

Post-Election Expectations



Health Policy Briefing

November 4, 2024

Congress returns on November 12 to a lengthy list of action items, including funding the government beyond December 20th and extending other expiring programs/authorizations. Expectations are low, however, as this Congress has been especially unproductive. As of the end of October, 106 bills have been signed into law during the 118th Congress, which is significantly fewer than other sessions in recent memory. In fact, every Congress over the past 30 years has seen at least 284 bills passed and signed into law, with an average of 401.5 new laws per Congress (not including the 118th Congress). A breakdown of the past fifteen meetings of Congress is below:

- 118th Congress (2023-2024): 106 (as of 11/3/2024)
- 117th Congress (2021-2022): 365
- 116th Congress (2019-2020): 344
- 115th Congress (2017-2018): 443
- 114th Congress (2015-2016): 329
- 113th Congress (2013-2014): 296
- 112th Congress (2011-2012): 284
- 111th Congress (2009-2010): 385
- 110th Congress (2007-2008): 460
- 109th Congress (2005-2006): 483
- 108th Congress (2003-2004): 504
- 107th Congress (2001-2002): 383
- 106th Congress (1999-2000): 604
- 105th Congress (1997-1998): 404
- 104th Congress (1995-1996): 337

House Members Introduce Bipartisan Doc Fix Legislation

A bipartisan group of House lawmakers have introduced legislation to avert the cut to the Medicare physician fee schedule (PFS) set to go into effect on January 1, 2025. The *Medicare Patient Access and Practice Stabilization Act* (H.R. 10073) was introduced by Reps. Greg Murphy, MD (R-N.C.) and Jimmy Panetta (D-Calif.) alongside physician representatives Mariannette Miller-Meeks, MD (R-Iowa), Ami Bera, MD (D-Calif.), Larry Bucshon, MD (R-Ind.), Raul Ruiz, MD (D-Calif.), John Joyce, MD (R-Pa.), and Kim Schrier, MD (D-Wash.). The legislation would provide

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a 4.73% payment update in 2025 to address the 2.83% PFS conversion factor (CF) cut and provide an additional update in an attempt to account for the cost of inflation. The 4.73% increase would expire at the end of 2025. The Centers for Medicare and Medicaid Services released the calendar year (CY) 2025 Medicare Physician Fee Schedule final rule on Friday. The regulation finalizes a CY 2025 CF of \$32.3465, which reflects a 2.83% reduction relative to the 2024 conversion factor.

Democrats Urge CMS to Use Enforcement Authority Over MA Plans

Democratic leadership of the Senate Finance Committee and the House Ways and Means and Energy and Commerce committees have sent a [letter](#) to CMS outlining their ongoing concerns with Medicare Advantage (MA) plans' use of prior authorization, deceptive marketing practices, and broker compensation structures. The lawmakers highlight the "many instances MA plans are failing to deliver, compromising timely access to care and undermining the ability of seniors and Americans with disabilities to purchase the coverage that's right for them." They call on CMS "to use every regulatory, oversight, and enforcement tool at the agency's disposal to rein in rampant misuse of prior authorization, simplify the experience of choosing a Medicare plan, and put an end to rampant marketing abuses."

Hassan, Cassidy Release Site-Neutral Legislative Framework

Sens. Maggie Hassan (D-N.H.) and Bill Cassidy (R-La.) have released a [legislative framework](#) to establish site-neutral payments in off-campus hospital outpatient departments and for common outpatient services. The draft proposes to eliminate the grandfathering exception including in the Bipartisan Budget Act of 2015, extending site-neutral payment policy to all hospital-owned sites of care away from the hospital's main campus. The framework would also install a single reimbursement rate for common outpatient services according to the site where the procedure is most commonly performed. The savings produced from such changes would be used to reinvest in rural and safety net hospitals.

Warren Comments on Oncology MSO Acquisitions

Sen. Elizabeth Warren (D-Mass.) is [urging](#) the Federal Trade Commission (FTC) to closely analyze proposed acquisitions in the oncology market, including McKesson Corporation's \$2.49 billion acquisition of a controlling stake in Core Ventures, and Cardinal Health's \$1.1 billion acquisition of a controlling stake in Integrated Oncology, two management services organizations (MSOs) that oversee 150 oncology practices across 11 states. Warren expresses concern that the deals will limit competition and restrict oncology practices from contracting with rival drug wholesalers. "By controlling oncology practices, Cardinal and McKesson can require affiliated practices to enter into sole-source or prime vendor agreements with their wholesale businesses, 'lock[ing] them in as customers' and effectively blocking competing wholesalers from offering their services," the letter argues. She asks the FTC to carefully consider the proposed deals and block them if they violate antitrust law.

Blumenthal Pushes for Recall of Acne Treatments Containing Benzene

Sen. Richard Blumenthal (D-Conn.) is [calling](#) on the Food and Drug Administration (FDA) to recall and suspend sales of acne treatments recently found to contain the cancer-causing chemical benzene. A Connecticut-based independent laboratory alerted the agency earlier this year of dangerous levels of benzene in certain acne products, including Proactiv and Clearasil, along with more than 30 different creams and cleansers. Blumenthal requests that the agency clarify its benzene guidance; the FDA has said that it is working to verify the lab's claims before acting.

