



NEBGH POLICY WATCH

THE FIRST 100 DAYS OF THE SECOND TRUMP ADMINISTRATION: Health Care and Benefits Implications for Employers

Thursday, May 8, 2025 | 12:00 – 1:00pm

Webinar Procedures



All lines will be muted



Please submit all questions using the “Q&A” dialog box



Email Diane Engel at dengel@nebgh.org with any issues during this webinar



The recording and a PDF of the presentation will be shared.



Q&A

You have no question.

What h

☐ Send Anonymously Send

Speakers



Rachel Snyder Good
Strategic Counsel
Epstein Becker Green



Philo D. Hall
Member of the Firm
Epstein Becker Green



**Christine Burke
Worthen**
Member of the Firm
Epstein Becker Green



David McNitt
Partner
The National Group



**MODERATOR
Kim Thiboldeaux**
CEO
NEBGH

The First 100 Days of the Second Trump Administration: Health Care and Benefits Implications for Employers

Northeast Business Group on Health

May 8 , 2025

Presented by



Rachel Snyder Good

Strategic Advisor, Epstein Becker Green

RGood@ebglaw.com

443-663-1355



Christine Burke Worthen

Member of the Firm, Epstein Becker Green

202- 861-5333



David McNitt

The National Group

DMcNitt@thenationalgroup.net

610-256-7940



Philo Hall

Member of the Firm, Epstein Becker Green

phall@ebglaw.com

202-861-1382

Deep Roots in Health Policy, Regulation, Payment

EPSTEIN
BECKER
GREEN

EBG
advisors



National Health Advisors



Health care and life sciences law super boutique founded in 1973

- 150+ health care attorneys
- Health Employment and Labor (HEAL) Group of 100+ attorneys
- Nationwide reach



Legal practice driven by federal and state law and regulation

- Market Access
- Policy
- Compliance



A growing network of healthcare, privacy, security, and life sciences consultants

- Policy
- Regulation
- Payment & Reimbursement



Multi-disciplinary

- Data Security
- Business Strategy
- Public Policy
- Medicine & Science



Bipartisan health care and life sciences consultancy dedicated to the provision of Capitol Hill legislative and federal regulatory advocacy



The National Health Advisors are:

- Legislative policy veterans with prior Capitol Hill experience
- Federal regulatory veterans with prior federal agency experience

EBG is the proud founding sponsor of the [Women Business Leaders of the U.S. Health Care Industry Foundation](#)

Epstein Becker Green Resources

ebglaw.com/trending-issues/the-trump-administration-resources-for-employers-and-health-care-organizations

EPSTEIN
BECKER
GREEN



The Trump Administration: Resources for Employers and Health Care Organizations

OVERVIEW

FOCUS AREAS

MEDIA

EVENTS

INSIGHTS

Each change in federal or state administration or control of Congress can alter the regulatory, legislative, and enforcement landscapes, significantly influencing the business and compliance strategies of our clients.

Using our more than five decades of experience, Epstein Becker Green deploys critical problem-solving approaches for clients in anticipation of, and in response to, these changes. We embrace the challenges presented by past administrations and successfully navigate clients through untested waters of reform and compliance. You can count on Epstein Becker Green, once again, to be the legal guide for your complex issues.

Our diverse team of attorneys, across multiple practices, provides clients with advice and guidance, along with comprehensive resources in dealing with Congress, federal agencies, state legislatures, and state agencies.

See below for our related [Media](#), [Events](#), and [Insights](#).

Disclaimer

This presentation has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. Please consult your attorneys in connection with any fact-specific situation under federal, state, and/or local laws that may impose additional obligations on you and your company.

Zoom can be used to record webinars/briefings.

By participating in this webinar/briefing, you agree that your communications may be monitored or recorded at any time during the webinar/briefing.

Attorney Advertising.

AGENDA

The Tools of the Second Trump Administration

Health Care, Medicine and Science Implications

HR Benefits Implications

Health Policy Impacting Employers

Q & A

EPSTEIN
BECKER
GREEN

The Tools of The Second Trump Administration

Executive Order (EO)

Directing Administrative Action



- “Bully Pulpit” Presidents use Executive Orders to publicly state directives to the executive branch agencies
- These directives are generally followed up by agency action in the form of notice and comment rulemaking
- Usually clear on which agency or agencies are being directed to take action
- Often cite the President’s Constitutional and Statutory Authority
- Published in the Federal Register
- Can be revoked by the President at any time
- Revocation of the EO does not automatically revoke rules that were finalized to effectuate the EO, but instead, signals to the current administration to begin that process

Department of Government Efficiency (DOGE)

