

## Impact Health Policy Weekly

### Framing the week

Shutdown watch is on, as both House and Senate departed for recess on Friday with no appropriations agreement in sight. On Friday, the House of Representatives passed a “clean” continuing resolution (CR) to fund the government through November 21, 2025 by a vote of 217-212, but the measure failed in the Senate as Democrats are demanding the CR include an extension of the enhanced premium tax credits, a repeal of H.R. 1’s Medicaid cuts, and limits on Republican’s rescission abilities. Democrats instead offered their own four-week stopgap package that featured these must-haves, which was promptly rejected by Republicans.

With the House in recess until October 1, it is being reported that Senate Majority Leader John Thune (R-SD) intends on voting again on the House-passed CR when they return from recess. However, as this will be a procedural vote, it will not provide enough time to vote on the actual package before the government funding deadline. Democrat leadership also sent a letter to President Trump over the weekend demanding a meeting, to which the President has agreed to, but timing of the meeting is unknown, and the President does not believe it will be productive. Finally, while Republicans insist that an extension of the enhanced premium tax credits will not be featured in any CR, they continue to work on possible extensions with modifications, such as prohibiting zero-dollar premiums or increasing the income eligibility threshold. **We provide additional information regarding the enhanced premium tax credit further in the framing the week.**

With the potential of government shutdown increasing, a lapse in funding would coincide with the expiration of key health policies, including pandemic-era telehealth flexibilities and the Hospital at Home waiver, amplifying potential disruption. **Below we highlight the health policy implications of the looming shutdown.**

Shutdowns are not unprecedented, there have been 3 since 2002, but the 34-day partial shutdown of 2018 remains the longest on record. The last shutdown where nearly the entire federal government was unfunded was the January 2018 shutdown (Jan 20-22, 2018), which lasted just 3 days over a weekend, when roughly 850,000 federal employees were furloughed. While these employees are guaranteed back pay under a 2019 law, federal contractors are not. Before that, the last major prolonged shutdown was the 1995-1996 pair of shutdowns (21 and 5 days, respectively). However, a full shutdown now would likely be unprecedented in terms of its length and potential consequences.

- **Timing Considerations** – A shutdown beginning September 30 would hit just as agencies finalize fiscal year transition work, execute new grants and contracts, and, in the case of CMS, complete critical preparations for the November 1 ACA Marketplace Open Enrollment period. Delays in navigator funding, outreach campaigns, and systems testing could depress early enrollment and create call center backlogs. In Medicare and Medicaid, a shutdown overlapping the start of the federal fiscal year would pause many annual processes, such as releasing new payment rates, updating program guidance, and issuing grant awards. This could introduce operational

bottlenecks that take time to unwind even after funding is restored. Combined with OMB’s ability to slow apportionments and its influence over furlough determinations, a September shutdown could have disproportionate downstream effects on program implementation, Innovation Center model launches, and other time-sensitive initiatives.

- **Mandatory vs. Discretionary Funding** – Mandatory spending (e.g., Medicare, Medicaid benefit payments) continues during a shutdown, but operations supported by discretionary appropriations may slow or halt. This “hybrid” funding structure is common in federal health programs, meaning benefits flow but administrative capacity may be constrained. We detail the implications for select programs in the table below.

Program	Mandatory Component	Discretionary Component	Implication During Shutdown
<b>Medicaid &amp; CHIP</b>	Open-ended Medicaid benefit payments	CMS Program Management account; CHIP outreach grants	Benefits continue, but state plan approvals and systems work may slow; CHIP outreach could pause
<b>Medicare</b>	Benefit payments (Parts A, B, D)	CMS administrative funding (claims processing contractors, program integrity)	Claims are considered essential and continue, but program integrity, provider enrollment, and new model implementation could slow; appeals processing may back up
<b>ACA Marketplaces</b>	Premium tax credits are mandatory; risk adjustment transfers are budget-neutral mandatory.	Marketplace operations (navigators, marketing, some IT) rely on annual appropriations.	Subsidies continue, but outreach, call center capacity, and risk adjustment operations could be delayed, potentially affecting enrollment and insurer payment timing.
<b>ACO Shared Savings/Loss Payments</b>	MSSP shared savings/loss payments are made from the Medicare Trust Fund under SSA § 1899	Benchmark calculations, risk scoring, assignment updates, quality reporting operations, and reconciliation processing rely on CMS staff and contractors funded	Payments flow, but operational work (benchmarking, quality scoring, reconciliation) may be delayed, potentially shifting the timing of MSSP settlements

