

# 2024 elections and health policy

The outcome of the 2024  
elections will play a key role in  
future health policy

**September 2024**

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## Key takeaways

- ▶ **Presidential, House, and Senate races remain too close to call.** Who will be sitting in the White House in 2025 and who will hold control of the House and Senate remain largely unknown, as each party currently operates on narrow margins, making even a handful of competitive races impactful. The potential balance-of-power scenarios range greatly, but meaningful large-scale reforms or policy extensions may be limited if neither party holds a sufficient margin.
- ▶ **Who wins the presidential election will set the stage for future health policy.** While Vice President Harris and former President Trump are staunchly opposed on many policy issues, it is worth noting that there are areas of overlap. Both candidates have records supporting drug pricing reforms, diversifying the drug supply chain, controlling what is viewed as excessive hospital prices, increasing transparency, and establishing a competitive market. However, where they diverge on those topics is the policy details, and the next president will chart the path for future health policy – particularly on issues of health care coverage.
- ▶ **Policy themes from the 118th Congress may arise in the lame duck session.** The outcome of the elections will play a key role in determining whether the lame duck session is truly lame, or productive. Throughout the 118th Congress, lawmakers have continued to come up short on several key health policy priorities that are likely to resurface in the year-end debate. Success will come down to the motivation of leadership and members.



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# 1 Overview



## Potential election outcome scenarios



Republican control of White House, House and Senate



Democratic control of White House, House and Senate



One party wins presidency with split Congress



Republican control of White House and Democratic control of House and Senate



Democratic control of White House and Republican control of House and Senate

## Political landscape

On July 21, President Biden dramatically changed the face of the 2024 presidential election, dropping his bid for re-election and backing Vice President Kamala Harris for the Democratic ticket. Since then, both Harris and former President Donald Trump secured their respective party's nominations for president and have named their running mates. Trump selected Sen. JD Vance (R-OH) and Harris selected Minnesota Gov. Tim Walz.

The changes to the Democratic ticket have brought renewed energy to both presidential campaigns – and have brought health care more into a debate largely focused on other economic issues and foreign policy. While Harris is expected to continue many of the Biden Administration's health policy priorities and Trump is expected to revisit many of his past policy priorities, there are important nuances for both candidates who shortly after taking office will face some key regulatory and legislative health care decisions.

While much of the media focus is on the presidential election, control of both the House and Senate is also on the ballot in November. All House seats and 34 Senate seats are up for re-election, and there is a growing wave of retiring members, including many who have championed health care policies, creating additional uncertainty in those races.

The outcome of the 2024 races is largely uncertain, raising the prospect of various scenarios of control over the White House and Congress, which will have implications for health care policy moving forward. Health care stakeholders should start preparing now for the range of potential outcomes and related policy priorities that will flow from Congress and the next administration.



# 2024 presidential election

## Overview

The outcome of the 2024 presidential election will set the tone for health policy at the administrative level for 2025-2029, and, depending on the makeup of Congress, could play an influential role in the legislative health care agenda.

When Harris ran for president in 2020, she supported health care policies that were more progressive than those espoused by President Biden, including Medicare for All. But in this campaign, Harris has largely shifted away from those policies and is expected to continue to advance the Biden/Harris Administration's health policy agenda, including shoring up the Affordable Care Act (ACA) and working to reduce health care costs for patients. Harris' background as California Attorney General also suggests the potential for her to chart her own path on items like anti-competitive practices in health care. Harris also has been the face of the Biden Administration's push to improve maternal health care, reduce care disparities and improve access to the full spectrum of reproductive health care, and those issues are likely to be at the forefront of her policy priorities.

A potential second Trump Administration, meanwhile, is expected to focus on populist health care proposals, such as lowering prescription drug costs and reforming the ACA, as opposed to fully repealing and replacing the law. While there will be calls to repeal the Inflation Reduction Act from Republicans in Congress, Trump may use authorizations created by the law to execute priorities from his previous administration, such as international reference pricing. In addition, Trump could revisit policies to reduce ACA spending by limiting subsidies and cost-sharing payments, and instead focus on expanding alternative coverage options to foster competition and transparency in the health care market. Trump has also pledged to mandate coverage of IVF services.

