



Policy Brief

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Midterm Races to Watch

With November 6th just around the corner, the Midterm elections are at the forefront of everyone's minds. While Republicans are working to maintain their majority in both Congressional chambers, Democrats are campaigning to flip the 23 Republican held seats needed to take control of the House. Senate Democrats have an uphill battle in the upper chamber as 10 of the seats held by Democrats are up for reelection in states that Donald Trump won in 2016. Republicans hold a slim 51-49 majority in this Chamber. Where are the most competitive races? Read below to find out.

Hawkish House Battles

Since August, the number of races where both parties have an equal chance of winning has grown to about 30, including 28 seats currently held by Republicans. Among the 30 tossups, there are five in [California](#), two in [Florida](#), two in [Illinois](#), two in [Texas](#), one in [Kansas](#), one in [Kentucky](#), two in [Ohio](#) and two in [North Carolina](#). These races are very tight; experts predict that both sides have a roughly equal chance of winning.

Seething Senate Skirmishes

In order to take control of the Senate, Democrats will need to win the states of West Virginia, North Dakota, Missouri, Montana, Indiana and [Florida](#), where they are the incumbent. They will also need to win the Republican-held seats in Nevada, Arizona and possibly [Tennessee](#) or [Texas](#) in order to win the 51 seats majority. Consequently, it is less likely for Democrats to regain the majority in the Senate.

Gubernatorial Quarrels

The Governors elected this fall will play crucial roles. Not only will they govern the executive branch of their respective states, but many will also play a significant role in congressional redistricting that will take place after the 2020 census. The nine states with the most contentious Gubernatorial races are Florida, Georgia, Illinois, Kansas, Michigan, Maine, Nevada, Ohio and Wisconsin.



New CMS State Waiver Guidance

CMS has released new [guidance](#) for 1332 waivers (a.k.a. State Innovation Waivers), which allow states to experiment with their insurance markets. Instead of requiring that *each* plan offer comprehensive coverage, CMS now advises that *at least one* comprehensive plan be made available. This could [inflate costs](#) for sicker patients, jeopardizing their access to care and driving up hospital bad debt. Keep reading for more on the new guidance and its implications for health systems.

What's different about the new guidance?

This guidance is a departure from CMS' previous requirement that waivers offer coverage that is at least as comprehensive as what a patient would purchase on the Health Insurance Exchanges. The Administration will now allow skimpier health plans and loosen the requirement that waivers meet the ACA's preexisting condition requirements. The revised guidance also permits individuals to purchase short-term insurance plans using federal subsidies, something not allowed in previous years.

What implications could this have for health systems?

There is a risk that this could [create two insurance markets](#): one for the young and the healthy and another for those with complex care needs. While the healthy may be attracted to skimpier, cheaper health plans, sicker people are not able to go without comprehensive coverage. Without their healthier counterparts, premiums in the Exchanges will likely increase, pricing our sickest patients out of the insurance market. Patients may also not realize that they lack coverage for necessary services until they are already in crisis. It is important to note that states have the final say on how to implement CMS' new guidance—making the nationwide gubernatorial races and the advice that health systems give to state lawmakers increasingly important.



The Presidential Regulatory Agenda: What to Expect This Fall

The Trump Administration recently released its fall regulatory agenda, which includes several health care rules to be published through the end of the year and in 2019. Among the rules is one that would allow states to charge co-pays and premiums to Medicaid beneficiaries and another on Managed Care that could expand plan flexibility. Other rules will expand the use of health reimbursement accounts, make technical changes to Medicare Advantage, and require more transparency in drug pricing. The full HHS regulatory agenda can be found [here](#). The rules included cover the following topics:

- [Modernizing Stark Law](#)
- [Interoperability and Patient Access](#)
- [Health Reimbursement Arrangements and Group Health Plans](#)
- [Discharge Planning for Hospitals, Critical Access Hospitals and Home Health Agencies](#)
- [Religious Exemptions and ACA Coverage of Preventative Services](#)
- [HIPAA Privacy: RFI on Removing Barriers to Coordinated Care](#)
- [HIPAA Privacy Rule: Presumption of Good Faith of Health Care Providers](#)
- [Nondiscrimination in Health Programs or Activities](#)



A Look at The Federal Register

International Pricing Index Model for Medicare Part B Drugs. CMS seeks comments on an [advance notice of proposed rulemaking](#) (ANPRM) that would create a five-year pilot program beginning in 2020 that tests three new measures for indexing Part B drugs. One measure will use international pricing as a metric, one will develop a new Competitive Acquisition Program (CAP), and one would alter the Average Sales Price (ASP) model already in effect. **Comments are due December 31st.**

Health Reimbursement Arrangements and Group Health Plans. CMS seeks feedback on a proposed [rule](#) that would allow the integration of Health Reimbursement Accounts (HRAs) with individual health insurance coverage, if certain conditions are met. The proposal also sets forth conditions under which certain HRAs would be recognized as limited excepted benefits. The rule would provide a special enrollment period in the individual market for individuals who gain access to an HRA integrated with individual health insurance coverage or who are provided a Qualified Small Employer Health Reimbursement Arrangement (QSEHRA). **Comments are due December 28th.**

CY 2019 Final Home Health Prospective Payment System Rate Update. CMS finalized significant changes to the Home Health Prospective Payment System (PPS). The [rule](#) allows the cost of remote patient monitoring to be reported by home health agencies as allowable costs on the Medicare cost report form. The rule also establishes the health, safety, and accrediting standards for qualified home infusion therapy suppliers. The rule eliminates the requirement that the certifying physician estimate how much longer home health services are needed when recertifying the need for continued home health care.

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