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Status of FY2024 Labor, Health and Human Services, and Education Appropriations: In Brief

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This report provides a brief summary of the status of FY2024 Labor, Health and Human Services, and Education (LHHS) appropriations as of the cover date of this report. It also provides background on the scope of the LHHS bill generally and the budgetary context for congressional decision-making, including the submission of the FY2024 President's budget request and budget enforcement in the absence of a budget resolution.

On June 15, 2023, the House Appropriations Committee voted to report its initial suballocations for all 12 subcommittees, including LHHS (33-27). Subsequently, the Senate Appropriations Committee voted to report its suballocations on June 22, 2023 (15-13). Neither the House nor the Senate has voted to report its respective version of the LHHS bill.

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This report provides a brief summary of the status of Labor, Health and Human Services, and Education (LHHS) appropriations during the FY2024 appropriations cycle, including relevant congressional actions and a top-line comparison of discretionary funding enacted in FY2023 versus relevant FY2024 legislative proposals as of the cover date of this report. It also provides background on the scope of the bill and the budgetary context for congressional decisionmaking.

On June 15, 2023, the House Appropriations Committee voted to report its initial suballocations for all 12 subcommittees, including LHHS (33-27).¹ Subsequently, the Senate Appropriations Committee voted to report its suballocations on June 22, 2023 (15-13).² As of the cover date of this report, neither the House Appropriations Committee nor the Senate Appropriations Committee has voted to report its respective version of the LHHS bill.

Congressional clients may consult the LHHS experts list in CRS Report R42638, *Appropriations: CRS Experts*, for information on which analysts to contact at the Congressional Research Service (CRS) with questions on specific agencies and programs funded in the LHHS bill.

Scope of the LHHS Bill

The LHHS bill is the largest of the 12 annual appropriations bills when accounting for both mandatory and discretionary funding (\$1.4 trillion in FY2023).³ It provides annually appropriated budget authority for the following federal departments and agencies:

- the Department of Labor (DOL);
- most agencies at the Department of Health and Human Services (HHS), except for the Food and Drug Administration (funded through the Agriculture appropriations bill), the Indian Health Service (funded through the Interior-Environment appropriations bill), and the Agency for Toxic Substances and Disease Registry (funded through the Interior-Environment appropriations bill);
- the Department of Education (ED); and
- more than a dozen related agencies (RA), including the Social Security Administration (SSA), the Corporation for National and Community Service, the Corporation for Public Broadcasting, the Institute of Museum and Library Services, the National Labor Relations Board, and the Railroad Retirement Board.

In general, mandatory funding represents more than 80% of the total LHHS bill, supporting annually appropriated entitlements such as Medicaid and Supplemental Security Income (SSI). Discretionary funds, which account for less than 20% of total funds in the bill, tend to be the

¹ The House Appropriations Committee suballocations have not yet been formally reported as of the cover date of this report, but they have been published by the committee at https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20House%20Subcommittee%20Allocations%206.13.23_0.pdf.

² S.Rept. 118-45.

³ Calculated based on the explanatory statement accompanying the FY2023 LHHS omnibus (P.L. 117-328) available in the *Congressional Record*, vol. 168, no. 198, book II, December 20, 2022, pp. S8874-S9198. The discretionary funding provided in the LHHS appropriations act is both provided and controlled by that act. The mandatory funding provided in the LHHS act is controlled by provisions in authorizing law. For definitions of these and other budget terms, see U.S. Government Accountability Office (GAO), A Glossary of Terms Used in the Federal Budget Process, GAO-05-734SP, September 1, 2005, <http://www.gao.gov/products/GAO-05-734SP>. (Terms of interest may include *budget authority*, *appropriated entitlement*, *direct spending*, *discretionary*, *entitlement authority*, and *mandatory*.)

focus of congressional debate during the appropriations process.⁴ This is because the appropriations process generally has little control over the amount of mandatory funding provided for appropriated entitlements; rather, the authorizing statute controls the program parameters (e.g., eligibility rules, benefit levels) that entitle certain recipients to payments. Consequently, the focus of this report generally is on the discretionary spending that has been or would be provided for LHHS programs and activities under various laws and proposals.

Even though discretionary appropriations represent a relatively small share of the entire LHHS bill, the bill is typically the largest single source of nondefense discretionary funding for the federal government. (The Department of Defense bill is the largest single source of discretionary funding overall.)

