

The 2026 Elections and Healthcare Policy

The outlook for the Lame Duck session and Democratic majorities in the 120th Congress

Lame Duck

With the 2026 midterm elections behind them, lawmakers will return to Washington, D.C. on Monday, November 9, with 23 legislative days left before the end of the 119th Congress. Democrats won control of both chambers with wider margins than expected, though several races remain too close or too early to call. Democrats are expecting a majority of about 260 seats in the House, and 54 to 56 seats in the Senate.

During these few remaining weeks, Congress will need to address the current December 11 government funding deadline and some key health policies set to expire December 31, including funding for community health centers and a one-year Medicare physician payment boost.

The election outcome will strongly influence what gets done during the Lame Duck session. Attendance will also be a key factor in what is possible given the existing narrow majorities: absences of those retiring or not returning in 2027 could stall major action in Lame Duck.

- *Government Funding:* A short-term Continuing Resolution (CR) into the new year is very likely, as Democrats will probably seek to postpone funding debates until the new Congress to avoid ceding any leverage around the appropriations process.
- *Healthcare Package:* A broad healthcare package remains possible but is somewhat less likely following the election, and negotiations may be hindered by partisan activity (i.e., reconciliation).
- *Reconciliation*: Because Democrats won both chambers, a Republican reconciliation bill is now more likely (though far from certain) during Lame Duck, as the GOP loses trifecta control come January. This will be Republicans' final opportunity during President Trump's term to pass significant partisan legislation.
- *Nominations:* The Senate will prioritize a vote on Chris Klomp to be Deputy Secretary of Health and Human Services along with other outstanding nominations, including potentially Nicole Saphier to be Surgeon General. However, whether the Health, Education, Labor, and Pensions (HELP) Committee advances Heidi Overton to be Commissioner of the Food and Drug Administration (FDA) is not yet clear, and may depend on how outgoing senators, including Sens. Bill Cassidy (R-LA) and Susan Collins (R-ME), decide to vote.

House of Representatives

Under a Democratic majority, oversight will be a primary focus. Expect key healthcare committees like the Energy and Commerce (E&C), Ways and Means (W&M), and Oversight and Government Reform (OGR) Committees to develop a robust oversight agenda that incorporates both the Trump administration and the private sector. The majority party will have access to subpoenas for oversight activities, and we expect that Democratic committee leaders may make use of such powers.

Indeed, on November 3, Rep. Robert Garcia (D-CA), expected incoming OGR Chairman, released a blunt statement saying, "Lawyer up." While he has vowed to take on the "Trump Crime Family, corporate corruption, DHS [Department of Homeland Security] and ICE abuses, and the cover-up of the Epstein files," his statement indicates the larger pent-up demand for oversight by Democratic lawmakers. E&C Ranking Member Frank Pallone, Jr. (D-NJ) committed to "vigorous oversight of the most corrupt Administration in our nation's history." Beyond corruption, key topics will include the White House's agreements with drug manufacturers; vaccine changes, measles outbreaks, and other public health concerns; new industry-friendly FDA initiatives like the Commissioner's National Priority Voucher; agency restructuring and staff layoffs; and other agency and administrative actions.

Outside of the oversight agenda, House Democrats have pledged to prioritize an affordability agenda by placing working people first and lowering "outrageous" price increases. In a Dear Colleague letter seeking support for the role of E&C Chairman, Ranking Member Pallone highlighted some of his top legislative priorities, including the following:

- "Reverse the devastating Republican health care cuts that are stripping health care from millions of Americans, driving up costs, and forcing hospitals to close;
- Lower health care costs and expand access to care by, among other things, reversing the Trump Administration's attacks on the Affordable Care Act;
- Build on the success of Medicare drug price negotiations by expanding the number of drugs negotiated annually and making those prices available to the private insurance market; [and]
- Restore the right to comprehensive reproductive health care nationwide and protect access to contraception and IVF."

In addition, House Democrats are undertaking multiple policy development exercises in preparation for the majority. Five cost-of-living working groups coordinated by Minority Leader Hakeem Jeffries (D-NY), including one on healthcare led by Reps. Terri Sewell (D-AL) and Alexandria Ocasio-Cortez (D-NY), held listening sessions with members of the Democratic caucus earlier this year. The healthcare working group's memo to Leader Jeffries outlines a broad slate of health policy options, though it is best viewed as a "menu" and not an agenda for the 120th Congress, as there was limited committee engagement.

