

Impact Health Policy Weekly

Framing the Week

The House and Senate are both in recess until after Labor Day. During this Congressional break, we are taking the opportunity to provide in-depth analysis of policies under consideration for a potential lame duck package, which will culminate with the release of the Impact Health Policy Partners Lame Duck and Election Preview memo in September. This week, we are highlighting current Medicare programs and policies that may be extended as well as graduate medical education (GME) legislation under consideration.

Medicare Policy Extensions

The Consolidated Appropriations Act (CAA) of 2024 ([P.L. 118-24](#)) extended an array of critical Medicare programs and policies through the end of 2024. With expirations looming shortly after the election in November, Congress is likely to include “must pass” items in a lame duck package as well as several policies with widespread bipartisan support. Maintaining pandemic-related telehealth flexibilities will be a key component. Congress will likely intervene to continue several other policies as well, such as ensuring low-volume and Medicare-dependent hospitals receive an upward payment adjustment under the Inpatient Prospective Payment System, off-setting low provider payment for calendar year (CY) 2025, continuing the Acute Hospital Care at Home waiver, and adjusting the Medicare hospice cap. The size and scope of the extensions will largely depend on where lawmakers land on pay-fors, which could include pharmacy benefit manager and prescription drug reforms as well as site neutral policies.

The Preserving Telehealth, Hospital, and Ambulance Access Act ([H.R. 8261](#)), which passed unanimously out of the House Ways and Means Committee in May, addresses many of these issues making it a particularly promising bill for inclusion in a lame duck package. The legislation would extend Medicare telehealth flexibilities for two years beyond the current expiration date, implement new program integrity measures, extend the Acute Hospital Care at Home waiver flexibilities for five years, and continue hospital add-on payments for Medicare Dependent Hospitals and Low Volume Hospitals for an additional year. The House Energy and Commerce’s subcommittee on health also advanced a two-year telehealth extension, unanimously forwarding the Telehealth Modernization Act of 2024 ([H.R. 7623/S. 3967](#)) to the full committee in May. Unlike the Ways and Means bill, the Telehealth Modernization Act is focused solely on telehealth.

Without Congressional intervention, Medicare providers face a 2.8 percent payment cut for CY 2025 as the 2.93 percent boost Congress applied in March is set to expire. While Congress has begun to [seriously consider](#) provider payment reforms and efforts to advance accountable care in Medicare, policies such as the [hybrid primary care model](#) contemplated by Sens. Bill Cassidy (R-LA) and Sheldon Whitehouse (D-

RI) and changes to alternative payment models (APMs) and the Merit-Based Incentive Payment System are unlikely to be included in a lame duck package. However, legislation aimed more narrowly at reforming annual updates to physician payment could be considered as key legislators who have championed proposals to avoid future short-term patches are retiring at the end of the year (e.g., Reps. Michael Burgess (R-TX), Brad Wenstrup (R-OH) and Larry Bucshon (R-IN)).

A leading proposal, co-sponsored by Rep. Bucshon, is the Strengthening Medicare for Patients and Providers Act ([H.R. 2474](#)) which would set provider payment updates equal to the annual percentage increase in the Medicare Economic Index (MEI). While this proposal has bipartisan support, it is important to note that it is more generous than [MedPAC's recommendation](#) to update payment by 50 percent of the projected increase in the MEI. Even if a policy to reform provider payment updates is not included in a lame duck package, some type of Congressional “doc fix” is expected to offset payment reductions for Medicare providers in 2025, as it has for the last four years.

It is likely that any end-of-year bill would also extend funding for a variety of other items included in the CAA of 2024, such as:

- Outreach and assistance to low-income Medicare beneficiaries to facilitate enrollment in the Low-Income Subsidy Program, Medicare Savings Program, and Medicare Part D Prescription Drug Program;
- The National Center for Benefits and Outreach Enrollment which helps organizations enroll individuals in Medicare, Medicaid, the Supplemental Security Income program, and nutrition programs; and
- Quality measure endorsement, input, and selection.