Calculating Total LHHS Budget Authority

Budget authority is the amount of money a federal agency is legally authorized to commit or spend. Appropriations bills may include budget authority that becomes available in the current fiscal year, in future fiscal years, or some combination. Amounts that become available in future fiscal years are typically referred to as *advance appropriations* (e.g., the FY2024 LHHS appropriations act generally would contain advance appropriations that become available in FY2025 and FY2026 for certain programs and activities). In addition, while new budget authority is generally subject to a variety of statutory and congressional rules that are intended to control the budget (i.e., *budget controls*), some budget authority may be effectively exempted from those controls, including budget authority for emergency requirements, health care fraud and abuse control, and continuing disability reviews and redeterminations.

The amount of LHHS budget authority can be tabulated in various ways. The total amount of budget authority provided in an appropriations bill (i.e., *total in the bill*) would be calculated regardless of the year in which the funding becomes available.⁵ In some cases, such as the 302(b) suballocations (discussed later), the total is based on *current-year* appropriations (i.e., the amount of *budget authority available for obligation in a given fiscal year*), which is calculated regardless of the year in which it was first appropriated.⁶ Additionally, budgetary totals may or may not include Congressional Budget Office (CBO) scorekeeping and other adjustments to reflect budget enforcement conventions and special instructions of Congress.⁷ Finally, calculations of LHHS budget authority might include or exclude budget authority that is exempted from budget controls.

Context for FY2024

Under the congressional budget process, congressional consideration of annual appropriations traditionally is preceded by the submission of the President's budget request and the adoption of the congressional budget resolution. However, the FY2024 cycle has been affected by a number of issues, including the circumstances affecting the timing of the President's budget and the recent imposition of statutory discretionary spending limits on defense and nondefense spending. Background related to these issues is provided below.

⁴ For an illustrative discussion of the distribution of funds among the different titles of the bill, and between discretionary and mandatory spending, see the summary of FY2023 LHHS appropriations in CRS Report R47345, *Labor, Health and Human Services, and Education: FY2023 Appropriations*.

⁵ Such figures include advance appropriations provided in the bill for future fiscal years, but do not include advance appropriations provided in prior years' appropriations bills that become available in the current year.

⁶ Such figures typically exclude advance appropriations for future years, but include advance appropriations from prior years that become available in the given fiscal year.

⁷ For more information on scorekeeping, see CRS Report 98-560, *Baselines and Scorekeeping in the Federal Budget Process*. See also a discussion of key scorekeeping guidelines included in the joint explanatory statement accompanying the conference report to the Balanced Budget Act of 1997 (H.Rept. 105-217, pp. 1007-1014).

FY2024 President's Budget Submission

The Budget and Accounting Act of 1921 (P.L. 67-13), as amended, requires the President to submit an annual consolidated federal budget to Congress at the beginning of each regular congressional session, not later than the first Monday in February. Many of the proposals in the President's budget would require changes to laws that govern *mandatory spending* levels or policies, which are typically established on a multiyear or permanent basis. *Discretionary spending*, however, which is roughly one-third of the federal budget,⁸ is decided and controlled each fiscal year through the annual appropriations process. While Congress is ultimately not required to adopt the President's proposals or recommendations, the submission of the President's budget typically initiates the congressional budget process and informs Congress of the President's recommended spending levels for agencies and programs.⁹

The President's budget request for FY2024 was submitted on March 9, 2023, about five weeks after it was due. It was preceded by the enactment of FY2023 full-year annual appropriations (P.L. 117-328) on December 29, 2022, about three months into the fiscal year. The delay of the budget submission allowed the FY2023 funding amounts displayed in the budget materials generally to reflect the annual appropriations in December.

On May 9, the President submitted amendments to the FY2024 budget request that included changes to the amounts requested for specified Department of Education accounts.¹⁰

FY2024 Discretionary Spending Levels and Appropriations Allocations

For FY2024, the discretionary spending levels in appropriations measures are enforceable by both statutory and procedural means. Statutory budget enforcement is through the discretionary spending limits in the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; P.L. 99-177), as amended. These statutory limits are enforced through *sequestration*: largely across-the-board reductions made to the category of spending that is in excess of the limit (defense or nondefense), to eliminate the excess spending.¹¹ Procedural budget enforcement is primarily associated with the budget resolution, which provides a process for the House and Senate to agree on budgetary targets ahead of consideration of spending and revenue legislation. These targets are enforced through points of order.

