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2024 Pre-Election Analysis: Health Care Issues

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In recent elections, health care has been one of the most hot-button issues with consequences for millions of Americans, and this election is no exception. The next administration and the 119th Congress have the potential to shape the future of the Affordable Care Act (ACA), Medicare (including the new Medicare drug price negotiation program), Medicaid, abortion and contraception rights, pharmacy benefit manager (PBM) reform, and health equity issues, among other issues. Vice President Harris and former President Trump, as well as congressional leadership, have not yet proposed during this election season the significant changes to the American health care system that we've seen in past elections – including pledges to repeal and replace the Affordable Care Act or transition the private insurance market to a "Medicare for All" single-payer framework. Nevertheless, the next administration and Congress will bring changes that may transform the landscape of American health care.

This pre-election analysis from ML Strategies explores the different health care priorities that may be pursued by the next administration and 119th Congress.

Health Care Policy in a Harris Administration

A Harris administration would continue many of the health care policies implemented during the Biden administration but would likely endeavor to go further than its predecessor to strengthen the ACA, expand Medicare and Medicaid, protect abortion and contraceptive rights, and address health equity nationwide. Stakeholders can also expect continued enhanced scrutiny on health care consolidation and the role of private equity in health care ownership and delivery.

A Harris administration would likely build on the Biden administration's efforts to strengthen the ACA with the goal of reducing out-of-pocket costs and increasing health care access and coverage, including dental, vision, and hearing benefits. The Biden administration's various efforts to increase ACA enrollment to record levels in 2024 – through outreach and a streamlined enrollment process – are focus areas that would be continued under a Harris Administration. A Harris administration would also extend the ACA marketplace subsidies, which were first passed by the Biden administration on a temporary basis and then extended by the Inflation Reduction Act (IRA) until 2025. Going one step further than her predecessor, Harris would also likely push to expand Medicaid coverage to the ten states that have not adopted expansion efforts under the ACA.

Despite her past statements during the 2020 presidential primaries, a Harris administration is unlikely to push for Medicare for All, as the Harris campaign confirmed in July that Harris no longer supports a single-payer system. Harris' more recent campaign statements suggest that, rather than pushing for Medicare for All, her administration would seek to improve the existing Medicare system.

On abortion rights, compared to her predecessor, a Harris administration would likely take a very aggressive approach to restoring and protecting abortion rights. Harris has been a vocal and staunch defender of abortion rights. She has called on Congress to restore *Roe v. Wade*'s national protections for abortion, and she also launched the Fight for Reproductive Freedoms tour that highlighted the impact of abortion bans nationwide. A Harris administration would likely make restoring abortion rights nationwide one of its top priorities, and Harris has indicated she would sign a law passed by Congress to institute a national right to abortion.

Policies aimed at reducing drug prices that were rolled out during the Biden administration would likely be protected, continued, and expanded upon under a Harris administration. Harris cast the tie-breaking vote in the Senate for the IRA, which created the Medicare Price Negotiation Program for certain drugs, among other health care provisions. Harris would likely continue to defend the IRA's price negotiation program and has already expressed support for expanding the price negotiation measure beyond Medicare to the commercial sector. Furthermore, the IRA created drug cost caps for seniors on Medicare Part D, including an insulin price cap, and Harris may push to make these cost caps available to not only Medicare recipients.

A Harris administration would also likely reinforce and expand the Biden administration's policies around health equity. During her time as a US Senator, Harris sponsored legislation to promote access to mental health and LGBTQ+ health care and address maternal health issues, especially the Black maternal health crisis. While Harris as Vice President has continued to champion health equity, including launching a blueprint for addressing the maternal health crisis and extending postpartum Medicaid coverage, a

President Harris would likely have more opportunities to strengthen and expand upon these initiatives.

Health Care Policy in a Trump Administration

Since his first term, former President Trump has taken a step back from many of the bold health care priorities that his first administration pursued. Rather than pledging to repeal and replace the ACA or enact a national abortion ban, a second Trump administration is more likely to pursue targeted changes to existing health care laws and, on the issue of abortion, defer to the states.

