

REPUBLICAN HEALTHCARE OUTLOOK FOR THE 118TH CONGRESS

OVERVIEW

House Republicans will enter the 118th Congress with a divided government and slim majority. The success of their healthcare priorities will depend on Republican leadership's ability to keep the Conference unified, while also seeking out support from moderate Democrats when possible. House Republicans have laid out potential areas of focus through the "Commitment to America" agenda and the work of the Healthy Future Task Force. What is ultimately agreed to in the "lame-duck" end-of-year package will also have an impact on Republican healthcare priorities in the next Congress. Issues such as telehealth, FDA policy riders, behavioral health, prior authorization, and others may carry over into the next Congress and could be areas of continued bipartisan collaboration. Reauthorization of expiring programs will also provide opportunities for members to work across the aisle on shared priorities. Another key area of focus for House Republicans will be oversight of the Biden Administration's past healthcare work and future agenda. It will be important for industry stakeholders to understand the priorities, external factors, and key players that will drive the healthcare policy debate in the 118th Congress.

Key Areas of Focus	
Oversight	Potential areas of oversight investigations: the Affordable Care Act (ACA) "family glitch" rule; COVID-19 funding; Inflation Reduction Act (IRA) drug pricing implementation; pharmacy benefit managers (PBMs); COVID-19 origins and federal agencies' response; No Surprises Act implementation; Provider Relief Fund (PRF) spending; provider consolidation/transparency/competition issues; data privacy; baby formula and other shortages; 340B program
Bipartisan Consensus	Areas of bipartisan agreement: telehealth; behavioral health; prior authorization; fentanyl epidemic and substance use disorders; pandemic preparedness; supply chains; workforce; dual eligible issues; physician payment/value based pay reforms
Expiring Provisions	Provisions that expire in 2023: Pandemic All Hazards Preparedness Act (PAH-PA); COVID PHE flexibilities; community health center funding; Medicaid DSH payments; SUPPORT Act provisions; Animal Drug User Fee Act (ADUFA)

OVERSIGHT

With a Republican majority in the House, there will be a renewed focus on oversight of the Biden Administration's healthcare policies. Empowered Republicans will now be able to call Administration officials to testify and also demand document productions from relevant agencies. We will likely see oversight surrounding: the Administration's rulemaking activities, such as the final rule related to the Affordable Care Act's "family glitch" and the implementation of the Inflation Reduction Act (IRA); PBMs; the 340B program; provider and plan transparency; consolidation in the health system; the use of COVID-19 pandemic relief and American Rescue Plan Act (ARPA) funds; the National Institutes of Health's (NIH) past research; and the Centers for Disease Control and Prevention's (CDC) role in COVID-19 restrictions.

The groundwork for these efforts has already begun. On October 20, following the release of the final rule related to the “family glitch,” Representatives Kevin Brady (R-TX), Ranking Member on the House Ways and Means Committee, and Vern Buchanan (R-FL), Ranking Member on the Health Subcommittee, sent a [letter](#) to Treasury Secretary Janet Yellen asking the Department to “preserve” all documents and communications in your custody relating to the Administration’s April 7, 2022, proposed rule aimed at “fixing” the so-called “family glitch” in the Affordable Care Act (ACA).¹ Following the August passage of the IRA, Ranking Member Brady and Cathy McMorris Rodgers (R-WA), Ranking Member on the House Energy and Commerce Committee, [wrote](#) to HHS Secretary Xavier Becerra seeking information about the Department’s implementation of the law.

PRESCRIPTION DRUG PRICING AND INNOVATIVE TREATMENTS AND DEVICES

While [H.R. 19](#), the *Lower Costs, More Cures Act*, has been Republicans’ signature drug-pricing legislation, implementation of the IRA will dominate the conversation on this issue. Industry stakeholders are interested in making legislative “fixes” to the IRA, but Republicans have been reluctant to hear industry requests on changes to a bill they vehemently opposed.

Republicans will also be interested in the role of pharmacy benefit managers (PBM) in the pharmaceutical supply chain. During consideration of the IRA, Energy and Commerce Republicans argued the IRA “lines the pockets of health care middlemen, such as PBMs, who hide savings from patients.” The 117th Congress has seen numerous bills introduced in the House and Senate to require PBMs to disclose certain concessions, fees, and rebates that restrict certain pricing practices. Many of these were either introduced on a bipartisan basis or have since garnered cosponsors from Republicans and Democrats alike. These bills include: [S. 4293](#), the *Pharmacy Benefit Manager Transparency Act of 2022*, which was introduced by Senators Maria Cantwell (D-WA) and Chuck Grassley (R-IA); [H.R. 1829/S. 298](#), the *Pharmacy Benefit Manager Accountability Study Act of 2022*; [H.R. 3682](#), the *Improving Transparency to Lower Drug Costs Act of 2022*; and [H.R. 6101](#), the *Drug Price Transparency in Medicaid Act of 2021*.

