



## Health Policy Briefing

December 23, 2024

### Congress Averts Government Shutdown with Scaled Back CR

Congress has passed a stopgap spending measure that funds the federal government at current levels through March 14, narrowly averting a government shutdown that was set to take place at midnight on December 20. The continuing resolution (CR) appropriates \$100 billion in disaster relief and \$10 billion in assistance for farmers. The package passed the House of Representatives 366-34, with the support of 196 Democrats and 170 Republicans, on Friday. The Senate approved the measure by a vote of 85-11 just after midnight and President Biden signed it into law.

Government funding negotiations were temporarily derailed last week when President-elect Donald Trump and Elon Musk demanded that Congress raise the national debt ceiling and reduce federal spending. The initial bipartisan package negotiated by lawmakers, which stood at more than 1,500 pages, included a number of provisions to extend expiring authorities or funding, including a two-year extension of telehealth flexibilities originally authorized during the COVID-19 pandemic and a one-year, 3.53% increase to Medicare bonuses for alternative payment model participation. The legislation would have increased Medicare physician payments by 2.5% for 2025, mitigating nearly all the 2.83% cut to the Medicare physician fee schedule scheduled to take effect on January 1. The initial package also included a slate of measures to reform the pharmacy benefit manager industry and reauthorize the SUPPORT Act and PAHPA. Following objections by Trump and Musk, House Republican leadership attempted to advance a Trump-backed, slimmed down CR that included a suspension of the debt ceiling. The proposal was voted down 235-174, with 38 Republicans voting against the package.

While the CR that successfully passed on Friday did not include a Medicare physician payment fix and was stripped of many of the health care provisions that were featured in the original bill, it does include a three-month extension of telehealth authorities such as removing geographic requirements and

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expanding originating sites. The package also prevents a pending 4% cut to government spending under “PAYGO” rules. Incoming GOP Doctors’ Caucus co-chair Greg Murphy, MD (R-N.C.) said in an interview last week that he has received assurances from the Trump transition team that the next government funding package will include a measure to address the physician pay cut, and that the eventual doc fix will apply retrospectively.

### Senate Passes Childhood Cancer Research Bill, NDAA

The Senate passed the ***Gabriella Miller Kids First Research Act 2.0*** (H.R. 3391) by unanimous consent on Friday. The bill includes \$60 million in funding over five years to reauthorize the National Institute of Health’s Gabriella Miller Kids First Pediatric Research Program, which was created in 2014 to support lifesaving research on treatments and cures for childhood cancer. The bill previously passed the House of Representatives in March and will now be sent to President Joe Biden for his signature. The Senate’s version of the legislation (S. 1624), which included \$190 million in funding through 2033, had been included in the initial stopgap spending bill released last week but was stripped from the end of year package that was eventually passed by Congress.

The Senate also passed the fiscal year (FY) 2025 National Defense Authorization Act (NDAA) last week. The \$884 billion defense authorization bill (H.R. 5009) was approved in an 85-14 vote on Wednesday. The bill contains a few health care related provisions, including a measure to restrict gender affirming care for minors covered by TRICARE. Service members would continue to be permitted to travel to obtain an abortion under the legislation. The bill also requires the Director of National Intelligence to develop a plan to secure those U.S. biotechnology supply chains deemed critical to national security. The legislation, which cleared the House of Representatives earlier this month, will now be sent to the President for his signature.

### RFK on Capitol Hill Ahead of Confirmation Proceedings

Robert F. Kennedy Jr. has been on Capitol Hill this month to meet with members of the Senate ahead of the chamber’s consideration of his nomination to serve as Secretary of the U.S. Department of Health and Human Services (HHS). While Kennedy has shifted his messaging around vaccines to focus on the need to increase transparency around the government’s regulatory processes, he came under criticism from Senate Majority Leader Mitch McConnell (R-Ky.), a childhood polio survivor, last week in light of a recently published report which revealed that one of RFK Jr.’s attorneys had called on the Food and Drug Administration to revoke its approval of the polio vaccine. McConnell stated that “efforts to undermine public confidence in proven cures are not just uninformed — they’re dangerous.” If all Democrats vote against him, Kennedy can only afford to lose three Republican votes to be confirmed. A group of 800 medical professionals have sent a [letter](#) to the Senate urging lawmakers to confirm RFK as HHS Secretary. The letter was released by a Super PAC aligned with the nominee. It urges the chamber to “seize this historic opportunity to confront America’s chronic disease crisis.” The letter counters that sent earlier in the month by a group of 77 Nobel laureates urging Senators to oppose the confirmation.