In a second Trump administration, the ACA will once again be a central focus of health care priorities. However, instead of attempting to repeal and replace as the number one priority, as he did during his first term, former President Trump is now more likely to seek modifications and gradually weaken certain provisions of the ACA. Recently, Trump has moved away from the promise to fully repeal and replace the ACA – unless or until the GOP can coalesce on a replacement alternative – instead vowing to improve it. Potential changes under a second Trump administration could include eliminating ACA marketplace subsidies and cutting funding for outreach efforts, among other adjustments.

While Trump recently pledged in March to not cut funding for Medicaid and Medicare, his previous administration proposed reducing funding for these programs, as well as Social Security, primarily by reducing provider payments. This time around, a second Trump administration would likely seek to impose work requirements as a condition of Medicaid eligibility. A second Trump administration would also likely support enacting block grant funding under Medicaid, which would cap federal Medicaid spending, and may attempt to eliminate the ACA's Medicaid expansion. Former President Trump has also voiced support for restricting Medicaid funding for gender-affirming care for certain patients. On Medicare, the current Republican platform does not push for cuts to funding for Medicare.

On abortion, a second Trump administration would likely take a more measured approach to abortion compared to the first Trump administration, leaving it up to individual states to decide how to regulate abortions instead of banning abortions on the federal level. During his first term, former President Trump supported legislation to ban abortions nationally after 20 weeks, and he also took credit for appointing the three justices to the Supreme Court who helped overturn *Roe v. Wade*. More recently, despite calling for a 15-week abortion ban earlier this year, Trump has promised to leave it to the individual states to regulate abortions. During the 2024 Republican National Convention, the official party platform for the first time in 40 years did not call for a national abortion ban.

Reducing drug prices is one area where a second Trump administration may share similar goals and policies with the Biden administration. During his first term, the Trump administration took several steps to reduce drug prices, including by signing executive orders allowing drug importation by Canadian pharmacies and wholesalers and regulating PBMs. The first Trump administration also signed into law a bill that protects patients from surprise medical bills, which the Biden administration implemented. Moreover, the first Trump administration also passed a temporary, voluntary $35 insulin cap, which the Biden administration extended and expanded with the IRA. A second Trump administration is unlikely to completely overturn the IRA's price negotiation program, as that would require Congressional action. However, it might push for smaller price reductions during the drug negotiation process. Lastly, a second Trump administration might reinstate the Most Favored Nation rule, which aligns drug prices with those in other countries, a policy that was reversed by the Biden administration.

Republican Leadership Health Care Priorities for the 119th Congress

Congressional Republican health care priorities are similar to what would be put forward by a second Trump administration and would generally focus on reducing government spending on health care, trimming down the ACA, Medicare, and Medicaid, protecting states' rights to regulate abortion, and restricting federal funding for gender-affirming care. For example, the most recent budget from the **Republican Study Committee** proposes reducing spending on Medicaid, including by creating block grants for vulnerable recipients under Medicaid and enacting work requirements. No cuts are proposed to Medicare funding. Similarly, there does not seem to be much of an appetite among congressional Republicans to repeal and replace the ACA, but they would likely pursue measures to trim down the ACA, including by ending the ACA taxpayer subsidies that were extended by the IRA. Republicans in Congress will also likely to continue to investigate and consider legislation to reform PBMs, which Congress has worked on a bipartisan basis for almost two years.

At the committee level, Rep. Jason Smith (R-MO) will remain as the top Republican of the House Ways and Means Committee. Under his leadership, the Committee has **aimed** to "seek solutions to make health care more affordable for Americans through transparency, increased choices, and meaningful competition" and "examine policies that reduce the cost of health insurance."

The House Energy and Commerce Committee will see a new Republican leader with Rep. Cathy McMorris Rodgers retiring at the end of this term. Reps. Brett Guthrie (R-KY), Bob Latta (R-OH), and

Richard Hudson (R-NC) are all competing for the lead Republican role. All three Representatives have championed efforts to increase access to Medicare for seniors.