Republicans will also be interested in policies that will spur innovation. A bipartisan group of members were [critical](#) of the Biden Administration’s decision to repeal the [Medicare Coverage of Innovative Technology \(MCIT\) rule](#) and will be closely following CMS’s recent announcement that the agency plans to initiate notice and comment rulemaking to create an accelerated coverage pathway for certain medical devices. House Republicans have also laid out a [proposal](#) to prohibit the use of quality-adjusted life years (QALYs) from coverage and payment decisions, stating that the use of QALYs is a clear form of discrimination. Many Republicans may also be interested in oversight of, or legislation related to, CMS’s national coverage determination (NCD) of monoclonal antibodies (mAbs) targeting amyloid for the treatment of Alzheimer’s disease (AD) after the FDA approved Biogen’s Aduhelm under the accelerated approval pathway and as more of these mAbs treatments for AD move through the drug development pipeline. In response to the president’s October [executive order](#) (EO) titled “Lowering Prescription Drug Costs for Americans,” there may be renewed interests in reforms to the Innovation Center (CMMI) at CMS. The EO directs HHS Secretary Xavier Becerra to submit a report on additional ways to lower prescription drug costs, specifically by selecting new health care payment and delivery models at CMMI. This report is due by January 12, 2023.

PANDEMIC PREPAREDNESS AND MEDICAL SUPPLY CHAINS

The 118th Congress will need to consider the reauthorization of the *Pandemic and All-Hazards Preparedness Act* (PAHPA). PAHPA reauthorization could include policies from multiple bills introduced this Congress, including [S. 3799](#), the *PREVENT Pandemics Act*, introduced by Senators

Patty Murray (D-WA) and Richard Burr (R-NC), or [H.R. 3635](#), the *Strengthening America's Strategic National Stockpile Act*, which could be reintroduced in the next Congress. A Republican-controlled House may also look to legislation which would establish tax credits for domestic medical and drug manufacturers. Some examples of this sort of policy include [H.R. 3927](#), the *MADE in America Act* introduced by Representative Buddy Carter (R-GA) and [H.R. 7410](#), the *American Made Medicine Act*, introduced by Representatives Brad Wenstrup (R-OH) and Drew Ferguson (R-GA), all three are members of the GOP Doctors Caucus.

A Republican led pandemic preparedness bill is likely to focus on strengthening the domestic supply chains for everything from personal protective equipment (PPE) to active pharmaceutical ingredients (APIs). Republican lawmakers have been critical of U.S. reliance on China and other countries for medical supplies and will look at policies to bolster domestic manufacturing. Republicans will also have to contend with future COVID variants, as well as the potential for supplemental funding requests from the Administration or issues with the shift of COVID-19 vaccines, therapeutics, and diagnostics to the commercial market.

EXPANDING ACCESS TO AFFORDABLE CARE

House Republicans will highlight their long history of providing popular coverage options like Medicare Advantage (MA) and Medicare Part D. Republicans will look for opportunities to strengthen those popular options, including giving MA plans more flexibility around supplemental benefits. Should MA prior authorization reforms be left out of a year-end package, there may be another effort in the 118th Congress to reform plans' requirements and standards for these processes given the broad bipartisan, bicameral support for such changes. On September 14, the House passed [H.R. 3173](#), the *Improving Seniors' Timely Access to Care Act of 2021*, by voice vote. The Senate version, [S. 3018](#), is led by Senator Roger Marshall (R-KS). They would still need to contend with the Congressional Budget Office's (CBO) score of the bill, which said the House version would cost \$16 billion over 10 years. Notably, CMS recently released a [proposed rule](#) on prior authorization which is estimated to save physician practices and hospitals \$15 billion over 10 years. It remains to be seen how this rule will impact the prior authorization legislation in Congress as it could affect the CBO score.

Republicans may also look for ways to expand additional affordable coverage options and may pursue legislation to codify access to short-term, limited duration (STLD) plans and association health plans (AHPs). Republicans would likely run into opposition from Congressional Democrats and the Administration. In the House, Representatives Tim Walberg (R-MI), Virginia Foxx (R-NC), Michael Burgess (R-TX), and Rick Allen (R-GA) have already introduced [H.R. 4547](#), the *Association Health Plans Act*, which would provide statutory authority for STLD plans and AHPs.

A Republican House may pursue efforts to strengthen State Innovation Waivers and support states as they try different approaches to delivering health insurance coverage. However, given the Biden Administration's history around the ACA and these types of alternative coverage options, it seems unlikely the president would sign legislation viewed by Democrats as undermining the consumer protections in the ACA. Some members may also pursue efforts aimed at expanding health savings accounts (HSAs), health reimbursement arrangements (HRAs), or direct contracting arrangements.

TELEHEALTH

Depending on any year-end telehealth reforms and the status of the COVID-19 PHE declaration, Republicans may look to do additional work related to telehealth coverage and access. The Biden Administration has committed to providing a 60-day notice prior to the non-renewal of the PHE, though Congress acted in the fiscal year 2022 spending bill to extend temporary flexibilities for five

months after the PHE ends. While it remains to be seen what Congress will do with telehealth in the lame-duck session, this issue could garner bipartisan interest in the 118th Congress.

