida Surgeon General has subsequently **asked** the Florida Board of Medicine to develop new standards of care for gender dysphoria and included a draft rule that would ban this care for transgender and gender-diverse youth. The AAP and FCAAP **submitted** a joint letter to the Florida Board of Medicine opposing this request. In August, the board voted to begin the rule-making process to develop new standards of care for gender dysphoria and FCAAP **issued** a statement.

Child Nutrition

Given the link between nutrition and health, the AAP is a leading voice in support of strong, science-based nutrition programs to help promote children's lifelong health and combat food insecurity.

Infant Formula

Infant formula shortages still exist across the nation. Over the summer the Biden administration launched Operation Fly Formula, allowing foreign formula companies to quickly import products into the US. While many of these products have entered the country, there have been issues with distribution and uptake of these formulas. FDA has also announced that they will be creating a streamlined process for these foreign companies to permanently sell in the US. This is in an effort to provide stability for families who have made the switch to these products and to strengthen and diversify the US formula supply chain. Specific guidance will be released in September.

Congress passed the *Access to Baby Formula Act* which gives the U.S. Department of Agriculture (USDA) the authority to issue nationwide waivers in the WIC program. In August, USDA extended a series of waivers that allow participants to purchase additional infant formula options, such as alternate sizes, forms, and brands through the end of the year. The waivers, which were previously set to expire at the end of September, will now be available through the earlier of either Dec. 31, 2022, or 60 days after the expiration of the state's COVID-19 major disaster declaration.

AAP has put out several FAQs and guidance documents on our parent-facing website, [HealthyChildren.org](https://www.aap.org/healthychildren) that gives families advice on what to do if they are having trouble **locating formula**, how to switch to a different formula, and what to know when using a **foreign formula**.

School Meals

The waivers that allowed schools to serve free meals to all students expired over the summer. Congress passed the *Keep Kids Fed Act* in June that extends certain nationwide waivers through school year 2022–2023, providing schools with

flexibility in meeting nutrition standards as they face supply chain and workforce issues.

White House Conference

The Biden-Harris administration will host a White House Conference on Hunger, Nutrition, and Health on September 28 in Washington, DC. The White House solicited comments to inform a national strategy to end hunger and reduce diet-related diseases and the disparities surrounding them that will be announced at the conference. The Academy submitted **comments** drawing on feedback received from a listening session that was attended by AAP chapter, committee, council, and section leaders to the White House in July.

Immigration

The AAP advocates for the health and well-being of all children and is a leading voice speaking out against policies that are detrimental to immigrant child health.

Public Charge

In September, the Biden administration issued its final rule on public charge, which the Academy called "a welcome and overdue step to protect immigrant families" in this **press statement**. Public charge is a test used to decide if someone can become a permanent U.S. resident or obtain a visa and has long been a part of the country's immigration laws. The Trump administration expanded this policy to look at whether someone has used or is likely to use public benefits, including Medicaid, the Supplemental Nutrition Assistance Program and housing assistance. This created a harmful chilling effect, with families disenrolling from or avoiding critical healthcare, nutrition and housing programs for which they or their children were eligible.

The rule from the Biden administration is consistent with long-standing agency policy and much narrower than the rule finalized by the previous administration. AAP submitted **comments** on the proposed rule in April and is urging federal agencies to make clear to immigrant families their rights and their ability to access needed health care services.

DACA

In August, the Biden administration released a final rule to fortify the Deferred Action for Childhood Arrivals (DACA) program. The rule, however, only applies to DACA renewals (new applications for DACA have been halted by the courts) and it does not provide a pathway to citizenship for Dreamers, something Congress would have to enact. To date, Congress has been not able to pass such legislation.

2023 Advocacy Conference

Save the date! The 2023 AAP Advocacy Conference will take place in DC on March 26 – 28. Attendees participate in advocacy skills-building workshops, learn from policy experts, and urge legislators to prioritize children's health. Registration information will be shared as soon as it becomes available.

How to Sign Up for Advocacy Emails

Email kids1st@aap.org with your name, AAP ID if known, and your preferred e-mail address. If you have questions about federal advocacy, contact the AAP Washington Office at 202-347-8600.

Engage with AAP on Social Media

Twitter is a powerful tool that allows individuals and organizations to amplify messages, connect with new and

diverse networks, and gain access to local-, state- and federal-level decisionmakers. As a pediatrician, Twitter also offers you the opportunity to be part of a community that encourages the exchange of ideas around child health, while not being constrained by time or geography.

To stay up to date on child health news, follow and engage with AAP on social media via [@AmerAcadPeds](https://twitter.com/AmerAcadPeds), [@AAPPres](https://twitter.com/AAPPres), [@AAPNews](https://twitter.com/AAPNews), and [@healthychildren](https://twitter.com/healthychildren). You can also subscribe to AAP's official #tweetiatrician list on Twitter by visiting <https://twitter.com/AmerAcadPeds/lists/tweetiatricians>. Request to be added by emailing tjackson@aap.org.



ADVOCACY OPPORTUNITIES

To learn more about the Academy's latest federal advocacy priorities and urge your members of Congress to support the health and well-being of children and families, visit federaladvocacy.aap.org.

To learn more about state advocacy engagement opportunities, contact your AAP chapter or the AAP State Advocacy Team at stgov@aap.org.