**See Table 1 for a topic-by-topic comparison of potential health policies under a Harris Administration compared with a Trump Administration.**

Table 1: Harris vs. Trump health policy positions

Potential Harris health policies	Potential Trump health policies
Drug costs	
<ul style="list-style-type: none"><li>▶ Continued rollout of the drug price provisions of the Inflation Reduction Act (IRA). Harris supports extending the IRA’s drug price negotiation provisions to more drugs and expanding other IRA provisions, including extending the Part D out-of-pocket cap and the \$35 insulin cap to the commercial market. These items would be unlikely in a divided Congress.</li><li>▶ Likely to continue Part D Premium Stabilization Demonstration to smooth premium increases.</li><li>▶ Could leverage the Center for Medicare and Medicaid Innovation (CMMI) to continue the Biden Administration’s progress on drug-focused payment models.</li><li>▶ Continued support for pharmacy benefit management (PBM) reforms and investigation into PBM practices at the Federal Trade Commission (FTC) and beyond.</li><li>▶ Potential to use FTC to address patent abuses and/or price gouging. Harris in the past has supported march-in rights.</li></ul>	<ul style="list-style-type: none"><li>▶ Trump’s position on extending the \$35 insulin out-of-pocket cost to the commercial market is unclear, but this could be an area in which he breaks from Republicans in Congress. Trump in the past proposed allowing Medicare plans to lower insulin costs to bridge the Part D coverage gap and could be supportive of the IRA’s cap.</li><li>▶ While there will be pressure from Republicans in Congress to repeal the IRA, Trump may favor keeping the law’s drug pricing policies with potential modifications to protect innovation and address orphan drugs.</li><li>▶ Trump also could split with congressional Republicans by continuing Part D Premium Stabilization Demonstration to smooth premium increases and could leverage in the future to offset premium spikes.</li><li>▶ Expected to revisit drug rebate reform.</li><li>▶ Expect Trump to pursue other policies to bring down US cost of drugs, such as international reference pricing.</li><li>▶ Expected to support PBM reforms.</li></ul>
Drug supply chain and shortages	
<ul style="list-style-type: none"><li>▶ Likely to continue the Biden Administration’s efforts (e.g., BIO 5) to reduce the US reliance on manufacturing in foreign countries seen as adversaries, such as China.</li><li>▶ Harris’ position on tariffs isn’t clear yet, but she is likely to continue the Biden Administration’s more measured approach of maintaining and levying tariffs on goods that have strategic value (i.e., advanced technologies, products relevant to national security, goods impacting domestic manufacturing) rather than implementing broad-based tariffs on all imports.</li></ul>	<ul style="list-style-type: none"><li>▶ Likely to continue the Biden Administration’s push for more domestic manufacturing of active pharmaceutical ingredients (APIs) and less reliance on manufacturing in foreign countries seen as adversaries, such as China, but likely to do so through new methods. It is possible that Trump would directly support initiatives like BIO 5 or seek to start his own efforts.</li><li>▶ Likely to continue a more unpredictable and unilateral approach, likely including increasing Section 301 tariff rates and expanding the list of impacted products in a way that is more measured than current campaign rhetoric.</li></ul>
Substance use disorder	
<ul style="list-style-type: none"><li>▶ Supports increased access to medication-assisted treatments</li><li>▶ Supports increased access to treatment via telehealth, mobile vans, and expanding the types of providers who can order medications in opioid treatment programs</li><li>▶ Supports bipartisan border bill to fund illicit drug detection technology</li></ul>	<ul style="list-style-type: none"><li>▶ Supports strengthening the border to stop illegal trafficking of fentanyl</li><li>▶ Supports expanding faith-based treatment programs</li><li>▶ Supports increased access to medication-assisted treatments</li></ul>