		through discretionary appropriations.	and creating cash flow uncertainty.
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- **FY 2026 Context: OMB and RIF Implications** – In the last major shutdown planning cycle, agencies refreshed their contingency plans, detailing which staff would be retained using mandatory or prior-year funding and which would be furloughed. At that time, 58 percent of HHS employees and 49 percent of CMS staff were deemed “excepted,” meaning they could continue working to ensure essential operations like Medicare claims payment, Medicaid federal matching payments, and public health surveillance. However, the current OMB Director’s Reduction in Force (RIF) initiative has shrunk agency staffing levels, potentially resulting in fewer personnel available to maintain even exempt activities. This raises the risk of delays for time-sensitive work such as state plan amendment approvals and H.R. 1 implementation efforts, even if the funding itself is not disrupted. In addition, during a shutdown, OMB reviews and approves each agency’s contingency plan and can use apportionment controls to delay obligations, slow spending, or impose freezes. These actions, combined with staffing constraints from the RIF, could significantly disrupt activities.
- **Telehealth Flexibilities** – If the current flexibilities expire, telehealth coverage in Traditional Medicare will revert to pre-pandemic rules in the following ways:
  - Originating site & geographic restrictions: The patient’s home would no longer qualify as a general originating site, and rural/facility requirements would resume for most non-behavioral services.
  - Expanded practitioner types: Congress temporarily authorized physical therapists, occupational therapists, speech-language pathologists, audiologists, and other practitioners to furnish telehealth. If provider-type eligibility is not extended, these practitioners would lose telehealth billing rights.
  - Audio-only coverage: Temporary flexibilities for broad audio-only telehealth expire. However, CMS’ permanent change to the definition of “interactive telecommunications system” allows audio-only home visits to continue when the practitioner has video capability but the patient is unable or unwilling to use video.
  - Behavioral health telehealth in-person visit requirement: Most behavioral and mental health telehealth services would again require an in-person, non-telehealth visit within six months before the first telehealth encounter and at least annually thereafter.
  - Frequency limits: CMS has proposed to permanently remove frequency limits for inpatient, SNF, and critical care telehealth visits beginning Jan. 1, 2026, meaning caps are unlikely to return after that date even if Congress does not act. However, they would briefly be back in effect between Oct. 1 and Jan. 1 if the flexibilities lapse.

With the flexibilities expiring during a shutdown, CMS will have limited capacity to issue or update FAQs, MLN articles, or MAC education, meaning providers may face a period of uncertainty and system lag. While technically claims submitted using expired flexibilities should be denied effective Oct. 1, CMS could implement a brief grace period, as it has done for other major policy changes. For example, when POS 02/POS 10 and modifier 95 reporting became mandatory for telehealth services, MACs continued to pay claims during an informal transition period (~ 2

quarters) while educating providers. CMS may take a similar approach if it anticipates imminent action by Congress. However, enforcement discretion is entirely up to the agency and is in no way guaranteed.

Additionally, Congress may retroactively extend telehealth flexibilities and other key health policies as part of a deal to reopen the government, but CMS reprocessing of denied claims would be operationally burdensome and reimbursement would be delayed.

### **ACA Marketplace and Enhanced Premium Tax Credits**

As Democrats continue to push for a [permanent extension](#) of enhanced premium tax credits in the government funding bill, some Republicans are beginning to seriously consider supporting a temporary extension – particularly with the midterm elections looming. In the House, a bipartisan group of 12 Republicans and 7 Democrats in swing districts [introduced](#) legislation to extend the enhancements for one year. Sen. Lisa Murkowski (R-AK) also [proposed](#) a one-year extension. Senate Republicans are also [reportedly](#) considering modifications to the enhanced premium tax credits, such as eliminating zero-premium plans, setting income limits, and restricting any funds from being used on abortion.

According to a new Congressional Budget Office (CBO) [report](#) requested by Senate Democratic leaders, including a permanent extension of enhanced PTCs in the government funding bill due September 30 is projected to increase the number of insured by 3.8 million by 2035 and reduce premiums by 7.6 percent, on average, in each year from 2026 to 2035. It would also increase the deficit by \$350 billion, which raises questions about how to pay for the extension.

In the meantime, federal agencies have taken several steps to mitigate the anticipated impact of large Marketplace premium increases by increasing the availability of lower-cost and less generous coverage options. On August 7, HHS, Labor, and Treasury [announced](#) it would exercise enforcement discretion regarding short-term, limited-duration insurance plans that do not comply with the Biden-era rules, which had reversed the expanded availability allowed under the Trump administration. Most recently, on September 4, CCIIO [added](#) a new hardship exemption for catastrophic coverage, allowing individuals ineligible for advanced premium tax credits or cost-sharing reductions due to projected household income to enroll in catastrophic plans in PY 2026.

