

# CAPITOL STREET

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September 18, 2024

## House E&C Clears Telehealth Bill w/ PBM, Lab Payfors

Final Passage Likely in Post-Election Lame Duck Session of Congress

Relevant Companies

ALL HEALTHCARE

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### »» Our Take & Next Up

**Pandemic telehealth flexibilities would be extended for two years and PBMs would be required to delink what they're paid from the price of drugs under one of many bills passed Wednesday by the House Energy & Commerce Committee ([here](#)).** *The Telehealth Modernization Act ([HR 7623](#))* is expected to cost \$2B-\$4B and would be at least partly offset by the PBM de-linking and transparency provisions and a one year PAMA delay. The committee also approved a multi-year extension of FDA's pediatric priority review vouchers (PRVs, see our analysis [here](#)) and a joint resolution to stop Medicare's nursing home minimum staffing rule. Ending the staffing rule could provide \$22 B, which is a hefty sum to offset additional spending. We continue to believe these healthcare measures and several others – community health center funding, physician pay fix of some sort – will likely move in a year-end spending bill.

### »» Key Points

**We believe a two-year telehealth extension is likely before expiring at year-end.** Telehealth has become a standard of care since the COVID pandemic and would be difficult to take away from most Americans. A more permanent telehealth policy is preferred by most providers, but is cost-prohibitive. Stakeholders will likely continue to push for a permanent fix in the next Congress.

**We believe additional PBM reforms are likely to pass the Congress by Dec. 31, but still do not view the policies as detrimental to the PBM business model (unless commercial reforms come into play, which is a risk 4Q24).** PBM reform proposals that have moved out of other committees are still in play and represent attractive pay-fors as well. PBM provisions that are likely to be included in a lame duck package are focused on Medicare & Medicaid reforms (transparency, spread pricing ban, de-linking) with some possible commercial transparency requirements on plan reporting and annual disclosures (see our analysis [here](#)).

**Year-end spending bill remains likely vehicle for healthcare riders.** Congress is likely to pass a three-month extension of government funding before the end of September, which would give rise to a year-end vehicle that will attract several healthcare items: (1) telehealth extension (2) PBM reform (3) other policies such as physician pay & clinical lab reforms (4) potential community health center funding (5) *BIOSECURE*, though the anti-China bill would likely be a separate vehicle (Defense Authorization Act). See full list below.

**VALID, TROA, and MCED Bills Get Mentioned, But No Votes at Markup.** During the E&C markup, sponsors of three notable healthcare bills decried their omission from the markup. The bills include the Verifying Accurate Leading-edge IVCT Development (VALID) Act, which would reform the FDA's regulation of lab developed tests; the Treat and Reduce Obesity Act (TROA) to enable Medicare to cover GLP-1s for obesity; and the Medicare Multi-Cancer Early Detection (MCED) Screening Coverage Act, which would allow for Medicare coverage and payment for multi-cancer early detection screening tests. In our view, none of these bills are likely to be included in a year-end spending bill, though the VALID Act has been the most vetted.