Table: Harris vs. Trump health policy positions

Potential Harris health policies	Potential Trump health policies
Affordable Care Act	
<ul style="list-style-type: none"><li>▶ Despite prior support of Medicare for All, likely to continue Biden-Harris ACA record and continue focus on expanding and strengthening the law (e.g., bolstering access, consumer protection). Harris supports permanently extending enhanced subsidies.</li><li>▶ Could seek to extend coverage options for undocumented immigrant populations.</li></ul>	<ul style="list-style-type: none"><li>▶ Unlikely to pursue repeal and replace; instead, will likely support reforming the ACA's tax subsidies, cost-sharing reductions, and coverage requirements</li><li>▶ Expect renewed effort around alternative coverage vehicles such as association health plans (AHPs), limited duration health plans, health savings accounts (HSAs), Individual coverage health reimbursement arrangements (IHRAs), etc.</li><li>▶ Opposes DACA recipients' enrollment in ACA plans</li></ul>
Medicare	
<ul style="list-style-type: none"><li>▶ Supports adding dental and vision to Medicare benefits</li><li>▶ Has pledged not to cut benefits and supports strengthening Medicare by increasing taxes on millionaires and billionaires</li><li>▶ Could support expanding site-neutral payments</li></ul>	<ul style="list-style-type: none"><li>▶ Supports expanding site-neutral payments</li><li>▶ Has pledged not to cut benefits</li></ul>
Medicare Advantage	
<ul style="list-style-type: none"><li>▶ Examine payment rates and risk adjustment practices as opportunities to control spending</li><li>▶ Oversee implementation of rules to accelerate prior authorizations and reduce provider burden</li><li>▶ Continued focus on consumer protections, including addressing broker payment and practices</li></ul>	<ul style="list-style-type: none"><li>▶ May look to quietly curb spending growth through regulatory reforms, but unlikely to support major changes</li><li>▶ Will likely support enrollment increases and favor MA over traditional Medicare</li></ul>
Medicaid	
<ul style="list-style-type: none"><li>▶ Oppose state work requirement efforts, block grants and other proposals to limit spending or enrollment</li><li>▶ Support increasing number of states with expanded Medicaid</li><li>▶ Could explore ways to increase noncitizens' access to coverage</li><li>▶ Continue emphasis on increasing health equity</li></ul>	<ul style="list-style-type: none"><li>▶ Explore block grants, revisit work requirements and other policies focused on eligibility and potential state gaming, re-examine expansion state Medicaid matches</li><li>▶ Could revisit the Medicaid Fiscal Accountability Rule</li><li>▶ Supportive of state waivers to control costs, like allowing cost-sharing</li><li>▶ Opposed to noncitizens enrolling in Medicaid plans</li></ul>
Value-based payment/CMMI	
<ul style="list-style-type: none"><li>▶ Likely to continue CMMI's strategic refresh and emphasis on equity</li><li>▶ Likely to continue focus on accountable care organization (ACO) type models and primary-care driven care coordination. Could also see focus on drug pricing through CMMI</li><li>▶ More likely to favor mandatory payment models</li></ul>	<ul style="list-style-type: none"><li>▶ May refocus CMMI on cost-saving models</li><li>▶ Could use CMMI as a tool to implement broad payment reform, like MFN</li><li>▶ More likely to favor voluntary models</li></ul>



Table: Harris vs. Trump health policy positions

Potential Harris health policies	Potential Trump health policies
Price transparency	
<ul style="list-style-type: none"><li>▶ Likely to support increased penalties to improve compliance</li><li>▶ Likely to support proposals to extend price transparency to other stakeholders</li><li>▶ May require payers and providers to submit cost information through API</li></ul>	<ul style="list-style-type: none"><li>▶ Likely to add more severe penalties to address compliance</li><li>▶ May support proposals to extend price transparency to other stakeholders</li><li>▶ May require payers and providers to submit cost information through API</li></ul>
Surprise medical bills	
<ul style="list-style-type: none"><li>▶ Likely to continue Biden Administration’s implementation of No Surprises Act, with modifications to address certain criticisms and legal pushback</li><li>▶ Unclear stance on implementation but expect to prioritize implementation of advanced explanations of benefits (EoBs)</li></ul>	<ul style="list-style-type: none"><li>▶ May reissue rules adjusting the use of qualifying payment amounts (QPAs) in payment calculations</li><li>▶ Likely to prioritize implementation of advanced EoBs</li><li>▶ May encourage Congress to expand statute to cover ground ambulances</li></ul>
Telehealth	
<ul style="list-style-type: none"><li>▶ Supportive of telehealth flexibilities used during COVID-19 and likely to support its continuation</li></ul>	<ul style="list-style-type: none"><li>▶ Supportive of telehealth flexibilities used during COVID-19 and likely to support its continuation</li></ul>
Mental health	
<ul style="list-style-type: none"><li>▶ Likely to support increased access to mental health services through telehealth</li><li>▶ Likely to support increased integration of primary and mental health</li><li>▶ Supportive of increased funding for veterans' mental health treatment</li><li>▶ Likely to continue implementation and enforcement of mental health parity rule</li></ul>	<ul style="list-style-type: none"><li>▶ Likely to support increased access to mental health services through telehealth</li><li>▶ Supportive of increased funding for veterans' mental health treatment</li><li>▶ Could pull back or revise mental health parity rule in response to industry concerns</li></ul>
Workforce	
<ul style="list-style-type: none"><li>▶ Likely to support use of diversity, equity and inclusion (DEI) in medical schools</li><li>▶ May seek visa changes to support foreign providers as means to address workforce shortage</li><li>▶ Continued focus on investments in rural and underserved areas, health professional shortage areas (HPSAs), etc.</li></ul>	<ul style="list-style-type: none"><li>▶ Likely to oppose the use of DEI in medical schools</li><li>▶ Immigration changes could impact visas for foreign providers</li></ul>
Oversight and anti-trust	
<ul style="list-style-type: none"><li>▶ Expand FTC/DOJ anti-trust and anti-competitive activity</li><li>▶ Increase the focus on consolidation</li><li>▶ Continued implementation of new M&amp;A guidelines and Hart-Scott-Rodino (HSR) requirements + non-compete ban</li></ul>	<ul style="list-style-type: none"><li>▶ Supports increasing competition through breaking up consolidation in the market</li><li>▶ Unlikely to further empower FTC as vehicle for anti-trust and anti-competitive action</li></ul>