MENTAL HEALTH AND SUBSTANCE USE DISORDER

Another area of possible bipartisan cooperation could be continued efforts to address the mental health and substance use disorder crises. Some mental health provisions were included in [S. 2938](#), the *Bipartisan Safer Communities Act*, which was signed into law this summer, though both chambers have been working on a comprehensive package of behavioral health reforms. In June, the House passed [H.R. 7666](#), the *Restoring Hope for Mental Health and Wellbeing Act* with broad bipartisan support. The bill includes provisions to require non-federal governmental plans to comply with mental health parity laws; improve the integration of behavioral health care into primary care; direct the Substance Abuse and Mental Health Services Administration (SAMHSA) to assess the flexibilities provided to opioid treatment programs during the PHE; and reauthorizes several SAMHSA and Health Resources and Services Administration (HRSA) programs related to mental health and substance use disorders. The Senate Finance Committee is also working on legislation related to behavioral health and draft texts have been released of legislation on issues such as telehealth policies for mental health, youth mental health, workforce development, mental and physical health care integration, and mental health parity. A summary of this legislation can be found [here](#).

The House Ways and Means Committee held a markup of several bipartisan mental health bills on September 21. The bills considered addressing coverage and access to mental health services in Medicare and promoting transparency and better access to behavioral health coverage in the commercial insurance market. CBO has scored the Ways and Means package as costing around \$1.8 billion over 10 years. Despite these efforts, building a comprehensive, bipartisan package will be difficult as lawmakers will need to identify funding offsets and will be competing against other legislative priorities. This could be a policy area in which Republican and Democratic members of Congress, alike, are interested in returning to in the 118th Congress. Several provisions of the 2018 *Substance-Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT) - H.R. 6* from the 115th Congress - will also be up for reauthorization.

HEALTHY FUTURE TASK FORCE

In June 2021, House Republican Leader Kevin McCarthy (R-CA) announced seven issue-specific task forces, created "to identify and develop policy solutions to the issues facing the American people." The 16-member Healthy Future Task Force (HFTF), co-chaired by Representatives Brett Guthrie (R-KY) and Vern Buchanan (R-FL), was created to build a framework of potential policy proposals should Republicans take back the House. This effort provides a useful guide into the thinking of the Conference's healthcare priorities as the majority party in the 118th Congress. The HFTF was divided into five subcommittees, each of which released a one-page document with broad policy ideas to guide their work in the upcoming Congress.

Healthy Future Task Force
Subcommittee on Modernization
Subcommittee on Treatment
Subcommittee on Security
Subcommittee on the Doctor-Patient Relationship
Subcommittee on Affordability

KEY MEMBERS

Committee leadership will be crucial to steering health care policies for the Senate and House Republican conferences in the 118th Congress. With several senior Republicans in the House and Senate retiring this Congress, questions remain about who will lead these committees in a Republican majority. Below is a breakdown of likely or potential member positions.

Senate	
Committee on Finance	Ranking Member: Mike Crapo (R-ID)
Committee on Health, Education, Labor and Pensions	Ranking Member: Bill Cassidy (R-LA)
Committee on Appropriations	Vice Chair: Susan Collins (R-ME)
Special Committee on Aging	Ranking Member: Mike Braun (R-IN)

House of Representatives	
Committee on Ways and Means	Chair: *Vern Buchanan (R-FL), Jason Smith (R-MO), or Adrian Smith (R-NE) Health Sub. Chair: **TBD <i>*Buchanan has seniority but other members on the panel are also running to succeed the retiring Rep. Kevin Brady (R-TX)</i> <i>**Health Sub. Chair will be dependent on the race for the full committee chair</i>
Committee on Energy and Commerce	Chair: Cathy McMorris Rodgers (R-WA) Health Sub. Chair: Brett Guthrie (R-KY)
Committee on Appropriations	Chair: Kay Granger (R-TX) LHHS Sub. Chair: Tom Cole (R-OK)
Committee on Oversight and Reform	Chair: James Comer (R-KY)
Committee on the Judiciary	Chair: Jim Jordan (R-OH)
Republican Study Committee	Chair: Kevin Hern (R-OK)
GOP Doctors Caucus	Co-Chairs: Greg Murphy (R-NC), Michael Burgess (R-TX), Brad Wenstrup (R-OH)

CONCLUSION

The 118th Congress will usher in two years of divided government with a slim majority for Republicans in the House. While Republicans will prioritize and focus on oversight of the Biden Administration, there will also be opportunities for bipartisan collaboration across the healthcare sector. Policies that do not ride along with an end-of-year spending package and expiring programs in 2023 will serve as a catalyst for working across the aisle. Republican leadership in the House will be challenged by a small conference with a large percentage of members in the majority for the first time. Understanding this dynamic landscape will be critical for stakeholders as they seek to advance priorities in the coming years.

FOR MORE INFORMATION, PLEASE VISIT WWW.TIBERCREEKGROUP.COM OR CONTACT US AT (202) 775-8116