**Healthcare bills that passed the E&C Committee on Sept. 18 include:**

- **H.R. 670**, *Think Differently Database Act* (Reps. Molinaro (R-NY) and Sherrill (D-NJ))
- **H.R. 8107**, *Ensuring Access to Medicaid Buy-in Programs Act of 2024* (Reps. Ciscomani (R-AZ) and Gluesenkamp Perez (D-WA))
- **H.R. 8108**, *To amend title XIX of the Social Security Act to add a Medicaid State plan requirement with respect to the determination of residency of certain individuals serving in the Armed Forces* (Reps. Kiggans (R-AZ) and Kaptur (D-OH))
- **H.R. 3433**, *Give Kids a Chance Act of 2024* (Reps. McCaul (R-TX) and Eshoo (D-CA))
- **H.R. 7188**, *Shandra Eisenga Human Cell and Tissue Product Safety Act* (Reps. Moolenaar (R-MI) and Dingell (D-MI))
- **H.R. 7623**, *Telehealth Modernization Act of 2024* (Reps. Carter (R-GA), Blunt Rochester (D-DE), Steube (R-FL), Sewell (D-AL), Miller-Meeks (R-IA), Dingell (D-MI), Van Drew (R-NJ), and Morelle (D-NY))
- **H.R. 3227**, *Ensuring Seniors' Access to Quality Care Act* (Reps. Estes (R-KS) and Connolly (D-VA))
- **H.R. 9067**, *Building America's Health Care Workforce Act* (Rep. Guthrie (R-KY))
- **H.R. 7155**, *United States-Abraham Accords Cooperation and Security Act of 2024* (Reps. Harshbarger (R-TN), Vargas (D-CA), Weber (R-TX), Peters (D-CA), Harris (R-MD), Levin (D-CA), and Allen (R-GA))
- **H.J. Res. 139**, *Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services relating to "Medicare and Medicaid Programs: Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting"* (Reps. Fischbach and Pence)

**Other thoughts on healthcare year-end policies that are in the mix (& our take).**

- **Telehealth Extension.** OUR TAKE: A two-year extension of telehealth flexibilities remains the likeliest healthcare item to pass in a year-end spending bill, in our view. Public health experts believe that chaos would likely ensue should telehealth flexibilities expire, resulting in delayed care.
- **PBM Reform.** OUR TAKE: We have said that PBM reforms are largely non-detrimental to the overall business model and that Medicare/Medicaid reforms (banning Medicaid spread pricing, transparency, de-linking) could pay for a larger package in Nov/Dec 2024.
- **BIOSECURE.** OUR TAKE: While final passage of some version of BIOSECURE remains possible before year-end, we continue to believe the legislative effort could easily slip into 2025. Although the bill cleared the House, companion legislation in the Senate remains stalled with some opposition from Senate Dems expected.
- **Physician and Clinical Lab Pay Relief.** OUR TAKE: Physicians are set to receive a 2.8% cut in pay under Medicare's draft CY2025 Physician Fee Schedule (PFS) released in July and will be lobbying heavily for a reprieve, similar to past years. Additionally, we expect another one-year freeze of clinical lab payment changes (PAMA) before they go into effect Jan. 1, 2025.

- **FDA’s Pediatric Disease Priority Review Voucher (PRV) Program.** OUR TAKE: The PRV program is set to expire on September 30, but there is bipartisan support for a multi-year extension by year-end, which we think is likely.
- **Other Extenders: Community Health Centers, PAHPA, SUPPORT.** OUR TAKE: There isn’t much discussion on these (expired) provisions yet but there could be action to incorporate some sections of the aforementioned bills in the lame duck.
- **Graduate Medical Education.** OUR TAKE: Senate Finance Committee Chair (Wyden, D-OR) wants to create 10,000 GME slots. However, this is expensive and aspirational, and there would be food fights as to who gets the slots. Possible to perhaps incorporate a lower # at year-end. Note that 10,000 graduate medical education slots cost \$10 B/ten.
- **Orphan Drug IRA Fix.** OUR TAKE: BIO Chair John Crowley believes that the orphan drug “fix” that would exempt orphans from IRA negotiation (multiple designations) is likely at year end. While we believe this would be a common sense fix, the price tag to do so may be prohibitive (and would need to be offset).
- **Drug Shortage Solutions.** OUR TAKE: Addressing drug shortages has bicameral & bipartisan support. The Finance draft focuses on generic drugs, establishing a new Medicare program that targets group purchasing organizations (GPOs), wholesalers, and providers, and could be incorporated into year-end legislation.
- **Hospital Site-Neutral:** OUR TAKE: While site-neutral legislation is lower in likelihood, we continue to believe it’s not off the table. Recall that drug-only reforms are more palatable to hospital systems across the country and would generate \$2.7 B in savings. This makes it an attractive pay-for.

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