Table: Harris vs. Trump health policy positions

Potential Harris health policies	Potential Trump health policies
Artificial Intelligence	
<ul style="list-style-type: none"><li>▶ Expect to continue implementation of Biden Administration's AI executive order</li><li>▶ Could pursue executive action to build upon Biden Administration's efforts and support federal oversight of AI in health care</li></ul>	<ul style="list-style-type: none"><li>▶ Supports flexibilities for AI</li><li>▶ Pledged to repeal Biden Administration's AI executive order</li></ul>
Interoperability	
<ul style="list-style-type: none"><li>▶ Likely to continue implementation of Biden Administration's interoperability proposals</li><li>▶ Likely to support expansion of electronic prior authorization to drugs</li></ul>	<ul style="list-style-type: none"><li>▶ Supports patient access to health information and increased interoperability to support patient access to info</li><li>▶ Supports increased interoperability between the DoD and VA</li></ul>
Cybersecurity	
<ul style="list-style-type: none"><li>▶ Likely to support efforts to bolster cybersecurity</li></ul>	<ul style="list-style-type: none"><li>▶ Supports defense and military efforts to strengthen cybersecurity protections against foreign threats</li></ul>
Maternal and reproductive health	
<ul style="list-style-type: none"><li>▶ Likely to continue Biden Admin's Title X funding flexibilities, including explicit protections around reproductive health privacy, the Emergency Medical Treatment and Labor Act (EMTALA) (i.e., emergency access) and access to full spectrum of maternal health care (e.g., expanded IVF for vets)</li><li>▶ May see increased focus on abortion access, maternal health issues, with focus on disparities</li><li>▶ Continued support for state legal cases</li></ul>	<ul style="list-style-type: none"><li>▶ Pledged to require coverage of in-vitro fertilization (IVF) in government and commercial insurance</li><li>▶ Will leave abortion restrictions to the states</li><li>▶ Likely will support funding for crisis pregnancy centers and faith-based providers</li><li>▶ Likely to reinstate "global gag rule" and restrictions on Title X funding</li></ul>
Long-term care	
<ul style="list-style-type: none"><li>▶ Harris supports policies to expand high-quality home care services and ensuring workers are paid a living wage</li><li>▶ Likely to continue Biden Admin's nursing home staffing ratio mandates</li><li>▶ Likely to continue or strengthen inquiries into nursing home ownership and role of private equity</li><li>▶ Likely to continue Biden Administration's efforts to increase access to home care options</li></ul>	<ul style="list-style-type: none"><li>▶ Will likely repeal nursing home staffing ratio mandates</li><li>▶ May continue Patients Over Paperwork initiative</li><li>▶ May repeal skilled nursing facility (SNF) civil monetary penalties</li></ul>



# 2024 House and Senate elections

## Overview

In addition to the presidential election, there are 252 congressional races in this election cycle.

In the House, 218 seats are needed for control, and Republicans have a narrow majority (220 Republicans, 211 Democrats, 4 vacancies). With all 435 seats up for re-election in the House, Democrats would need a net gain of six seats to flip the House. There are 17 Republicans who are running in districts where Biden won, and five Democrats are running in districts where Trump won, making those races particularly vulnerable to turnover.

In the Senate, 50 seats are needed for control and Democrats also have a narrow majority (47 Democrats, 4 Independents, and 49 Republicans). Republicans would need a net gain of two seats to flip the Senate, and of the 34 seats up for re-election, 23 are Democratic seats.

While it remains too early to predict the election results, the outcome of the election will have key implications for the future of health policy. Generally, single-party control of Congress results in larger legislative reforms, while a split Congress requires more bipartisanship, which can limit legislative activity.