### Make America Healthy Again Caucus Established

Sens. Ron Johnson (R-Wis.), Cynthia Lummis (R-Wyo.), Roger Marshall, MD (R-Kan.), Rick Scott (R-Fla.), and Tommy Tuberville (R-Ala.) announced the formation of the Make America Healthy Again (MAHA) Caucus last week. The caucus aims to promote the goals of RFK Jr.’s MAHA agenda on Capitol Hill. The group’s stated [goals](#) include:

- Promoting access to nutritious, affordable food, and encouraging education on ingredient impacts, processed foods, and healthy eating habits to facilitate healthy outcomes.
- Shifting health care resources toward preventive care and research and implementing non-pharmaceutical interventions to address chronic illnesses.
- Encouraging agricultural practices that boost the nutritional quality of food and soil health.
- Expanding community health centers and telehealth initiatives, and promoting direct primary care models to reduce costs and improve access, as well as expanding health savings accounts and association health plans.

Sens. Johnson and Marshall will serve on the Finance Committee, which has jurisdiction over Kennedy’s confirmation hearing and will vote on whether to recommend the nominee to the full Senate. RFK is also expected to testify before the Health, Education, Labor, and Pensions (HELP) Committee, of which Sens. Marshall and Tuberville are members.

## Updates to Congressional Committee Leadership and Roster Assignments

The Senate Republican Caucus has [ratified](#) committee assignments and rosters for the 119th Congress. Of note are changes that will impact congressional panels with health care jurisdiction. Sen. Roger Marshall, MD (R-Kan.) will join the Finance Committee next year. Joining the HELP Committee are Sen.-elect Jim Banks (R-Ind.) and Sens. Tim Scott (R-S.C.), Josh Hawley (R-Mo.), Mike Crapo (R-Idaho), and Marsha Blackburn (R-Tenn.), while Sen. Ted Budd (R-N.C.) has been moved off of the committee.

On the Democratic side, Majority Leader Chuck Schumer (D-N.Y.) [announced](#) the Ranking Member committee assignments for Senate Democrats. Sen. Ron Wyden (D-Ore.) will continue to serve as top Democrat on the Finance Committee and Sen. Bernie Sanders (I-Vt.) will continue to serve as top Democrat on the HELP Committee.

In the House of Representatives, the GOP Steering Committee has added ten new Republican members to the Energy and Commerce Committee: Cliff Bentz (Ore.), Gabe Evans (Colo.), Julie Fedorchak (N.D.), Russell Fry (S.C.), Craig Goldman (Texas), Erin Houchin (Ind.), Tom Kean (N.J.), Nick Langworthy (N.Y.), Laurel Lee (Fla.), and Mike Rulli (Ohio). The lawmakers will help fill vacancies left by departing members Michael Burgess, MD (Texas), Larry Bucshon, MD (Ind.), Greg Pence (Ind.), Cathy McMorris Rodgers (Wash.), and John Curtis (Utah). Incoming House Energy and Commerce Committee Chair Brett Guthrie (R-Ky.) announced last week that Rep. Buddy Carter, BSPHarm (R-Ga.) will serve as the next chair of the Health Subcommittee. Rep. Neal Dunn, MD (R-Fla.) will serve as Health Subcommittee vice chair. “The goal of this subcommittee is as straightforward as it is consequential: help Americans live healthier and longer lives. We will work towards this goal, in lockstep with President Trump, to tackle our nation’s chronic disease epidemic, increase price transparency, incentivize competition, combat harmful health care consolidation, fight the scourge of fentanyl, and build a health care system that puts patients before profits,” Rep. Carter said in a statement.