E&C Ranking Member Pallone also organized committee members into several informal working groups with the goal of forming consensus positions around a handful of policy concepts E&C's subcommittees can work on in the 120th Congress. The E&C working groups are not expected to release anything publicly. The healthcare group is led by Reps. Greg Landsman (D-OH), Paul Tonko (D-NY), Darren Soto (D-FL), and Kathy Castor (D-FL).

Among other topics, we expect House Democrats to focus on the following healthcare policy issues:

- **Affordability and access**, with reactive policies to Republican activity over the last two years. Democrats will pursue legislation to reinstate the Affordable Care Act (ACA) enhanced premium tax credits (EPTCs), repeal provisions from the One Big Beautiful Bill Act (OBBBA) on Medicaid work requirements and ACA eligibility, and advance reproductive care protections.
- **Drug pricing**, as Democrats will seek to expand the Inflation Reduction Act's (IRA) caps on out-of-pocket (OOP) costs for drug spending to more consumers, including limits on the monthly cost for EpiPens, insulin, and inhalers. They will also propose expanding and accelerating the Medicare Drug Price Negotiation (MDPN) program and may potentially seek to include reference pricing in the calculation of the negotiated price.
- **Strengthening traditional Medicare and reforming Medicare Advantage (MA)**, including by addressing alleged upcoding, increasing plan oversight, advancing site-neutrality, and limiting utilization management techniques like prior authorization, especially where artificial intelligence (AI) is involved. Democrats are eager to cancel the Centers for Medicare and Medicaid Services' (CMS) WISeR (Wasteful and Inappropriate Service Reduction) Model, which tests prior authorization in traditional Medicare by leveraging AI-enabled tools. Democrats may also prioritize reforming the

Medicare physician payment system, continuing strong bipartisan work from the 119th Congress, like the Patients First Act.

- **Across markets, consolidation and corporate profit** will be under intense scrutiny. Lawmakers will likely conduct oversight, demand transparency, and potentially seek to limit vertical integration in the healthcare sector. Private equity (PE) will also be closely watched, and while most attention remains on PE in nursing homes and other provider settings, widespread skepticism of PE's role in the healthcare system could develop.
- **Workforce needs**, including expanding graduate medical education slots, considering staffing ratios in different settings, and enhancing workplace violence protections for healthcare workers.
- **Public health** and "reclaiming MAHA" will feature a strong focus on nutrition and food in health and medicine, but Democrats will also advance policies to protect vaccine availability and coverage, combat misinformation, and support basic research and public health infrastructure.
- **Given user fee agreement (UFA) reauthorization**, we also expect significant focus on innovation and therapeutics, beyond pricing. Democrats may seek to advance clinical trial reforms, establish certainty and permanency in priority review vouchers (PRV) for pediatric rare diseases (though, expected E&C Chairman Pallone is notably skeptical of PRV permanency), and enact patent reforms, among other policies.

Bipartisan work will also continue, especially if Lame Duck does not yield a broad bipartisan healthcare package this year. While lawmakers may not fully agree on policy solutions, we anticipate bipartisan efforts will continue on topics like transparency, Medicare physician payment reform, pharmacy benefit manager (PBM) reform, the No Surprises Act, the 340B drug pricing program, and concerns regarding competition with China and the biotech industry.

Some big questions remain, including whether House Democrats will advance universal coverage proposals like Medicare for All or a public option. With a Democratic majority in the Senate, it is possible both chambers of Congress could pass legislation advancing a universal coverage policy like a public option, potentially as part of a reconciliation bill, even if it is ultimately vetoed by the president. Stakeholders should also consider whether President Trump and congressional Democrats may find common ground on drug pricing and reach a deal to advance some of the president's legacy items like Most-Favored-Nation (MFN) drug pricing. In a November 3 interview, CMS Administrator Oz stated in reference to MFN that "we would love Congress to codify it. The White House wants it. And we've talked to folks on both sides of the aisle who nod their head and say, yeah, we see the wisdom in this. Let's bring drug prices down for the American people."

Changes in the majority will also bring about changes to key healthcare committees. In a Democrat-controlled House, the current Ranking Members of E&C, W&M, and OGR – Reps. Pallone, Richard Neal (D-MA), and Garcia – are expected to be the next Chairs of those committees. However, the top position for each committee's respective healthcare subcommittee is open. In E&C, names floated for Health Subcommittee Chair include Reps. Castor or Raul Ruiz (D-CA), and in W&M, Rep. Mike Thompson (D-CA) is considered a likely candidate for Health Subcommittee Chair, pending his re-election.