Certain spending is effectively exempt from these limits (commonly referred to as *adjustments* to those limits). In recent years, adjustments that have been applied to LHHS appropriations are for *emergency requirements*, to accommodate new budget authority for specified "program integrity" initiatives at HHS (*health care fraud and abuse control*), the SSA (*continuing disability reviews*

⁸ Congressional Budget Office (CBO), *The 2022 Long-Term Budget Outlook*, July 2022, p. 18, <https://www.cbo.gov/system/files/2022-07/57971-LTBO.pdf>.

⁹ For more information, see CRS Report R47019, *The Executive Budget Process: An Overview*.

¹⁰ See the budget amendments package at https://www.whitehouse.gov/wp-content/uploads/2023/05/FY_2024_Budget_Amendment_Corrections_5-9-23.pdf.

¹¹ The Fiscal Responsibility Act of 2023 (FRA; P.L. 118-5) also contains procedures by which these limits might be temporarily or permanently adjusted in the case of a continuing resolution. For a summary of these adjustments, see CRS Insight IN12168, *Discretionary Spending Caps in the Fiscal Responsibility Act of 2023*.

and redeterminations), and for DOL to fund *reemployment services and eligibility assessments* conducted by the states related to unemployment compensation.¹²

Statutory Spending Limits

The statutory limits on discretionary spending that are currently in effect were enacted as part of the Fiscal Responsibility Act of 2023 (FRA; P.L. 118-5) on June 3, 2023.¹³ Prior to the FRA, statutory limits on discretionary spending had been in effect between FY2012 and FY2021 (having expired at the end of FY2021.¹⁴) The FRA amended the BBEDCA to provide limits on defense discretionary (all spending under budget function 050) and nondefense discretionary (all other spending) for FY2024 and FY2025.¹⁵ All funding in the LHHS bill is subject to the nondefense limit. The statutory limit on nondefense discretionary spending for FY2024 is \$703.65 billion. This would be a \$40.2 billion (-5%) reduction relative to FY2023 enacted nondefense discretionary spending when accounting for Congressional Budget Office (CBO) scorekeeping, and prior to any adjustments to the limits pursuant to BBEDCA authorities.¹⁶ For LHHS programs and activities, the FRA also provided for adjustments to the nondefense spending limit for health care fraud and abuse control, continuing disability reviews and redeterminations, and reemployment services and eligibility assessments, up to a specified amount of funding for each of FY2024 and FY2025.¹⁷ The maximum amount of funding allowed for these LHHS adjustments is \$2.447 billion total in FY2024 and \$2.531 billion in FY2025.

Appropriations Allocations Under the Budget Resolution

The budget resolution process dates back to the Congressional Budget Act of 1974, and is used each year to impose a limit on total discretionary spending available to the appropriations committees (commonly referred to as a *302(a) allocation*) and subsequently, limits on spending

¹² For further information on how these generally function, see Appendix A in CRS Report R47345, *Labor, Health and Human Services, and Education: FY2023 Appropriations*.

¹³ For more information, see CRS Insight IN12168, *Discretionary Spending Caps in the Fiscal Responsibility Act of 2023*.

¹⁴ These limits were initially established in 2011 by the amendments made by the Budget Control Act of 2011 (BCA; P.L. 112-25) to the BBEDCA, but they were subsequently revised several times over the course of their effective period. For a summary of these changes, see CRS Insight IN1148, *The Bipartisan Budget Act of 2019: Changes to the BCA and Debt Limit*.

¹⁵ For further information about the categories of the limits, see CRS Report R44874, *The Budget Control Act: Frequently Asked Questions*.