Hart Health Strategies Inc. maintains a [Guide to the 119th Congress](#) to track changes in the balance of power, leadership, committee membership, and bios for new members of Congress.

## Bipartisan Medicare GME Working Group Releases Draft Legislation

Incoming HELP Committee Chair Bill Cassidy, MD (R-La.), alongside Sens. Catherine Cortez Masto (D-Nev.), John Cornyn (R-Texas), and Michael Bennet (D-Colo.) have introduced [draft legislation](#) to improve the nation’s graduate medical education (GME) system. The proposal would increase the number of Medicare-funded residency slots by 5,000 between fiscal years 2027 and 2031, with at least 15% of slots dedicated to psychiatry or psychiatry subspecialties and 25% allocated to primary care. Priority would be given to hospitals in rural and underserved areas in the distribution of the slots. The lawmakers are seeking feedback on the draft until January 31, 2025, and are specifically requesting input on following questions:

1. Is the 30-slot cap appropriate for ensuring fair distribution of residency slots across hospitals? What other strategies could Congress consider to ensure hospitals in all regions have an equal opportunity to compete for slots?
2. Is codifying remote supervision the best way to provide flexibility to rural hospitals, or are there alternative approaches Congress should consider?
3. Are the proposed data categories sufficient for understanding the GME landscape without overburdening small hospitals? Are there other useful data points or reporting methods that should be included?
4. Is creating a GME Policy Council the right approach to guiding future GME slot allocations? Is the scope and responsibility of the Council adequate to make it effective?
5. Are there any categories of high-need hospitals with potentially higher GME costs that are not already captured in the bonus rates for the proposed standardization of per resident amounts for new slots?

## House Task Force Releases Report on AI

The bipartisan House Task Force on Artificial Intelligence released a [report](#) last week containing principles and recommendations aimed at responsibly advancing America's leadership in AI innovation. The 24-member task force, which was established earlier this year by Speaker Mike Johnson (R-La.) and Democratic Leader Hakeem Jeffries (D-N.Y.), was led by Chairman Jay Obernolte (R-Calif.) and Co-Chair Ted Lieu (D-Calif.). The report examines AI's implications for more than a dozen policy areas. In the area of health care, the report specifically recommends that the government:

- Encourage the practices needed to ensure AI in health care is safe, transparent, and effective;
- Maintain robust support for health care research related to AI;
- Create incentives and guidance to encourage risk management of AI technologies in health care across various deployment conditions to support AI adoption and improve privacy, enhance security, and prevent disparate health outcomes;
- Support the development of standards for liability related to AI issues; and
- Support appropriate payment mechanisms without stifling innovation.

In related news, the Congressional Budget Office released its first-ever [report](#) on AI last week. The report, which was commissioned by the House Budget Committee, discusses the potential positive and negative impacts of AI technology on the U.S. economy and federal budget.

## Warren, Doggett Urge CMS to Finalize CY 2026 MA Regulations

Sen. Elizabeth Warren (D-Mass.) and Rep. Lloyd Doggett (D-Texas) have sent a letter to the Centers for Medicare and Medicaid Services (CMS) [urging](#) the agency to swiftly issue the calendar year (CY) 2026 Medicare Advantage (MA) capitation rates and Part C and Part D payment policies this month. The lawmakers specifically ask that the regulations include the final phase-in of updates to the MA risk adjustment model and additional action to rein in overpayments to MA plans. The letter argues that CMS' proposed changes to the risk adjustment model, if fully phased in as scheduled, will help limit "some of the most egregious forms of upcoding," highlighting estimates that upcoding by in MA will cost taxpayers \$54 billion in 2024 alone. The letter also recommends that CMS implement the Medicare Payment Advisory Commission's recommendation to use the Demographic Estimate of Coding Intensity method to calculate risk adjustment payments.