Graduate Medical Education

Congress created 1,200 new Medicare GME slots over the last four years, but concerns remain that the number of slots is insufficient to address the growing health care [workforce shortage](#). In response, Congress is considering whether to increase the number of slots again and how to distribute them to reduce the workforce shortage, especially in rural and underserved areas. A group of six bipartisan senators in the Senate Finance Committee led by Chair Ron Wyden (D-OR) and Ranking Member Bill Cassidy (R-LA) released a [policy framework and RFI](#) on GME in May. The framework would add additional Medicare GME slots from fiscal years (FYs) 2027 through 2031 with at least 25 percent of slots going to primary care and 15 percent going to psychiatry. The Resident Physician Shortage Reduction Act of 2023 ([H.R. 2389/S.1302](#)) would add 14,000 Medicare-funded residency slots over the next seven years and has strong bipartisan support, but it has not been marked up in either chamber and cost could be a barrier to its inclusion.

Additionally, the Teaching Health Center Graduate Medical Education (THCGME) and Children's Hospital Graduate Medical Education (CHGME) programs run by the Health Resources and Services Administration were extended by the CAA of 2024, but funding will expire at the end of 2024. The Lower Cost, More Transparency Act ([H.R. 5378](#)), which the House passed in December 2023 by a vote of 320-71, would reauthorize THCGME for seven years. Republican efforts to prevent hospitals that receive CHGME funding from providing gender-affirming care has held up further funding for that program.

Regulatory Update

The Office of Management and Budget (OMB) is reviewing the following rules:

Medicaid

- **Drug Rebate Program** – The [final rule](#) would establish requirements related to manufacturers' misclassification of covered outpatient drug products under the Medicaid Drug Rebate Program (MDRP). In addition, it finalizes beneficiary protections, as well as MDRP program integrity and administration changes (June 2024).

Private Insurance

- **ACA Marketplace** – The [proposed rule](#) would set payment parameters and provisions related to the risk adjustment programs; cost-sharing parameters; and user fees for issuers offering plans on Federally-facilitated Exchanges and State-based Exchanges using the Federal platform. It would also provide additional standards for several other ACA programs (September 2024).

Other Topics

- **Organ Procurement** – The [proposed rule](#) would make clarifications and technical modifications to the standards used to evaluate and recertify organ procurement organizations (OPOs) and to the competition and decertification process for organ procurement organizations (March 2025).
- **Healthcare System Resiliency and Modernization** – The [proposed rule](#) would revise and update national emergency preparedness requirements for Medicare- and Medicaid-participating providers and suppliers (was set for December 2023).
- **Tobacco Control** – The [final rule](#) would prohibit the sale of tobacco products to persons younger than 21 years of age (was set for April 2024).
- **Retail Pharmacy Standards** – The [final rule](#) would require pharmacies and vendors to modify the currently adopted National Council for Prescription Drug Programs (NCPDP) standards to the Telecommunications Standard Implementation Guide Version F6 (F6); Batch Standard Implementation Guide version 15; and Batch Standard Subrogation Implementation Guide version 10 (was set for February 2024).

This Week in Health Policy

Tue. (8/13)

- **11:00am – HITAC Meeting: HTI-2 Proposed Rule Task Force** – The Health Information Technology Advisory Committee (HITAC) holds a meeting of the HTI-2 Proposed Rule Task Force to evaluate and provide draft recommendations to the HITAC on the Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability (HTI-2) Proposed Rule. This meeting of Group 1 will be focusing on: Continuation of new public health certification criteria. [Details.](#)
- **2:00pm – HITAC Meeting: HTI-2 Proposed Rule Task Force** – HITAC holds a meeting of the HTI-2 Proposed Rule Task Force to evaluate and provide draft recommendations to the HITAC on the Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability (HTI-2) Proposed Rule. This meeting of Group 2 will be focusing on: Select Revised Certification Criteria and New Certification Criteria. [Details.](#)

Wed. (8/14)