Assuming Democrats hold about 260 seats in the 120th, key "exclusive" committees like E&C and W&M will also have several vacancies and new seats to fill. Committee ratios are not strictly set in the House, and applying historical precedent, Democrats should expect 61 to 64 percent of the seats on E&C and W&M.

- Under a 260-seat Democratic majority, W&M's 45 seats would split roughly 29–16 in Democrats' favor, creating 15 open Democratic seats (or 16, if Rep. Thomspon does not win his re-election).
- Under a 260-seat Democratic majority, E&C's 54 seats would split roughly 33–21 or 34–20 in Democrats' favor, creating 13 to 14 open Democratic seats.

Senate

Under a Democratic majority, expect strong oversight activity along the same lines as discussed in the House section, above. In particular, Senate Finance Committee Ranking Member Ron Wyden (D-OR), who is expected to assume the chairship, has strongly pursued oversight of the White House's drug pricing deals

with drug manufacturers from the minority, and stakeholders should expect a continued focus on this issue, potentially including use of subpoenas: Ranking Member Wyden posted "Subpoenas" on the social media platform, X, following Tuesday's elections.

Under Ranking Member Wyden's leadership, Senate Democrats have coalesced around three healthcare workstreams this year in anticipation of the next opportunity for large-scale reform. With President Trump still in the White House, the 120th Congress does not present a clear opportunity for such change, but expect pressure from Senate Democrats to push forward with these reforms in the next two years while continuing to refine and socialize policies in line with the workstreams. Senate Democrats released three Requests for Information (RFIs) associated with the workstreams:

- **On drug pricing**, Senate Democrats are considering expanding the IRA and MDPN, including potentially utilizing international reference pricing in negotiation; addressing OOP costs across the drug supply chain through additional PBM reform and compensation system changes across the healthcare sector; and supporting innovation through bolstering basic science research, improving clinical trials, and addressing competition with China, among other policies.
- **On the commercial insurance market**, Senate Democrats are considering systemic reforms, including options for universal coverage; standardizing plan options and benefits; limiting prior authorization and other practices that delay care; simplifying the process to get insurance; examining vertical integration and PE; and reforming the medical loss ratio; among other policies.
- **On long-term care**, Senate Democrats are exploring options for a universal home care benefit; considering the role of PE in nursing homes; addressing quality concerns and staffing ratios in nursing home settings; and strengthening the long-term care workforce, among other policies.

Democrats will also pursue policy goals outside of these three workstreams, notably on Medicare and MA, delaying or walking back aspects of OBBBA, supporting and reinstating the ACA EPTCs, protecting public health and vaccine access, and other policy priorities. With a Democratic House and Senate, we could see frequent use of Congressional Review Act (CRA) resolutions to overturn Trump administration rules (however, even if both chambers pass a CRA, the president retains the right to veto it).

Unlike the House, the Senate acts more as a consensus body. By requiring a 60-vote threshold to reach cloture and proceed towards a vote, most bills that pass the Senate have some measure of bipartisan support. Even with Democrats in the majority, expect bipartisan policies to make up most of the serious legislative activity in the Senate next year. While each party has their own priorities and preferred solutions, there is a wide array of overlap on several priorities, including on topics like transparency, Medicare physician payment reform, PBM reform, the No Surprises Act, the 340B drug pricing program, and concerns regarding competition with China and the biotech industry. As discussed in the House section, Democrats could pursue a reconciliation bill because they will hold the majority in both chambers, but with wide variation in policy goals across the caucus, such an exercise is far from certain to succeed. In a potential Democratic reconciliation bill, lawmakers could choose to include some GOP or Trump administration priorities, either to gain fringe support from Republicans or to force President Trump to veto friendly policy leading into the 2028 presidential election.

With Democrats in the majority, leadership of the Senate's key healthcare committees, Senate Finance and Senate HELP, will shift. The Senate Finance Committee will be led by current Ranking Member Wyden, who will assume the chairship, and current Chairman Mike Crapo (R-ID) will become Ranking Member. In HELP, current Ranking Member Bernie Sanders (I-VT) will take the gavel, but with current HELP Chairman Cassidy leaving the Senate next year, the top Republican on the committee is undecided.