## E&C Republicans Request Investigation of HHS' Gender Affirming Care Policies

House Energy and Commerce Committee Republicans have sent a [letter](#) asking the HHS Office of the Inspector General (OIG) to investigate the "strength, quality, and types" of evidence used to develop HHS' gender-affirming care policies. "As the agency responsible for safeguarding the health and well-being of Americans, all of HHS's medical treatment recommendations, especially medical treatment recommendations for children, should be based on rigorous and well-established research, such as randomized controlled trials, that have definitively illustrated the long-term benefits of gender affirming care treatments," the letter states. "Accordingly, the Committee requests that the OIG investigate this matter to ensure American children receive evidence-based, high-quality, and safe medical care."

## Wyden Releases Report on State of EMTALA Post-*Dobbs*

Senate Finance Committee Chair Ron Wyden (D-Ore.) has released a [report](#) detailing the findings of an investigation into eight hospitals that reportedly delayed and denied women emergency reproductive health care in potential violation of the Emergency Medical Treatment and Active Labor Act (EMTALA) post-*Dobbs*. The report found that most hospitals surveyed did not provide physicians with clear guidance on the provision of emergency reproductive care. It makes the following recommendations to mitigate harms for women and providers:

- Hospital associations, provider groups, and hospitals should work together to provide training, guidance, and resources to doctors on the interplay between EMTALA and abortion bans.
- Professional medical organizations should issue guidance and publish standards that clearly define appropriate clinical care in obstetric emergencies.
- Hospitals should support the full spectrum of providers in becoming certified to prescribe mifepristone.
- OB/GYNs, primary care physicians, and family medicine physicians should proactively counsel pregnant patients on their EMTALA rights and how to report potential violations.

While the Biden administration is currently challenging Idaho's enforcement of a near-total abortion ban in court on the grounds that it is in violation of EMTALA, the suit is expected to be rendered moot when the Trump administration takes office on January 20.

## CBO Outlines Options for Reducing the Federal Deficit

The Congressional Budget Office (CBO) released a [report](#) last week compiling a compendium of policy options for reducing the federal budget deficit between 2025 and 2034. The report presents 76 options for altering spending and revenues to reduce budget deficits, with 14 items related to health and mandatory spending. Amongst other options, CBO explores the possibility of establishing caps on federal spending for Medicaid, increasing premiums paid for Medicare Part B, reducing Medicare Advantage benchmarks, consolidating and reducing Medicare payments for graduate medical education, reducing payments for hospital outpatient departments, and reducing payments for drugs delivered by 340B hospitals.

## Recently Introduced Health Legislation

S.Res.927 — A resolution commemorating and supporting the goals of World AIDS Day; Sponsor: Booker, Cory A. [Sen.-D-NJ]; Committees: Senate - Foreign Relations

S.5535 — A bill to amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to increase penalties for group health plans and health insurance issuers for practices that violate balance billing requirements, and for other purposes; Sponsor: Marshall, Roger [Sen.-R-KS]; Committees: Senate - Health, Education, Labor, and Pensions

S.5540 — A bill to amend title XVIII of the Social Security Act to clarify payment rules for manual wheelchairs under part B of the Medicare program; Sponsor: Blackburn, Marsha [Sen.-R-TN]; Committees: Senate – Finance

S.5541 — A bill to amend the Public Health Service Act to reauthorize the Stop, Observe, Ask, and Respond to Health and Wellness Training Program; Sponsor: Schmitt, Eric [Sen.-R-MO]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.10419 — To amend title XVIII of the Social Security Act to establish a Medicare demonstration program relating to crisis response services; Sponsor: Cárdenas, Tony [Rep.-D-CA-29]; Committees: House - Ways and Means; Energy and Commerce



H.R.10425 — To amend and reauthorize the Workforce Innovation and Opportunity Act and the Older Americans Act of 1965; Sponsor: Foxx, Virginia [Rep.-R-NC-5]; Committees: House - Education and the Workforce; Ways and Means; Energy and Commerce