Additionally, likely due in large part to pending litigation related to the Marketplace final rule ([City of Columbus v. Kennedy](#)), CMS has postponed deadlines for exchange plan certification requirements that would have otherwise been due September 17; new deadlines are forthcoming. Issuers have until September 25 to withdraw from the marketplace. CMS is also providing a brief window, September 30-October 1, for issuers to refile their QHP plan submissions to comply with a forthcoming court order regarding actuarial value requirements.

Uncertainty surrounding the future of enhanced PTCs and the Marketplace final rule is fueling growing concern ahead of the open enrollment period beginning November. Due to [massive cuts](#) to the federal navigator program, many consumers will also have less access to enrollment assistance.

### **No Surprises Act: Independent Dispute Resolution**

On September 19, CMS released a [fact sheet](#) on efforts to clear the backlog of IDR disputes. Improvements to IDR operational processes include implementing automated validations to help prevent the initiation of ineligible disputes and providing additional guidance to IDR entities and disputing parties, among others. As of July 2025, 96.5 percent of all IDR disputes submitted since the beginning of the program have either been resolved or are less than 30 business days old.

The Departments of HHS, Labor, and Treasury also added two new certified IDR entities, bringing the total to 15. The Departments are also reviewing over 120 IDR entity applications to further expand capacity. A list of certified IDR entities can be found [here](#).

In November 2025, [CMS](#), [EBSA](#), and the [IRS](#) plan to issue the much-anticipated final rule modifying the IDR process to expedite the processing of disputes by certified IDR entities.

### **Regulatory Update**

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

- **Medicaid and Immigration Status.** A [final rule](#) titled, “Medicaid Eligibility Changes Under the Affordable Care Act of 2010; Giving States Freedom to Use Immigration Information to Determine State Residency for Medicaid Eligibility.” The final rule is part of the Trump administration’s efforts to [increase federal oversight](#) on states using Federal Medicaid funding for the health care of undocumented immigrants.

OMB is also reviewing the following:

- **Medicare:**
  - **CY 2027 Medicare Advantage/Part D Policy.** [Proposed CY 2027 policy and technical changes](#) to Medicare Advantage, Medicare Prescription Drug Benefit, Medicare Cost Plan, and PACE
  - **Procurement of Domestic PPE.** An [advance notice of proposed rulemaking](#) that would detail program incentives and requirements for Medicare providers and suppliers to invest and phase-in the procurement of American made personal protective equipment (PPE) and essential medicine to secure our nation’s health and safety.
- **Medicaid:**
  - **Gender-Affirming Care.**
    - A [proposed rule](#) titled, “Medicaid Program; Prohibition on Federal Medicaid Funding for Sex Trait Modification Procedures Furnished to Children and Youth.”

- A [proposed rule](#) titled, “Medicare and Medicaid Programs; Hospital Condition of Participation: Limiting Participation Based on the Performance of Sex Trait Modification Procedures on Children.”
- **State Directed Payments.** A [proposed rule](#) titled, “Medicaid Managed Care-State Directed Payments.” The proposed rule appears intended to advance a [presidential memorandum](#) released on June 6, which directs HHS to “eliminate waste, fraud, and abuse in Medicaid, including by ensuring Medicaid payments rates are not higher than Medicare, to the extent permitted by applicable law.”
- **Prescription Drugs:**
  - **Transparency.** A [proposed](#) rule titled, “Improving Transparency into Pharmacy Benefit Manager Fee Disclosure.”
- **FDA Guidance:**
  - **Medical Devices.** An FDA [noticed](#) titled, “Use of Real-World Evidence To Support Regulatory Decision-Making for Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability.”
  - **Laboratory Developed Tests.** A [final rule](#) that will rescind the amendment to the Food and Drug Administration’s regulations at 21 CFR 809.3(a) that added the words “including when the manufacturer of these products is a laboratory”, reverting to the prior text of the regulation.
  - **Investigational Drugs.** An FDA [notice](#) titled, “Expanded Access to Investigational Drugs for Treatment Use: Questions and Answers; Guidance for Industry; Availability.”
- **Nutrition:**
  - **Head Start.** A [notice](#) from the Administration for Children and Families titled, “Publish Request for Information: Nutrition Services in Head Start Programs
- **Immigration:**
  - **Unaccompanied Children.** An [interim final rule](#) titled, “Unaccompanied Children Program Foundational Rule; Update to Include Proof of Identity and Income Verification Standards.”