### Current House

220

Republicans

211

Democrats

4 total vacancies – Payne (D-NJ), Pascrell (D-NJ), Jackson Lee (D-TX), Gallagher (R-WI)

### Current Senate

51

Democrats & Independents

49

Republicans

# House and Senate leadership for 2025

The outcome of the elections will determine which party is in the majority and which party is in the minority in each chamber. While leadership decisions will not be made until the winter, interested members have already started to make moves to secure those positions. The charts below outline who could be potential candidates for leadership positions as we near the elections.

Table 2: Potential candidates House leadership for 2025

	Democrats	Republicans
Speaker / Minority leader	Hakeem Jeffries (D-NY)	Mike Johnson (R-LA)
Majority leader	Katherine Clark (D-MA)	Steve Scalise (R-LA)
Whip	Pete Aguilar (D-CA)/ Katherine Clark (D-MA)	Tom Emmer (R-MN)/ Steve Scalise (R-LA)
Caucus chair	Joe Neguse (D-CO) / Pete Aguilar (D-CA) / Suzan DelBene (D-WA)	Elise Stefanik (R-NY)

Table 3: Potential candidates Senate leadership for 2025

	Democrats	Republicans
Majority Leader/ Minority Leader	Chuck Schumer (D-NY)	John Thune (R-SD), John Cornyn (R-TX), Rick Scott (R-FL)
Whip	Dick Durbin (D-IL)	John Barrasso (R-WY)
Policy & Communications Committee Chair	Cory Booker (D-NJ) or Amy Klobuchar (D-MN)	Joni Ernst (R-IA) or Tom Cotton (R-AR)
President Pro Tempore	Patty Murray (D-WA)	Chuck Grassley (R-IA)

# Chairmanships and ranking members

Committee chairs hold immense power and influence in Congress. A committee chair is the chief decision-maker on the committee’s agenda. The chair identifies which bills or issues come before the committee and decides when to formally act to move the policy through hearings and markups. The chairmanship is usually heavily contested and decided by the member’s peers on the Steering Committee. The Steering Committee heavily considers the member’s seniority and ability to raise funds. Once a member has the gavel, they typically remain in that role until they chose to retire or, in the case of Republicans, are term-limited out.

Table 4: Potential leadership of House committees with health care oversight

House Committee	Democrat	Republican
Appropriations	Rosa DeLauro (D-CT)	Tom Cole (R-OK)
Budget	Brendan Boyle (D-PA)	Jodey Arrington (R-TX)
Education & the Workforce	Bobby Scott (D-VA)	Virginia Foxx (R-NC) is term-limited and does not plan to seek a waiver. Tim Walberg (R-MI) and Burgess Owens (R-UT) are viewed as possible chairs or ranking members.
Energy & Commerce	Frank Pallone (D-NJ)	With Cathy McMorris Rodgers’s (R-WA) retirement, it is a race between Brett Guthrie (R-KY) and Bob Latta (R-OH). Richard Hudson (R-NC) may also join the race.
Financial Services	Maxine Waters (D-CA)	Andy Barr (R-KY) or French Hill (R-AR)
Oversight & Accountability	Jamie Raskin (D-MD)	James Comer (R-KY)
Ways & Means	Richard Neal (D-MA)	Jason Smith (R-MO)
Veterans' Affairs	Mark Takano (D-CA)	Mike Bost (R-IL)