H.R.10426 — To amend part E of title IV of the Social Security Act to require States to prohibit genital surgery on foster children with variations in sex characteristics who are under six years of age as a condition of receiving grants under such part; Sponsor: Garcia, Sylvia R. [Rep.-D-TX-29]; Committees: House - Ways and Means

H.R.10430 — To amend title 38, United States Code, to require the Department of Veterans Affairs to furnish hospital care and medical services outside a State to veterans with service-connected disabilities rated as permanent and total, and for other purposes; Sponsor: LaLota, Nick [Rep.-R-NY-1]; Committees: House - Veterans' Affairs

H.R.10437 — To amend title XVIII of the Social Security Act to provide for the guaranteed issue of Medigap policies to all Medigap-eligible Medicare beneficiaries and Medicare Advantage enrollees, and for other purposes; Sponsor: Schneider, Bradley Scott [Rep.-D-IL-10]; Committees: House - Ways and Means; Energy and Commerce

H.R.10438 — To expand cost-sharing reductions with respect to qualified health plans offered through an Exchange, and for other purposes; Sponsor: Schrier, Kim [Rep.-D-WA-8]; Committees: House - Energy and Commerce; Ways and Means

H.R.10439 — To amend the Public Health Service Act to expand research and education with respect to endometrial cancer, and for other purposes; Sponsor: Scott, David [Rep.-D-GA-13]; Committees: House - Energy and Commerce

S.Res.932 — A resolution designating the month of October 2024 as “National Military Toxic Exposures Awareness Month”; Sponsor: Moran, Jerry [Sen.-R-KS]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

S.5547 — A bill to amend title XIX of the Social Security Act to require States to verify certain eligibility criteria for individuals enrolled for medical assistance quarterly, and for other purposes; Sponsor: Scott, Rick [Sen.-R-FL]; Committees: Senate – Finance

S.5551 — A bill to extend the statute of limitations for offenses relating to pandemic-era programs to be 10 years; Sponsor: Lankford, James [Sen.-R-OK]; Committees: Senate – Judiciary

S.5557 — A bill to require identification in medical records of the Department of Defense of the affiliation of certain non-Department of Defense health care providers, and for other purposes; Sponsor: Cornyn, John [Sen.-R-TX]; Committees: Senate - Armed Services

S.5563 — A bill to require the use of prescription drug monitoring programs; Sponsor: Klobuchar, Amy [Sen.-D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.5573 — A bill to amend title 35, United States Code, to provide for a safe harbor from infringement of a method of use patent relating to drugs or biological products; Sponsor: Hickenlooper, John W. [Sen.-D-CO]; Committees: Senate – Judiciary

H.Res.1617 — Expressing the sense of the House of Representatives that it is the duty of the Federal Government to dramatically expand and strengthen the care economy; Sponsor: Bowman, Jamaal [Rep.-D-NY-16]; Committees: House - Education and the Workforce; Energy and Commerce; Transportation and Infrastructure; Financial Services; Agriculture; Judiciary; Oversight and Accountability

H.R.10444 — To clarify that States do not have authority to establish or continue in effect any requirement with respect to the sale, distribution, possession, or use of less harmful alternatives to traditional tobacco products to protect public health, and for other purposes; Sponsor: Bergman, Jack [Rep.-R-MI-1]; Committees: House - Energy and Commerce

H.R.10445 — Further Continuing Appropriations and Disaster Relief Supplemental Appropriations Act, 2025; Sponsor: Cole, Tom [Rep.-R-OK-4]; Committees: House - Appropriations; Budget; Ways and Means

H.R.10455 — To direct the Secretary of Health and Human Services to establish the Health Sector Cybersecurity Coordination Center, and for other purposes; Sponsor: Kelly, Robin L. [Rep.-D-IL-2]; Committees: House - Energy and Commerce; Ways and Means; Science, Space, and Technology

H.R.10457 — To amend the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 to extend the President's Emergency Plan for AIDS Relief program; Sponsor: Lee, Barbara [Rep.-D-CA-12]; Committees: House - Foreign Affairs