### This Week in Health Policy

#### Tue. (9/23)

- **10:00am – Heritage Discussion: Nutrition Guidelines** – The Heritage Foundation holds a discussion to examine how federal dietary guidelines are developed, where they fall short, and how they could better serve public health. [Details.](#)

#### Wed. (9/24)

- **1:00pm – ASPPH Discussion: Role of Academia in Public Health Research** – The Association of Schools and Programs of Public Health (ASPPH) holds a discussion on how ASPPH members, in partnership with organizations such as the Centers for Disease Control and Prevention (CDC), the National Institutes of Health (NIH), and other key partners are finding resourceful ways to drive scientific progress, develop life-saving interventions, and address pressing global health concerns, despite tightening budgets. [Details.](#)

#### **Thurs. (9/25)**

- **10:30am – NIH Meeting: Allergy/Infectious Diseases Reports** – The National Institutes of Health (NIH) holds a meeting of the National Institute of Allergy and Infectious Diseases (NIAID) for a report of the NIAID Acting Director Jeffrey Taubenberger and NIH Director Jay Bhattacharya. [Details.](#)
- **10:30am – NIH Meeting: Rural Women/Pregnancy Research** – NIH holds a meeting of the Office on Women’s Health Research to explore reaching rural women and the implications for research on pregnancy. [Details.](#)
- **3:00pm – CMS Meeting: MA and Medicare Diabetes Prevention Program** – The Centers for Medicare and Medicaid Services (CMS) holds a meeting for the Medicare Diabetes Prevention Program (MDPP) Team to educate MDPP suppliers on how Medicare Advantage (MA) works in the context of MDPP, including procedures for enrolling beneficiaries with MA, procedures for appealing denied claims, and highlight key MA resources. [Details.](#)
- **3:00pm – CMS Meeting: Rural Health Transformation Program** – CMS holds a meeting to discuss the Rural Health Transformation (RHT) Program with program applicants. [Details.](#)

#### **Additional Multi-Day Events**

- **Sep 25-Sep 26 – NIH Meeting: Digital Twins Research** – NIH holds a workshop to highlight the latest accomplishments in Heart, Lung, Blood and Sleep (HLBS) Digital Twins research, as described in a 2024 [report](#) from the National Academies of Science, Engineering and Medicine (NASEM), and identify gaps and opportunities. [Details.](#)

#### **Featured Analysis**

- **\*NEW\* Impact Health Spring 2025 Regulatory Outlook** – In Policy Hub [here.](#)
- **Insight for Impact: Vaccine Policy Under RFK Jr.** – In Policy Hub [here.](#)
- **OBBA Medicaid Provisions and Timeline for Implementation** – In Policy Hub [here.](#)
- **Changes to ACA Premium Tax Credit Policy in 2026 and Beyond** - In Policy Hub [here.](#)
- **Supreme Court Decisions Reshape Medicaid, Gender-Affirming Care, and Judicial Power** – In Policy Hub [here.](#)

#### **Congressional Lookback**

**Fri. (9/19)**

- **MACPAC** convened virtually for day two of its [September 2025 public meeting](#) and held sessions on Medicaid for justice-involved youth and HCBS. All Impact session summaries are available on Policy Hub [here](#)

**Thurs. (9/18)**

- **The House E&C Health Subcommittee** convened a [hearing](#) to consider policies to enhance seniors' access to breakthrough medical technologies. [Details.](#)
- **MACPAC** convened virtually for day one of its [September 2025 public meeting](#) and held sessions on Medicaid work requirements, HCBS, and behavioral health All Impact session summaries are available on Policy Hub [here](#)

**Wed. (9/17)**

- **The Senate HELP Committee** held a [hearing](#) with former CDC leaders to discuss recent events at the CDC and implications for child health. [Details.](#)
- **The House W&M Oversight Subcommittee** [convened](#) a hearing to discuss the tax-exempt status of hospitals. [Details.](#)

Regulatory Lookback

**Thurs. (9/18)**

- **CMS** released a second CY 2026 MA and Part D Policy and Technical Changes [final rule](#) to finalize the format of provider directories for Medicare Plan Finder. [Details.](#)
- **HHS** [announced](#) that for the first time, it is decertifying an OPO due to years of concerns about unsafe practices, poor training, chronic underperformance, understaffing, and paperwork errors. [Details.](#)

**Tues. (9/16)**

- **The GAO** [released](#) a report highlighting increased federal Medicaid spending and recommending revisions to the CMS's budget neutrality policy. [Details.](#)

**Mon. (9/15)**

- **CMS** released a [NOFO](#) for the [Rural Health Transformation \(RHT\) Program](#). Applications are due November 5. [Details.](#)

Comment & Application Deadlines

- **September 26:** The FTC issued an [RFI](#) seeking public comment on gender-affirming care (GAC) for minors. [Details.](#)
- **November 3:** The FTC issued an [RFI](#) to examine the use and impact of employer noncompete agreements and to help shape potential future enforcement actions. [Details.](#)
- **November 5:** **CMS** released a [NOFO](#) for the [Rural Health Transformation \(RHT\) Program](#). [Details.](#)