

CAPITOL STREET

November 6, 2024

Trump Wins, Senate Flips GOP w/ House Undecided

First 100 Days: What We Can Safely Say & Tax/ACA, IRA & Med Advantage

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Donald J. Trump has won the US Presidential election and will be accompanied by a GOP Senate (51 for now, House remains undecided) to align on policy. As a reminder, we do not believe major healthcare reform is in the mix over the next four years as tax, immigration, economy and foreign affairs will be of utmost importance to address. Portions of the IRA would be at risk in a GOP trifecta (but would have to be paid-for since negotiation saves dollars), and Medicare Advantage (MA) faces Republican cuts (HRA, chart reviews) as GOP lawmakers fume over plan practices, eyeing Reconciliation as the place for MA reforms, which could (partially) pay-for ACA subsidies, along with repealing nursing home staffing rules and other reforms (abolishing LDT pathway/non-enforcement, which can actually be done by new FDA leadership).

Please join team Capitol Street for a post-election deep-dive into healthcare priorities, must pass bills, and sector by sector outlook on **Friday November 8, 2024 at 11:00 am ET**. Registration [here](#).

»» Key Points

Major healthcare legislation is unlikely 2025+. As a reminder, healthcare policy issues (other than abortion) have not been a priority this cycle. Immigration, trade, geopolitical and economic issues have been front and center for the candidates. We expect no major healthcare reforms in the next 4 years as lawmakers largely focus on immediate concerns: ACA subsidy extension that coincides with tax reform (sunset Dec 31, 2025).

FIRST 100 DAYS

— **Tax/ACA subsidies.** Congressional leaders have promised an incredibly productive first 100 days but we look to the first 200. That means that we expect Republicans to try to extend the Trump-era tax cuts by April 30. This filibuster-proof reconciliation package could include big changes to energy policy and other areas as well, like healthcare as Republicans fret over MA (*see below*).

— **RFK, Jr.** With a Senate majority it would be much easier, for example, to give **Robert F. Kennedy Jr.** a position atop one of the health agencies, if he wants to serve in the federal government. (our 10/30 take [here](#)).

He may be more palatable as a White House advisor, versus Congressional consideration & 51 votes, given his reputation as a purveyor of health misinformation.

-- **Reorg & budget cuts for CDC & NIH, respectively, potentially lie ahead (Red wave).** We look for Elon Musk-type spending and efficiency analysis, coupled with public health skepticism as concerning for CDC, NIH budgets. This is an exercise that will be coupled with Congress, obviously.

HEALTHCARE

We think ACA subsidies will be extended (positive for health insurers) even in a GOP sweep, NOTE that MA is in the mix as pay-for. Subsidies help the bad debt issue in red states that did not expand Medicaid, like Texas and Florida. The subsidies wouldn't be as generous in a GOP environment, but we doubt Republicans allow them to expire (at least 1-3 years of subsidies are likely). As a reminder, ACA enrollment surged in red states this year with the largest increases in WV, LA, OH, ID, and TN.

Medicare Advantage (MA) will rally today but not necessarily all roses under Pres. Trump as House & Senate GOP lawmakers are united in angst over HRA, chart reviews and network/prior authorization. They will be looking for pay-fors in a Reconciliation bill in 2025 (Tax/ACA). CMS has provided two consecutive years of rate cuts, and a three-year phase in of V28. Congress continues to raise the flag on HRAs, broker & agent conduct, marketing materials, ghost networks, prior authorization as (particularly rural) hospitals struggle.

Drug price reform (IRA drug negotiation) likely remains, even under a GOP sweep, with Part B “most favored nation” being difficult to implement. We do not expect a President Trump to repeal the IRA due to its enormous savings.

- However, we could see higher negotiated prices (closer to ceiling price) and more opportunities for industry interaction with CMS during the negotiation process, along with tweaks to orphan exemptions and 9-13 parity.
- Part B reform could be in play under a Trump administration; however, it is unlikely to occur as physicians/providers will (as they always do) strongly oppose changes to the buy & bill model that puts their revenue at risk.

FTC may be incrementally better under Trump but remember JD Vance likes Lina Khan ([here](#)).

- The FTC had taken an increasingly activist stance under the leadership of Lina Khan and has been particularly aggressive in the healthcare sector. The agency has updated their M&A guidelines, and sued the big three PBMs (Caremark Rx, Express Scripts (ESI), and OptumRx).
- Vertical consolidation will likely continue to be scrutinized and recall the agency's new merger guidelines allows almost any deal to be challenged. Lina Khan may continue in her role for some time and the FTC is likely to continue their activist approach as GOP (MAGA contingent) has focused on pro-competition reforms.

340B legislation is unlikely to pass in the near term as hospitals duke it out with manufacturers in the courts. As a reminder, 340B ACCESS Act, introduced earlier this year, targets large health systems in an effort to eliminate abuse of the controversial program. The bill contains some overlap with the bipartisan “Gang of

Six” Senate bill from early February. We could see 340B reform progress in 2025 at the earliest. Notably, the program is seeing issues from the potential impact of IRA negotiated prices, manufacturers' conflict with the 340B rebate model, and the potential Chevron impact on HRSA's ability to effectively manage the program. Current issues may push lawmakers to address 340B earlier than expected.

Hospital site-neutral is attractive in a Republican sweep. There is ongoing frustration and angst on hospitals buying up physician groups & surgery centers and continuing to bill at a higher inpatient rate for services administered in an outpatient setting. GOP lawmakers have been particularly vocal about the impact on federal healthcare spending. We expect that hospital site neutral will likely focus first on physician administered drugs (\$3 B in savings over 10) and small policy changes. Site neutral reforms that shut down the entire practice produce much more savings and are attractive in a deficit reduction package, but are unlikely anytime soon (\$180 B in savings).

Medicaid: State Directed pay may be at risk if debt/deficit discussions ensue ... but that doesn't appear in be in the cards (expansion near-term possible). Some payments (due to state-federal match) approach commercial rates in hospitals across the country. They seem safe for now and are a bit of a sleeper issue in DC. We think that if deficit reduction talks come to be – perhaps as a part of the debt limit – pay could be at risk. Trump has Medicaid reforms (work requirements vs block grants) on his mind, but other entitlements are likely safe.

MedTech and innovation win in an all-GOP landscape, though Trump tariffs worry industry. Earlier this year, several innovation friendly bills passed out the House Ways and Means committee (Chair Smith, R-MI), including Medicare coverage of breakthrough devices, pan-cancer screening diagnostic tests, cognitive detection impairment detection tools, AI-enabled remote monitoring devices, and weight loss medicines coverage (limited) in Medicare. Our analysis [here](#). Improving access to innovation has been a GOP priority and we could see these bills strongly in play under a GOP sweep. *VALID Act* (LDT reform to replace FDA pathway being challenged in courts), *SALSA* (new version!), and *Cures 2.0*, on the other hand, may move ahead.

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