¹⁶ These calculations are based on CBO, *Report on the Status of Discretionary Appropriations, Fiscal Year 2023, U.S. Senate, February 10, 2023*, <https://www.cbo.gov/system/files?file=2023-02/FY2023-Senate-2022-12-23.pdf>. Note that CBO tabulates a slightly different amount of funding using House conventions in CBO, *Report on the Status of Discretionary Appropriations, Fiscal Year 2023, U.S. House of Representatives, February 10, 2023*, <https://www.cbo.gov/system/files?file=2023-02/FY2023-House-2022-12-23.pdf>. The FRA includes a provision described as incentivizing Members to enact regular full-year appropriations legislation. The FRA states that in the event that a continuing resolution (CR) is in effect on January 1 of 2024 or 2025 for any budget account, the discretionary spending limits for that fiscal year are automatically revised. The revision would result in an increase in nondefense discretionary budget authority and a decrease for defense discretionary spending levels when compared with the original levels. Under such a scenario, a sequester order would be issued on April 30 of either 2024 or 2025. The FRA states that the revised limits would revert to the original FRA limits if full-year appropriations were enacted before April 30. For more information, see CRS Insight IN12183, *The FRA's Discretionary Spending Caps Under a CR: FAQs*.

¹⁷ The FRA also provided for a designation for emergency requirements, which would generally be available for funding under the purview of any appropriations act (not just LHHS).

under the jurisdiction of each appropriations subcommittee (referred to as 302(b) suballocations).¹⁸

As of the cover date of this report, there has been no House or Senate action on a FY2024 budget resolution. For the purposes of providing 302(a) allocations and budgetary aggregates for the consideration of FY2024 appropriations, as well as other matters that would have been traditionally associated with the budget resolution, the FRA directed the Chairs of the House Budget Committee and the Senate Budget Committee to enter those amounts into the *Congressional Record* as soon as practicable. These were published in the Senate on June 21, 2023, but have not yet been published in the House.¹⁹

Generally, the next step in the appropriations process is for each of the appropriations committees to adopt suballocations from the total amount allocated to them. These 302(b) suballocations provide a limit on current-year (i.e., FY2024) appropriations within each subcommittee's jurisdiction and incorporate any applicable scorekeeping adjustments made by CBO.²⁰ On June 15, 2023, the House Appropriations Committee voted to report its initial suballocations for all 12 subcommittees, including LHHS (33-27).²¹ Subsequently, the Senate Appropriations Committee voted to report its suballocations on June 22, 2023 (15-13).²² These suballocations are displayed in **Table 1**.

FY2024 LHHS Legislative Action

Although neither the House Appropriations Committee nor the Senate Appropriations Committee has voted to report its respective version of the LHHS bill, the respective suballocations for LHHS that were adopted by the House and the Senate Appropriations Committees provide a basis for comparison to prior-year levels.

Table 1 displays the CBO estimate of enacted LHHS discretionary appropriations for FY2022 and FY2023, alongside the FY2024 initial House and Senate Appropriations Committee suballocations for LHHS. The amount shown for “regular discretionary appropriations” does not include any funding that is subject to program integrity adjustments or emergency designations. The amount shown represents current-year budget authority subject to the spending limits and takes into account any applicable CBO scorekeeping adjustments. Under this method of estimating the bill, the House proposal would reduce regular discretionary appropriations for LHHS by 29% (-\$60.3 billion) relative to FY2023 and by 25% (-\$49.9 billion) relative to FY2022.²³ The Senate proposal would reduce discretionary appropriations for LHHS by 6% (-\$12.1 billion) relative to FY2023 and by 1% (-\$1.8 billion) relative to FY2022. It cannot be determined based on these suballocations alone the extent to which these reductions would be

¹⁸ For further information, see CRS Report 98-815, *Budget Resolution Enforcement*.

¹⁹ “Budget Enforcement Levels,” *Congressional Record*, daily edition, vol. 169, no. 108 (June 21, 2023), pp. S2180-S2181.

²⁰ Such suballocations are commonly revised throughout the appropriations process to reflect changing budgetary priorities.

²¹ The House Appropriations Committee suballocations have not yet been formally reported, but they have been published by the committee at https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20House%20Subcommittee%20Allocations%206.13.23_0.pdf.

²² S.Rept. 118-45.

²³ This CRS estimate is based on a comparison of the CBO estimate for FY2022 enacted (CBO, *Report on the Status of Discretionary Appropriations, Fiscal Year 2022, House of Representatives, as of May 26, 2022*, <https://www.cbo.gov/system/files?file=2022-05/FY2022-House-2022-05-26.pdf>) to the total discretionary spending budget authority allocation.

achieved via rescissions to previously enacted funding and other related budgetary mechanisms, versus reducing the amount of LHHS funding that would be newly enacted for FY2024.