H.R.10480 — To direct the Secretary of Health and Human Services to establish and maintain a local gun violence prevention laws database, and for other purposes; Sponsor: DeSaulnier, Mark [Rep.-D-CA-10]; Committees: House - Energy and Commerce

H.R.10484 — To direct the Secretary of Health and Human Services to carry out a public awareness campaign to increase participation by women in clinical trials that are conducted or supported by the National Institutes of Health, and for other purposes; Sponsor: Gottheimer, Josh [Rep.-D-NJ-5]; Committees: House - Energy and Commerce

H.R.10487 — To direct the Secretary of Veterans Affairs to carry out a pilot program to provide temporary firearm storage to veterans who seek to store their firearms outside of their residence due to certain mental health conditions, and for other purposes; Sponsor: Higgins, Clay [Rep.-R-LA-3]; Committees: House - Veterans' Affairs

H.R.10495 — To amend title XVIII of the Social Security Act to make improvements to the redistribution of residency slots under the Medicare program after a hospital closes; Sponsor: Lee, Susie [Rep.-D-NV-3]; Committees: House - Ways and Means; Energy and Commerce

H.R.10506 — To amend the Public Health Service Act to direct the Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, to award grants, contracts, or cooperative agreements for supporting new mobile cancer screening units to expand patient access to essential screening services in rural and underserved communities, and for other purposes; Sponsor: Ruiz, Raul [Rep.-D-CA-25]; Committees: House - Energy and Commerce

S.5612 — A bill to amend part C of title XVIII of the Social Security Act to provide for prior authorization reforms under the Medicare Advantage program; Sponsor: Whitehouse, Sheldon [Sen.-D-RI]; Committees: Senate - Finance

S.5613 — A bill to improve the quality, appropriateness, and effectiveness of diagnosis in health care, and for other purposes; Sponsor: Van Hollen, Chris [Sen.-D-MD]; Committees: Senate - Health, Education, Labor, and Pensions

S.5624 — A bill to require the Secretary of Veterans Affairs to establish an integrated project team to improve the process for scheduling appointments for health care from the Department of Veterans Affairs, and for other purposes; Sponsor: Hassan, Margaret Wood [Sen.-D-NH]; Committees: Senate - Veterans' Affairs

S.5632 — A bill to direct the Secretary of Agriculture to establish and administer a pilot program to provide grants to support Food is Medicine programs, and for other purposes; Sponsor: Heinrich, Martin [Sen.-D-NM]; Committees: Senate - Agriculture, Nutrition, and Forestry

S.5633 — A bill to establish Medicare flex fund accounts and for other purposes; Sponsor: Scott, Rick [Sen.-R-FL]; Committees: Senate – Finance

S.5637 — A bill to establish the “Biomedical Innovation Fund”, and for other purposes; Sponsor: Warren, Elizabeth [Sen.-D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.5638 — A bill to secure the supply of drugs in the United States, and for other purposes; Sponsor: Warren, Elizabeth [Sen.-D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.10512 — To extend the RAISE Family Caregivers Act; Sponsor: Bonamici, Suzanne [Rep.-D-OR-1]; Committees: House - Education and the Workforce

H.R.10526 — To amend the Social Security Act to establish a Medicare for America health program to provide for comprehensive health coverage for all Americans; Sponsor: DeLauro, Rosa L. [Rep.-D-CT-3]; Committees: House - Ways and Means; Energy and Commerce; Judiciary; Natural Resources; Education and the Workforce; House Administration

H.R.10527 — To direct the National Park Service to pursue options for the provision of mineral-based, broad-spectrum sunscreen or other protective methods at low or no cost in national parks; Sponsor: Dingell, Debbie [Rep.-D-MI-6]; Committees: House - Natural Resources

H.R.10536 — To amend title 38, United States Code, to establish a mission of the Veterans Health Administration to innovate, and for other purposes; Sponsor: McGarvey, Morgan [Rep.-D-KY-3]; Committees: House - Veterans’ Affairs