Table 5: Potential leadership of Senate committees with health care oversight

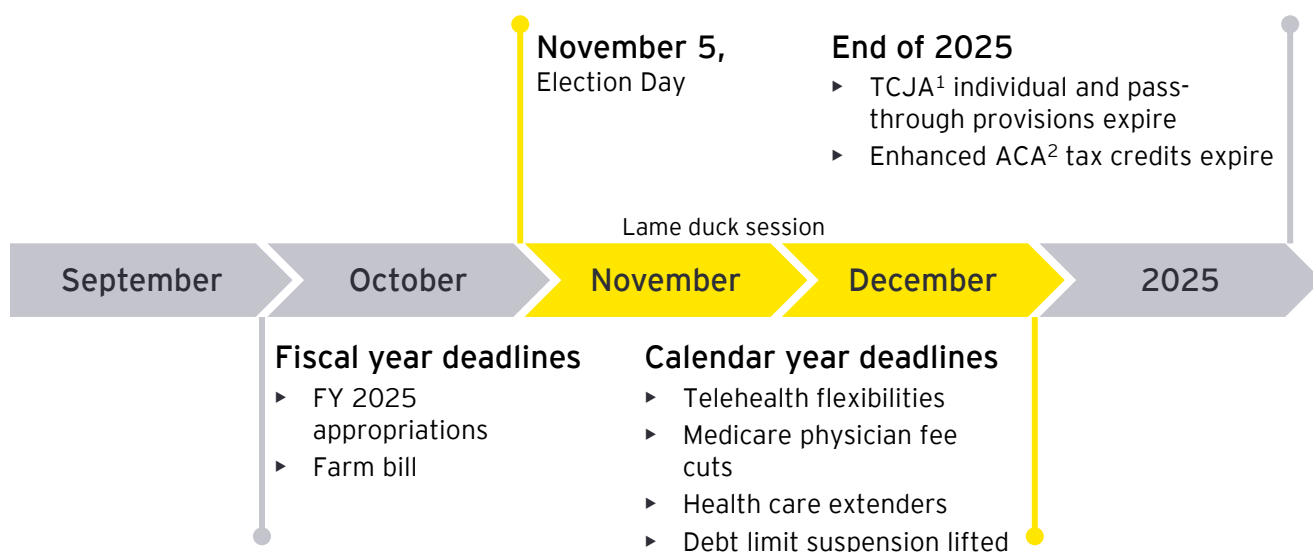
House Committee	Democrat	Republican
Appropriations	Patty Murray (D-WA)	Susan Collins (R-ME)
Budget	Sheldon Whitehouse (D-RI)	Chuck Grassley (R-IA) or Lindsey Graham (R-SC)
HELP	Bernie Sanders (I-VT)	Bill Cassidy (R-LA)
Finance	Ron Wyden (D-OR)	Mike Crapo (R-ID)
Veterans' Affairs	Jon Tester (D-MT) is expected to remain chair if he wins re-election, but Richard Blumenthal (D-CT) is a contender if Tester loses his seat.	Jerry Moran (R-KS)

# 2024 health policy year-end legislative agenda

## Overview

After kicking the can on legislation to bring more transparency to the health care sector, pharmacy benefit manager (PBM) reform, SUPPORT Act, PAHPA, and other items, Congress is returning from its August recess with a full plate. In the near term, lawmakers will need to address the looming fiscal year (FY) 2025 appropriations deadlines to avoid a government shutdown and will be largely focused on the election cycle.

Looking beyond Election Day to the lame duck session, Congress faces several health care deadlines that lawmakers could address in a year-end package. The scope and size of the package's health care provisions will depend largely on progress lawmakers make over the coming months.



1. Tax Cuts and Jobs Act of 2017

2. Affordable Care Act



# Government funding

Upon returning from the August recess, the House has passed five of the 12 annual appropriations bills. The Senate Appropriations Committee, which has taken a more bipartisan approach than the House, has passed 11 of the annual bills. The full Senate has passed none of the bills. Table 6 lists the bills passed and when.

If Congress fails to act before the deadline, the federal government would shut down and we would see statutorily mandated cuts take effect, which would impact federal health care programs like Medicare, where provider payments are already being squeezed by sequestration and reductions to the Medicare Physician Fee Schedule.

However, with the 2024 elections looming, it is most likely that Congress will pass a continuing resolution (CR) to temporarily fund the government while lawmakers work to pass the remaining bills. House Republicans on September 6 unveiled a CR that would fund the government at current levels through March 28, but it includes a Republican priority policy that is unlikely to pass the Senate. Ultimately, a CR of government funding until after the elections with short-term extensions of other items is expected.

Table 6: FY 2025 appropriations bills status

Bill	House Appropriations	House	Senate Appropriations	Senate
Agriculture, Rural Development, FDA	July 10		July 11	
Military Construction, Veterans Affairs	May 23	June 5	July 11	
Transportation, HUD	July 10		July 25	
Energy and Water Development	July 9		August 1	
Commerce, Justice, Science	July 9		July 25	
Labor, HHS, Education	July 10		August 1	
Defense	June 13	June 28	August 1	
Financial Services & General Government	June 13		August 1	
Homeland Security	June 12	June 28		
Interior, Environment	July 9	July 24	July 25	
Legislative branch	June 13		July 11	
State, Foreign Operations	June 12	June 28	July 25	

## Farm bill

The farm bill also expires on September 30 and includes debate on several controversial issues, including federal nutrition assistance, for which conservative Republicans want stronger work requirements. Democrats are likely to oppose requirements of the magnitude sought by some Republicans. Similar to government funding, the farm bill could get a short-term extension until after the elections to give lawmakers time to reach an agreement.

## Lame duck health policy

As the end of the year approaches, Congress needs to address a number of must-pass items, including telehealth extensions, before being able to tackle larger member priorities like the Lower Cost, More Transparency Act, broader PAHPA and SUPPORT Act reauthorizations, and more.