Congressional Retirements and Resignations

A running list of members of Congress who are retiring or seeking other office can be found below.

SENATE	
Stabenow (D), MI	Braun (R), IN
Cardin (D), MD	Romney (R), UT
Carper (D), DE	
Butler (D), CA	
Manchin (D), WV	
Sinema (I), AZ	
Menendez (D), NJ (effective Aug. 20, 2024)	
HOUSE OF REPRESENTATIVES	
Porter (D), CA	Mooney (R), WV
Lee (D), CA	Banks (R), IN
Gallego (D), AZ	Bishop (R), NC
Schiff (D), CA	Lesko (R), AZ
Slotkin (D), MI	Granger (R), TX
Allred (D), TX	Burgess, MD (R), TX
Trone (D), MD	Wenstrup, DPM (R), OH
Blunt Rochester (D), DE	McHenry (R), NC
Napolitano (D), CA	Ferguson, IV, DMD, PC (R), GA
Wexton (D), VA	Curtis (R), UT
Kim, Andy (D), NJ	Luetkemeyer (R), MO
Jackson, Jeff (D), NC	Lamborn (R), CO
Sarbanes (D), MD	Bucshon, MD (R), IN
Blumenauer (D), OR	Pence (R), IN
Kilmer (D), WA	Duncan (R), SC
Spanberger (D), VA	Armstrong (R), ND
Kildee (D), MI	McMorris Rodgers (R), WA
Phillips (D), MN	Gallagher (R), WI (effective April 19, 2024)
Cardenas (D), CA	Rosendale (R), MT
Eshoo (D), CA	Carl (R), AL
Manning (D), NC	LaTurner (R), KS
Nickel (D), NC	Posey (R), FL
Sablan (D), MP	González-Colón (R), PR
Ruppersberger (D), MD	Graves (R), LA
Kuster (D), NH	Good (R), VA
Bowman (D), NY	
Bush (D), MO	
Payne (D), NJ (died April 24, 2024)	
Jackson Lee (D), TX (died July 19, 2024)	
Pascrell (D), NJ (died Aug. 21, 2024)	

H.R.10038 — To direct the Secretary of Veterans Affairs to conduct a pilot program on the provision of naloxone to veterans and their caregivers, and for other purposes; Sponsor: D’Esposito, Anthony [Rep.-R-NY-4]; Committees: House - Veterans’ Affairs

H.R.10039 — To reauthorize the National Diabetes Prevention Program; Sponsor: De La Cruz, Monica [Rep.-R-TX-15]; Committees: House - Energy and Commerce

H.R.10047 — To amend the Public Health Service Act to direct the Secretary of Health and Human Services, acting through the Assistant Secretary for Mental Health and Substance Use, to award grants to support community-based programs for harm reduction services for individuals who use substances; Sponsor: Larsen, Rick [Rep.-D-WA-2]; Committees: House - Energy and Commerce

H.R.10048 — To prohibit the availability of Federal funds to institutions of higher education that conduct painful biomedical research on dogs and cats; Sponsor: Malliotakis, Nicole [Rep.-R-NY-11]; Committees: House - Education and the Workforce

H.R.10050 — To require the Secretary of Health and Human Services to conduct a study on pharmacy benefit manager audit practices; Sponsor: Maloy, Celeste [Rep.-R-UT-2]; Committees: House - Energy and Commerce; Ways and Means

H.R.10056 — To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2025 through 2028; Sponsor: Stefanik, Elise M. [Rep.-R-NY-21]; Committees: House - Education and the Workforce

H.R.10058 — To amend title XIX of the Social Security Act to require coverage for certain individual with breast or cervical cancer under the Medicaid program; Sponsor: Waters, Maxine [Rep.-D-CA-43]; Committees: House - Energy and Commerce

H.R.10060 — To amend title XVIII of the Social Security Act to require the provision of certain information with respect to breast reconstruction surgery under the Medicare program; Sponsor: Waters, Maxine [Rep.-D-CA-43]; Committees: House - Energy and Commerce; Ways and Means

H.J.Res.217 — Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services relating to “Medicare Program; FY 2025 Hospice Wage Index and Payment Rate Update, Hospice Conditions of Participation Updates, and Hospice Quality Reporting Program Requirements”; Sponsor: Palmer, Gary J. [Rep.-R-AL-6]; Committees: House - Ways and Means; Energy and Commerce

H.R.10071 — To amend the Older Americans Act of 1965 to require the Assistant Secretary for Aging to make available to States, area agencies on aging, and service providers information and technical assistance to support the provision of evidence-informed practices that are likely to improve health outcomes, and for other purposes; Sponsor: Langworthy, Nicholas A. [Rep.-R-NY-23]; Committees: House - Education and the Workforce