- **11:00am – HITAC Meeting: HTI-2 Proposed Rule Task Force** – HITAC holds a meeting of the HTI-2 Proposed Rule Task Force to evaluate and provide draft recommendations to the HITAC on the Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability (HTI-2) Proposed Rule. This meeting of Group 3 will be focusing on Information Blocking Enhancements: Privacy Exception and Infeasibility Exception. [Details.](#)

Thurs. (8/15)

- **10:00am – HITAC Meeting: Health IT Advisory Committee** – HITAC holds a meeting to discuss program updates, including recommendations to the National Coordinator on the topics of interoperability, privacy and security, patient access, and use of technologies that support public health. [Details.](#)

Fri. (8/16)

- **9:00am – Field Hearing: Impact of Trump Administration Tax Cuts** – The House Committee on Ways and Means Chairman Jason Smith (R-MO) holds a field hearing in Des Moines, Iowa to examine the impact of the Trump Tax Cuts for American families, farmers, workers, and small businesses. [Details.](#)

Featured Analysis

- ***NEW* Impact Chart of PBM Legislation** – In the Policy Hub Insight Bank [here.](#)
- **Impact Regulatory Outlook: Spring 2024 Unified Agenda** – In the Policy Hub Insight Bank [here.](#)
- **Making Sense of the New Landscape for Health Policy After Recent Supreme Court Decisions** – In the Policy Hub Insight Bank [here.](#)
- **Impact Mental Health Legislative Update** – In the Policy Hub Insight Bank [here.](#)

- **Impact Chart of Key Provisions of Legislative Proposals on Health Care Price Transparency Requirements** – In the Policy Hub Insight Bank [here](#).

Regulatory Lookback

Thurs. (8/8)

- The GAO released its 12th [report](#) on the COVID-19 pandemic, following 11 [previous comprehensive reports](#). [Details](#).

Weds. (8/7)

- CMS issued a [final notice](#) to finalize the process and procedures for the Transitional Coverage for Emerging Technologies (TCET) pathway. [Details](#).

Comment & Application Deadlines

- **August 12:** The CFPB issued a [proposed rule](#) aimed at eliminating medical bills from most credit reports. [Details](#).
- **August 15:** CMS is seeking [nominations](#) to the Advisory Committee on Immunization Practices. [Details](#).
- **August 17:** CMS released a [notice of funding opportunity](#) for the Expanding Access to Women's Health Grant. [Details](#).
- **August 20:** SAMHSA is [seeking](#) applications for the Women's Behavioral Health Technical Assistance Center (Women's BH TAC) program for fiscal year 2024. [Details](#)
- **August 26:** CMS issued the CY 2025 home health prospective payment and rate update [proposed rule](#). [Details](#).
- **August 26:** CMS released its CY 2025 end-stage renal disease (ESRD) prospective payment system (PPS) [proposed rule](#). [Details](#).
- **September 2:** CMS released an [ICR](#) for the Negotiation Data Elements and Drug Price Negotiations Process for IPAY 2027 of the Medicare Drug Price Negotiation Program. [Details](#).
- **September 7:** The FDA released [draft Q&As](#) to address misinformation about medical devices and prescription drugs. [Details](#).
- **September 9:** CMS released the CY 2025 MPFS [proposed rule](#). [Details](#).
- **September 9:** CMS released the CY 2025 OPPTS/ASC [proposed rule](#). [Details](#).
- **September 20:** CMS released a [notice of funding opportunity \(NOFO\)](#) for the Transforming Maternal Health (TMaH) Model. [Details](#).
- **September 26:** The FDA issued [draft guidance](#) entitled "Diversity Action Plans to Improve Enrollment of Participants from Underrepresented Populations in Clinical Studies." [Details](#).

- **September 30:** The CDC is [seeking nominations](#) for membership on the Healthcare Infection Control Practices Advisory Committee (HICPAC). [Details.](#)
- **February 25:** CMMI released an [RFA](#) for the Cell and Gene Therapy Access Model. [Details.](#)