

# CAPITOL STREET

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## Lame Duck Healthcare Package: Still Looking Skinny

PBM: Pharmacy Divestiture Bill Unlikely to Pass '24 But PBM Reform Likely Robust in '25+

Relevant Companies



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### »» Our Take & Next Up

**As the House & Senate leaders negotiate to pass a 3-month CR + health extenders, we have said that a clean budget extension (to mid-March 2025) plus telehealth (one or two years, or simply three months) is the most likely outcome.** On PBM, two things (1) a small package of policies in the bipartisan mix in 2023-2024 (Medicaid spread ban, Transparency --including in commercial -- and Medicare de-linking) are said to be considered together for inclusion in a potential end-of-year deal. Recall the PBM provisions together save about \$2B/ten, and could pay for a small set of healthcare policies like telehealth. However, disagreement over health provisions and package size mean PBM offsets are likely not needed. Separately, (2) we do not believe a new Senate bill (Warren-Hawley) that would require insurers/PBMs to divest all types of pharmacy (mail order, retail, specialty) will pass in 2024 but could be in the running in 2025. PBMs are not facing a friendly policy atmosphere in 2025+.

### »» Key Points

**We have said most recently that a CR for 3 months + telehealth for that period (3 months) or 1-2 years is the most likely outcome,** with the Medicare Improvement Fund as an offset. Current government funding expires December 20. Lawmakers have five days to introduce and vote on a package in the House. We wanted to point out the fact that the package is still being negotiated, with health policies we have written about in the past -- telehealth, hospital @ home, Medicaid DSH/area wage, as well as a few others.

**We had said on Oct 22 ([here](#)) that PBM provisions will likely fall out (given less need for pay-fors) this Fall as a skinny funding/HC bill is the likely outcome.** Republicans have few reasons to negotiate with Democrats right now. Still, we wanted to note a change in momentum this week around PBMs.

**PBM reform could be included in the continuing resolution, but the package is still in flux, and we still lean towards a skinny bill.** PBM reforms that are under consideration include those that address (1) transparency; (2) Part D delinking; and (3) Medicaid spread pricing ban. Anti-PBM policies that passed out of committees include Medicare Part D transparency, Medicaid spread pricing ban, and Part D de-linking of PBM

fees. PBMs remain a bipartisan effort despite delays and could be an easier pay for compared to other reforms like site neutral. See background for details on specific PBM reforms.

**PBM reforms (taken together) save \$2 B over ten, and if they fall out in this Dec package then we expect bigger PBM reform in 2025 as the GOP is not industry friendly.** Transparency reforms would impact both Medicare and commercial and would require the reporting of ownership disclosure (commercial), contracting agreements (Medicare), and reporting related to compensation, fees, rebates & formularies (commercial & Medicare). Medicare Part D de-linking, a Senate priority, passed out of both [Senate Finance](#) and [House E&C Committee](#) in 2023, but saves little (~\$226 M over 10 for the [House version](#)). The Medicaid spread pricing ban would prohibit PBMs from spread pricing practices in state Medicaid programs (\$313 M in savings over 10), though this is a dying state practice.

**Bipartisan health insurer/PBM – pharmacy divestiture (over three years) is meant to address vertical integration and is unlikely to pass right now but could be considered in 2025.** There is no time to pass this bill in the next few weeks. Sens. Elizabeth Warren (D-MA) and Josh Hawley (R-MO) introduced a bill that would force the companies that own health insurers or PBMs to divest their pharmacy businesses within three years, per [WSJ](#). A House companion bill (*Patients Before Monopolies Act*) is also said to be introduced as well by Reps. Jake Auchincloss (D-MA) and Diana Harshbarger (R-TN). ([here](#))

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