As mentioned previously, certain LHHS appropriations, such as those allowed for program integrity funding or designated as for emergency requirements, are effectively exempt from the discretionary spending limits. (The “adjusted appropriations” total in the table includes funding under these adjustments, plus “regular discretionary appropriations.”) The draft House Appropriations Committee report on FY2024 suballocations for LHHS presents an aggregate total for the three “program integrity” adjustments, which matches the maximum aggregate amount available for the three LHHS “program integrity” adjustments under the FY2024 statutory spending limits (see discussion in the “FY2024 Discretionary Spending Levels and Appropriations Allocations” section). The House suballocations for LHHS do not include any FY2024 funding for emergency requirements. The FY2024 Senate suballocation for LHHS did not include any amounts for adjustments.

Table I. LHHS Discretionary Appropriations: Comparison of FY2022 Enacted, FY2023 Enacted, and FY2024 House and Senate Appropriations Committee Initial 302(b) Suballocations

(Budget authority in billions of dollars)

	FY2022 Enacted	FY2023 Enacted	FY2024 House Committee Initial Suballocation	FY2024 Senate Committee Initial Suballocation ^a
Regular discretionary appropriations	196.994	207.367	147.096	195.231
Adjustments: ^b				
Program Integrity	2.124	2.345	2.447	Not specified
Health Care Fraud and Abuse Control (non-add)	0.556	0.576	—	—
Continuing Disability Reviews and Redeterminations (non-add)	1.435	1.511	—	—
Reemployment Services and Eligibility Assessments (non-add)	0.133	0.258	—	—
Emergency requirements	7.831	9.920	—	—
Adjusted appropriations	206.949	219.632	149.543	—

Source: The FY2022 Enacted amounts are from CBO, *Report on the Status of Discretionary Appropriations, Fiscal Year 2022, House of Representatives, as of May 26, 2022*, <https://www.cbo.gov/system/files?file=2022-05/FY2022-House-2022-05-26.pdf>; and Table 3 in CBO, cost estimate, “The Bipartisan Safer Communities Act would provide funding to encourage enactment of state laws aimed at controlling access to guns and to support a variety of other initiatives to enhance school safety, mental health programs, and violence prevention,” June 22, 2022, <https://www.cbo.gov/system/files?file=2022-06/S2938.pdf>. The FY2023 Enacted amounts are from CBO, *CBO Estimate for Divisions A through N of H.R. 2617 (as modified by S.A. 6552), the Consolidated Appropriations Act, 2023*, December 21, 2022, <https://www.cbo.gov/publication/58872>; and CRS analysis of P.L. 117-180 and P.L. 117-328. The FY2024 House Appropriations Committee initial suballocations are as published at https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20House%20Subcommittee%20Allocations%206.13.23_0.pdf. The FY2023 Senate Appropriations Committee initial suballocations are as published in S.Rept. 118-45. “Regular discretionary appropriations” exclude funds for which special rules apply under the spending limits (e.g., funds for certain program integrity

activities and emergency requirements), as well as funds provided under authorities in the 21st Century Cures Act (P.L. 114-255) that are effectively exempt from the spending limits.

Notes: Amounts reflect current-year discretionary budget authority subject to spending limits.

- a. The Senate Appropriations Committee initial suballocation did not include any amounts for adjustments.
- b. The FY2022 enacted amounts for these activities are identified via CRS analysis of Division H of P.L. 117-103. The FY2023 enacted amounts for these activities are identified via CRS analysis of Division H of P.L. 117-328. Note that CBO tabulates these adjustments differently based on relevant procedures in CBO, *Discretionary Spending in Fiscal Year 2023 Under Divisions A Through L of H.R. 2617 (as modified by Senate Amendment 6552), the Consolidated Appropriations Act, 2023*, December 21, 2022, https://www.cbo.gov/system/files/2022-12/HR-2617_div-A%E2%80%93N.pdf. See also CBO, *Report on the Status of Discretionary Appropriations, Fiscal Year 2023, House of Representatives*, February 10, 2023, <https://www.cbo.gov/system/files?file=2023-02/FY2023-House-2022-12-23.pdf>; and CBO, *Report on the Status of Discretionary Appropriations, Fiscal Year 2023, Senate*, February 10, 2023, <https://www.cbo.gov/system/files?file=2023-02/FY2023-Senate-2022-12-23.pdf>.

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