H.R.10072 — To amend the Older Americans Act of 1965 to require reports to Congress on State Long-Term Care Ombudsman Programs, and for other purposes; Sponsor: Langworthy, Nicholas A. [Rep.-R-NY-23]; Committees: House - Education and the Workforce

H.R.10073 — To amend title XVIII of the Social Security Act to increase support for physicians and other practitioners in adjusting to Medicare payment changes; Sponsor: Murphy, Gregory F. [Rep.-R-NC-3]; Committees: House - Energy and Commerce; Ways and Means

H.R.10075 — To prohibit an entity from receiving Federal funds if such entity provides to any person any medical or surgical intervention for the purpose of assisting an individual's disassociation from his or her sex; Sponsor: Ogles, Andrew [Rep.-R-TN-5]; Committees: House - Energy and Commerce

H.R.10077 — To direct certain institutions of higher education to pay the medical costs of students who were diagnosed with certain diseases following a required COVID-19 vaccination, and for other purposes; Sponsor: Rosendale, Matthew M. [Rep.-R-MT-2]; Committees: House - Education and the Workforce

H.R.10078 — To amend the Indian Health Care Improvement Act to establish within the Indian Health Service an Office of Graduate Medical Education Programs, and for other purposes; Sponsor: Stansbury, Melanie A. [Rep.-D-NM-1]; Committees: House - Natural Resources; Energy and Commerce



	Kamala Harris (D)	Donald Trump (R)
Affordable Care Act	<ul style="list-style-type: none">- Supports maintaining and growing the ACA- Supports making permanent enhanced ACA subsidies, currently set to expire at the end of 2025	<ul style="list-style-type: none">- Has retreated from support of ACA repeal and replace over the course of his campaign; now promises to improve upon the law- Likely to maintain support for first term policies: expansion of short-term, limited-duration health plans (“junk insurance”), reduced funding for ACA navigators- Opposes extension of enhanced ACA subsidies
Health care reform	<ul style="list-style-type: none">- Campaign has stated that Harris will not push for single payer health care as president- Supports Medicaid expansion in the 10 remaining non-expansion states- Support for Biden administration’s proposal to increase taxes for Americans earning >\$400K annually to enhance Medicare program solvency- Proposed new Medicare benefit to cover hearing/vision/home-care services, with a particular focus on home health care; the benefit for seniors and people with disabilities would involve creation of a sliding-scale program to cover support services for daily activities- Supports permanent extension of Medicare telehealth flexibilities	<ul style="list-style-type: none">- Has walked back statements indicating that he is open to Medicare program cuts- Would likely permit state implementation of Medicaid work requirements and other Medicaid cost containment proposals- Supports permanent extension of Medicare telehealth flexibilities
Drug pricing	<ul style="list-style-type: none">- Expected to defend and expand the Inflation Reduction Act’s drug price negotiation program- Supports extension of the IRA’s cost protections (ex. \$35 insulin co-payment cap, \$2K cap on out-of-	<ul style="list-style-type: none">- Continued support for lowering drug prices, but does not plan to revive “most favored nation” policy as proposed during first term- Expected to revive first term focus on policies to

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	<ul style="list-style-type: none"> - pocket drug spending) to the commercial market - Approval of Florida’s drug importation plan slow-rolled but eventually green-lit by Biden administration’s FDA 	<ul style="list-style-type: none"> - increase transparency, choice, and competition in health care - Potential to encourage deregulation to facilitate drug importation implementation (in line with first term policies)
Public health	<ul style="list-style-type: none"> - Supported Biden administration efforts to reorganize and modernize the Centers for Disease Control and Prevention, as well as new initiatives to combat health misinformation and address health disparities 	<ul style="list-style-type: none"> - Supports disbanding the White House Office of Pandemic Preparedness and Response - Supports defunding schools with vaccination requirements - Proposed creation of a chronic disease commission to investigate the causes behind the rise in chronic illnesses, with a potential role for Robert F. Kennedy Jr., who has specifically recommended a revamp of PDUFA, drug price caps, and reevaluation of direct-to-consumer advertising
Reproductive health care	<ul style="list-style-type: none"> - Supports reinstatement of Roe v. Wade; has pledged to sign legislation “restoring reproductive freedom” should one reach her desk as president - Has prioritized addressing the maternal mortality crisis as Vice President 	<ul style="list-style-type: none"> - Initial support for a nationwide 15-week abortion ban, but now argues that abortion is a states’ rights issue - Supports abortion access in cases of rape, incest, or to protect the patient’s life - Could reinstate first term policies weakening requirements for insurers to cover all forms of contraception - Supports access to IVF, proposing public funding for or mandated insurance coverage of IVF treatment
Opioids	<ul style="list-style-type: none"> - Supports increasing resources to combat fentanyl smuggling at the southern border 	<ul style="list-style-type: none"> - Supports congressional action to approve the use of the death penalty for drug traffickers
Gun control	<ul style="list-style-type: none"> - Supports assault weapons ban and universal background checks 	<ul style="list-style-type: none"> - Pledged to appoint federal judges who oppose firearm restrictions - Supported the Supreme Court’s decision to strike down his own bump stock ban