Table 7: Health policy legislative deadlines, 2024

Expiration date	Policies
September 30	<ul style="list-style-type: none"><li>▶ FY 2025 appropriations</li><li>▶ FARM bill</li><li>▶ Older Americans Act</li></ul>
December 31	<ul style="list-style-type: none"><li>▶ Medicare telehealth flexibilities, including Acute Hospital Care at Home waiver</li><li>▶ CARES Act flexibility enabling telehealth below the deductible for workers with HDHP-HSA plans</li><li>▶ Reauthorizations for Medicare Dependent Hospital program, Low-Volume Hospital Payment Adjustment, Ground Ambulance Add-On Payments, Conrad 30 waiver</li><li>▶ Funding for Community Health Centers, National Health Services Corps, Teaching Health Centers, Special Diabetes Programs, Children’s Hospital GME, Medicare quality measure endorsement,</li><li>▶ PAHPA reauthorization</li><li>▶ Medicaid DSH payment cut</li><li>▶ Medicare Physician Fee Schedule Pay cut</li><li>▶ Advanced APM bonus payment</li><li>▶ Clinical Laboratory Fee Schedule Cuts</li></ul>

Expect retiring members, many of whom have championed health care, to push to see their health care priorities cross the finish line. However, the willingness of members and leadership to clear the decks and pass sweeping health care reforms will depend upon the outcome of the Senate, House and White House elections. Items that do not make it into a year-end package could be revisited in 2025, when Congress will be negotiating and trying to figure out how to pay for the expiring TCJA tax credits and the expiring enhanced ACA subsidies. Below are some of the health care policies on the table during the year-end negotiation.

**Telehealth.** Medicare telehealth flexibilities are set to expire on December 31, including those addressing Medicare's originating site and geographic requirements (e.g., allowing patients to receive telehealth at home); in-person visit requirements and audio-only limitations; and payment for non-physician providers. In addition, a CARES Act provision that allows commercial plans to offer people with high-deductible health plans telehealth coverage before their deductible, as well as the Acute Hospital Care at Home waiver program, which enables Medicare to cover hospital-level care within a patient's home, are set to expire on December 31.

While there is bipartisan, bicameral support for extending these flexibilities, which also are strongly supported by industry stakeholders, the cost of extension remains a key obstacle. The Congressional Budget Office has estimated a permanent extension would cost about \$30 billion over a decade.

As a result, we have seen a shift in legislation advancing out of committee toward short-term extensions that have a lower price tag. Lawmakers also have introduced other bills that would extend or reestablish other Medicare telehealth flexibilities, such as those enabling payment parity or allowing for remote intensive cardiac rehabilitation.

**Insurer and hospital transparency.** Increasing transparency in health care has been a key priority of this Congress. The House-passed Lower Costs, More Transparency Act also included several provisions to increase transparency on health care prices and costs by codifying insurer and hospital transparency rules and adding new transparency provisions for prices of clinical diagnostic laboratory tests, imaging and ambulatory surgical centers. These policies have bipartisan and some bicameral support and have been the focus of numerous committee hearings in both the House and Senate. The policies also generally have support from industry stakeholders. After fierce negotiations at the beginning of the year, an agreement was struck between eight out of 10 committee chairs and ranking members, but an agreement was not reached in time for the policy to be included in the government funding package that passed in March. Congress may revisit the negotiations at the end of the year.

**Medicare Advantage.** The Improving Seniors' Timely Access to Care Act, which passed the House last Congress, would streamline the Medicare Advantage (MA) prior authorization process. The bill has broad bipartisan support and a recently introduced version aims to improve the bill's pathway to full passage in light of recent regulatory proposals that have the secondary effect of reducing the cost of the legislation. It's possible the bill's lead sponsors will push to have the bill included in a year-end package now that the cost has been greatly reduced.

**Prescription drug costs and supply chain.** While large prescription drug reform policies are unlikely in the year-end, there could be renewed efforts to extend the Inflation Reduction Act's cap on out-of-pocket insulin costs for Medicare beneficiaries to the commercial market. House Speaker Mike Johnson (R-LA) also has vowed to bring for a vote a bill, the BIOSECURE Act, that would prohibit federal agencies from contracting with or issuing loans or grants to certain China-based biotechnology companies and any entity that contracts with such companies. Expect to see continued interest in how US bio data and drug supply flow through China and other countries labeled as adversarial.

