

Health Policy in Transit A Purchaser Viewpoint

National Alliance of Healthcare Purchaser Coalitions is a national, non-profit, membership association of employer led coalitions across the country collectively serving 12,000 purchasers and 45 million Americans.

2021 Legislative Outlook

President-elect Joe Biden has an ambitious health care policy agenda mostly based on expanding coverage to more Americans and building on the Affordable Care Act (ACA). We do not yet know what the power balance will be in the Senate, but it seems likely that Republicans will maintain their very slim majority after the runoff elections are completed in Georgia. With a smaller Democratic majority in the House, and a Republican majority in the Senate, it remains to be seen exactly how many of Biden's campaign promises he may actually be able to implement. We provide this analysis of potential policies that the National Alliance plans to monitor as we see how a Biden Administration unfolds.

With a divided Congress, the pricing provisions in the **prescription drug legislation** that passed the House of Representatives a year ago (H.R. 3) are unlikely to be enacted. However, policy changes may come through the regulatory process and more narrow bipartisan legislation. Biden has also stated his position that Medicare be allowed to negotiate prices; it remains to be seen if/how any of the more nuanced drug pricing policies, such as changes to how rebates work, would apply to employer plans.

Depending upon what happens during the “lame-duck” session of Congress, **COVID-19 relief and stimulus legislation** could be among the first orders of business in the next Congress. Whether provisions ensuring health care coverage during the pandemic are included remains to be seen, and disputes over COBRA subsidies in a divided Congress likely remain. It also not yet clear whether COVID-related legislative and regulatory relief that has been provided to employers, plans and employees, including those related to expanded telehealth access, will be extended under the Biden administration. The new administration is also expected to focus on the health disparities among racial and socio-economic groups that so clearly have been brought into focus by the pandemic.

With a divided Congress, the new administration will likely turn more aggressively to **regulatory action** to try to advance their policy objectives. The Biden administration is likely to revise or undo a number of rules promulgated by the current administration, such as those on health care nondiscrimination, association health plans, and short-term insurance.

Finally, we continue to engage with policymakers on the issues we've been working on all year, including surprise billing and price transparency. Working with our sister organizations, such as The ERISA Industry Committee (ERIC) and the American Benefits Council, our efforts to meet with Hill staffers and to draft sign-on letters to key members of Congress will continue through the lame duck session of Congress and into the new Congress in January.

The impact of Biden's election on employer-sponsored health coverage will not be as profound as if a Democratic sweep of the White House and Congress had materialized. Without the support of a fully Democratic Congress, President-elect Biden's broad health plans, including a public option, will be largely stalled. However, there may be some opportunities for more targeted bipartisan health care legislation and the Biden administration may turn to executive action to pursue policy changes without Congress, similar to how President Trump has implemented many of his campaign promises. If, however unlikely, Democrats win both Senate seats in Georgia and the Democratic sweep does materialize, more dramatic changes for employer-sponsored coverage may lie ahead.

President-elect Biden's plan to **lower health care costs** centers on aggressively using antitrust authority to address health care market consolidation, as well as the government negotiating rates with providers within a public option – a non-starter in the Senate. Whether bipartisan agreement can be reached on other measures to reduce health care costs remains to be seen. Biden's campaign materials do not mention other potential proposals to address costs, such as surprise billing, or price transparency, but since these issues have bi-partisan support in Congress, we will continue to monitor whether and how policies to address these issues may be implemented.