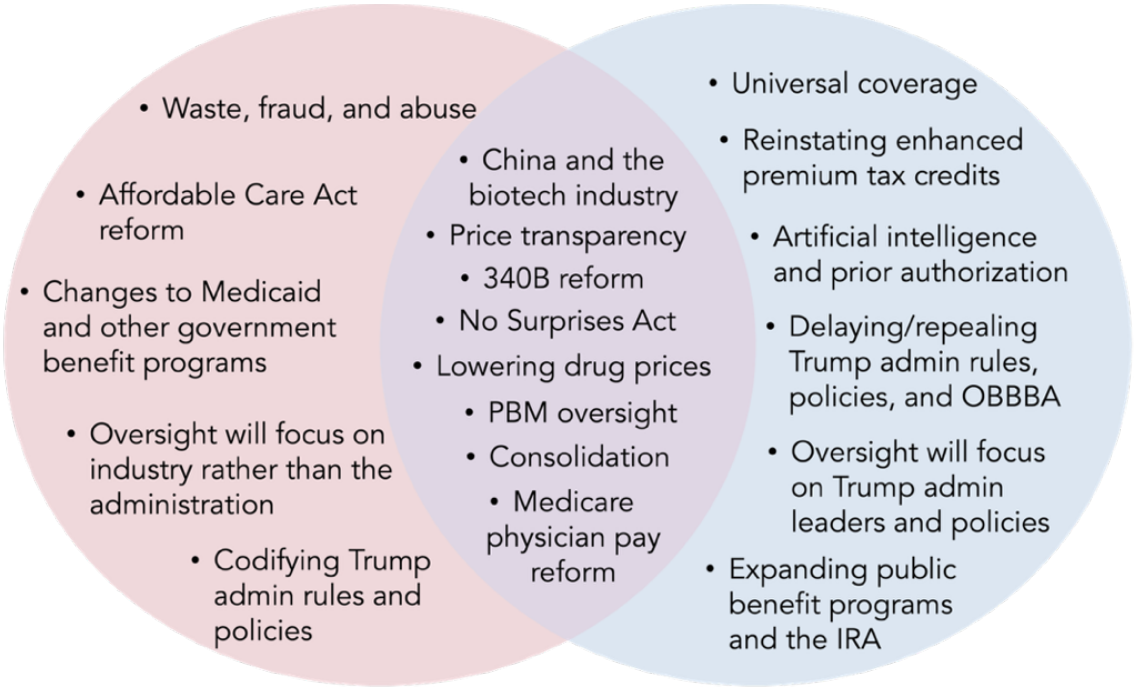
First in line will be Sen. Rand Paul (R-KY), who turned down the HELP chairship to lead the Homeland Security and Governmental Affairs Committee in the 119th Congress. With Sen. Collins' re-election loss, next in line is Sen. Lisa Murkowski (R-AK), who currently chairs the Senate Indian Affairs Committee and is the second most senior Republican member of the Senate Appropriations Committee. Following Sen. Collins' loss, Sen. Murkowski will need to choose which of potentially three committees she wants to assume the

Ranking Member position on: HELP, Indian Affairs, or Appropriations. If Sen. Paul and Sen. Murkowski opt for leadership roles on other committees, Sen. Josh Hawley (R-MO) is widely expected to assume the Ranking Member role on HELP. Importantly, the HELP Committee will play a significant role in the development of UFA language as bipartisan conversations occur across both chambers in anticipation of reauthorization by September 30, 2027 (*more on the UFA process can be found here*).

Preparing for the Post-Election Landscape

Democrats will control both chambers of Congress come January, but lawmakers in both parties have robust agendas and plenty of opportunity to advance key priorities. Major vehicles next Congress include government funding packages, the National Defense Authorization Act, UFA reauthorizations, and the Pandemic and All-Hazards Preparedness Act (PAHPA) reauthorization. Key committees, including House E&C and W&M, and the Senate Finance and HELP Committees, will welcome new members to the panels and there is a large class of new members across both chambers to meet with. We strongly encourage clients to be strategic, identify targets, anticipate opportunities and challenges, engage with champions, and develop strong relationships with potential new champions early on.

As discussed throughout this memo, bipartisan work will not stop even as party control switches in Congress. Lawmakers made significant progress on several bipartisan priorities in the 119th, and momentum may continue for anything not accomplished during the Lame Duck session:



Your team at Tiber Creek will be keeping track of election outcomes, committee leadership decisions for the 120th, Lame Duck activity, and policy development for next year. We are available to help you navigate the details and activities relevant to you and your organization. If you have any questions, please do not hesitate to contact any one of us.

www.tibercreekgroup.com

TIBER CREEK GROUP