**Physician pay.** In July, CMS once again proposed cuts to the Medicare Physician Fee Schedule. If those cuts are finalized in the spring as expected, in the fall, expect provider groups to double down on efforts for Congress to make long-term changes to Medicare reimbursement and seek short-term fixes to prevent the cuts for 2025. In recent years, Congress has consistently stepped in to at least partially alleviate the cuts, with changes often occurring in a year-end bill.

**Pharmacy benefit manager reform.** PBMs have been the focus of numerous congressional hearings and investigations, inquiries from the Federal Trade Commission (FTC), state legislative activity, and a flurry of advocacy action from others across the pharmaceutical supply chain. Yet despite a year of intense legislative action surrounding dozens of proposals to increase oversight of and transparency into PBMs, legislation in the House and Senate has consistently stalled in 2024. Given that many of the proposals generate cost savings, it's possible we could see PBM reform resurface in the year-end policy debate, as lawmakers will need revenue for more costly policies like telehealth extensions.

**Hospital outpatient care costs.** Several House committees have advanced bills that aim to curb rising hospital outpatient care costs by expanding site-neutral payment reform, which aims to align payments across sites of care, and enacting "fair billing" policies, which aim to ensure insurers have clarity into where a service was performed. The scale of site-neutral payment policies advanced ranges from narrower bills targeting drug administration services to more expansive bills that would remove existing exceptions to site neutral payment policies. The Lower Costs, More Transparency Act, which passed the House in November, includes the narrower site-neutral payment policy targeting drug administration services and fair billing. CBO projected those policies would generate roughly \$4.1 billion in combined savings. While these policies have bipartisan support and could provide needed revenue to extend expiring health care programs and telemedicine extenders, they face strong opposition from hospital groups and have failed to gain traction in the Senate.

## Congressional Review Act

In the upcoming months, expect the House to increasingly use the Congressional Review Act (CRA), which is a tool that Congress can use to overturn recently finalized regulations. The CRA allows Congress the ability to review rules submitted toward the end of a president's administration and gives the incoming president the ability to quickly overturn said rules with congressional support. The lookback period is estimated to have begun in early August. Republicans are likely to move CRAs that express disapproval for Biden Administration rules unpopular among conservatives. If Republicans gain control of the White House or Congress, expect conservative members to heavily utilize CRAs at the beginning of the 119th Congress.





# Parting thoughts

## Looking ahead

The next president will be tasked with overseeing the continued implementation of key health care policy initiatives such as the implementation of the No Surprises Act, drug pricing provisions in the Inflation Reduction Act (e.g., round two of negotiations, Part D redesign, Medicare Prescription Payment Plan), implementation of CMMI models, ACA coverage, and more. Each candidate is likely to take differing pathways, and those policies could serve as a litmus test for health care regulation legal challenges in a post-*Chevron* environment. The next president's ability to enact larger scale reforms will be aided or hindered by the makeup, and willingness, of Congress.

After the elections, Congress is expected to turn its full attention to the expiring TCJA tax provisions, a trillion-dollar cliff that will require extensive pay-fors, potentially placing health care items that generate revenue and do not make it into a year-end package back on the negotiating table. The expiring TCJA tax provisions also come as the ACA's enhanced subsidies are set to expire, another multibillion-dollar cliff, which is a top priority for Democrats but is largely opposed by Republicans. Proactive health care stakeholders can start preparing now for potential policy priorities and chart a strategic plan for success.

## Contact us

For assistance or more information,  
please contact:



**Heather Meade**  
Partner  
Washington Council Ernst & Young  
Ernst & Young LLP  
+1 202 467 8414  
[heather.meade@ey.com](mailto:heather.meade@ey.com)

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**Tara Bradshaw**  
Executive Director  
Washington Council Ernst & Young  
Ernst & Young LLP  
+1 202 467 4306  
[tara.bradshaw@ey.com](mailto:tara.bradshaw@ey.com)

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**Laura Dillon**  
Senior Manager  
Washington Council Ernst & Young  
Ernst & Young LLP  
+1 202 467 4308  
[laura.dillon@ey.com](mailto:laura.dillon@ey.com)

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**Taylor Hittle**  
Senior Manager  
Washington Council Ernst & Young  
Ernst & Young LLP  
+1 202 327 7264  
[taylor.hittle@ey.com](mailto:taylor.hittle@ey.com)

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**Heather Bell**  
Manager  
Washington Council Ernst & Young  
Ernst & Young LLP  
+1 216 583 1073  
[heather.bell@ey.com](mailto:heather.bell@ey.com)

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US SCORE no. 24573-241US

2409-83205-CS  
ED None

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