The Senate Finance Committee will continue to have Senator Mike Crapo (R-ID) as the top Republican. Senator Crapo has supported legislation to expand mental health care services under Medicaid and Medicare, as well as led hearings on the balancing of the risks and benefits of AI in health care. He has also acted on PBM reform in the current Congress and would likely continue these efforts next Congress.

Republicans on the Senate Committee on Health, Education, Labor, and Pensions (HELP) will likely continue to be led by Senator Bill Cassidy (R-LA), although Senator Rand Paul, who is currently Ranking Member of the Homeland Security and Government Affairs Committee, could potentially opt for the GOP HELP leadership role. Senator Cassidy has recently stated that PBM reform will be his top priority in the HELP Committee, along with the reauthorization of the SUPPORT Act and Social Security Reform.Sen. Cassidy has been a vocal proponent of AI in health care, and efforts to modernize the National Institutes of Health.Finally, Dr. Cassidy is expected to also focus on a comprehensive effort to reauthorize the US Food and Drug Administration, which will include top issues for the medical device community, including clarifying longstanding regulatory confusion between activities that constitute improper and unregulated device remanufacturing.

Democratic Leadership Health Care Priorities for the 119th Congress

Congressional Democratic health care priorities are similar to those that would be put forward by a Harris administration, including focusing on strengthening the ACA, Medicare, and Medicaid, reducing drug costs, restoring abortion rights, and promoting health equity. For example, Senate Majority Leader Chuck Schumer (D-NY) and House Minority Leader Hakeem Jeffries (D-NY) have both sought to expand the ACA, cap drug prices, and restore abortion protections. Pharmacy benefit managers will also continue to draw scrutiny from Democrats, who have worked with their Republican counterparts to hold hearings about PBMs and consider bipartisan legislation aimed at increasing PBM transparency.

At the committee level, Rep. Richard Neal (D-MA) will remain as the top Democrat on the House Ways and Means Committee. Rep. Neal has specifically pushed to increase access to care and lower drug prices and promote health equity in rural and underserved areas.

The House Energy and Commerce Committee will also continue to have Rep. Frank Pallone (D-NJ) as the top Democrat. Pallone played a key role in passing the ACA, and he is supportive of efforts to expand the ACA. Pallone has also been a staunch advocate of reducing drug costs, and he led the House's passage of a bill that would empower the federal government to negotiate drug prices with drug manufacturers.

The Senate Finance Committee will continue to have Senator Ron Wyden (D-OR) as the top Democrat. Sen. Wyden has made strengthening Medicare one of his top priorities, and he also supported legislation addressing the maternal health crisis and regulating AI and health care.

Democrats on the Senate Committee on Health, Education, Labor, and Pensions will also likely continue to be led by Senator Bernie Sanders (I-VT), assuming he is reelected in November. Senator Sanders may be best known for championing Medicare for All, but as committee Chair, he has also focused on addressing shortages of doctors and nurses and securing funding for community health centers, as well as ongoing oversight of pharmaceutical companies on the issue of drug pricing, and the role of private equity in the health care system.

Closing Thoughts

In conclusion, the next administration and 119th Congress are likely to pursue more measured health care priorities, focusing on changing existing health care programs in the ways that they see fit. Despite their different priorities and approaches, the next administration and both Democrats and Republicans in the 119th Congress will have opportunities to collaborate on shared health care priorities, including PBM reform, strengthening Medicare, and reducing drug prices.

ML Strategies is well-equipped to assist stakeholders achieve their policy objectives, and we welcome the opportunity to start a dialogue with you.

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Alex Hecht is a trusted attorney and policy strategist with over 20 years of experience advising clients across a broad range of industries on how to navigate complex policy environments. His strategic insight and hands-on experience in both legislative and regulatory arenas empower clients to advance their priorities with clarity and confidence in an evolving policy landscape.

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