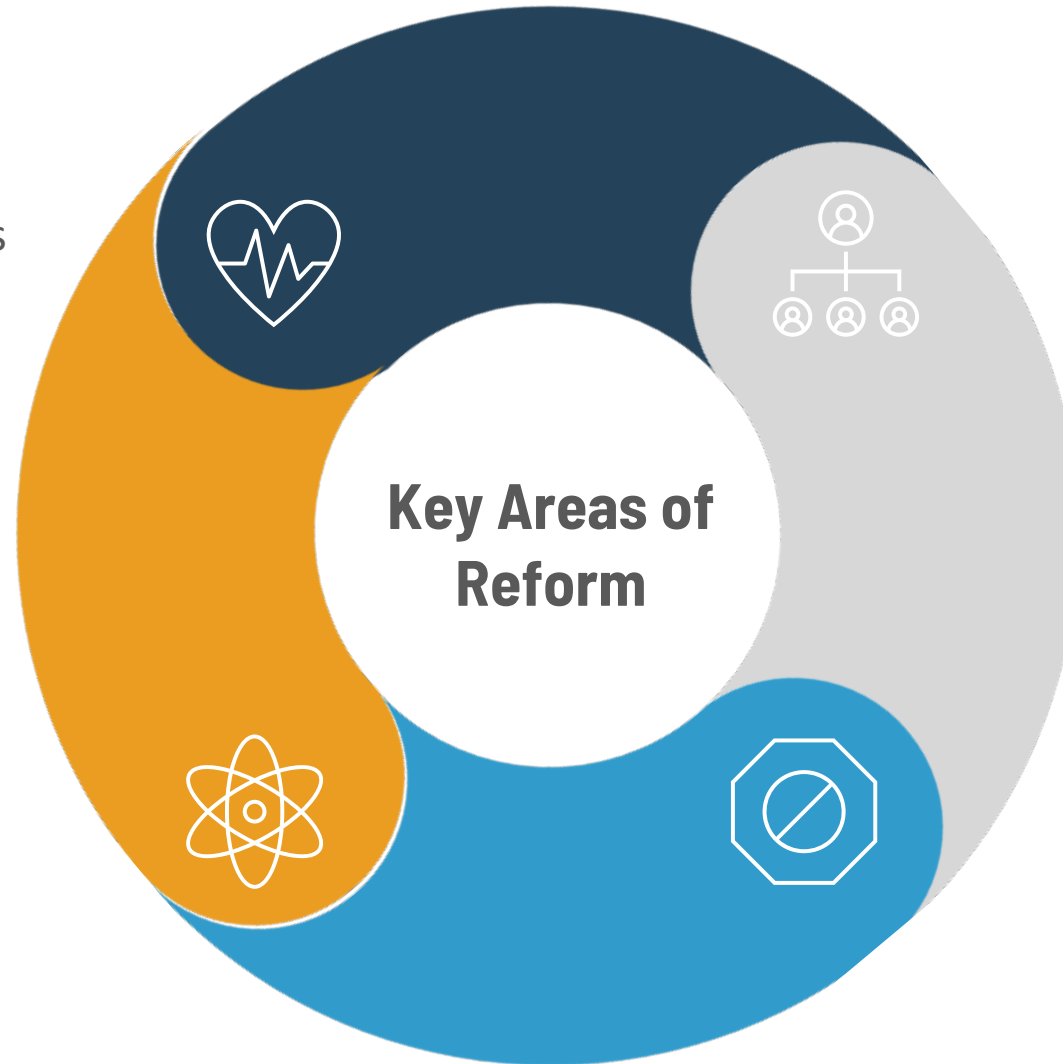


- Stated Goals:
 - To reduce government spending by \$150 billion by the end of the Fiscal Year
- Early Activity:
 - Reducing Federal Workforce
 - Reviewing & terminating grants/contracts
- Deregulatory Role:
 - Mid-April list of deregulatory recommendations in coordination with all Departments
- Political Role:
 - Enhance perception of Fiscal Responsibility; split stakeholder focus; justify Congressional deficit spending

HHS Undergoes Overhaul of Health Agencies

Chronic Disease
Shift in focus across HHS and its subagencies from infectious to chronic diseases

Scientific Methods
Emphasis on “Gold Standard” science and “radical transparency”



Reorganization
Force reduction and restructuring to bolster efficiency across the HHS and its subagencies

Research
Funding freezes and terminations, aimed research and various government research

Trump Administration Health Policy Leadership

“Personnel is Policy” – Scott Faulkner, Director of Personnel for President Reagan

President Trump fostered a competitive entrepreneurial environment in his first Administration

The White House fostered a competitive environment among political appointees, rather than directly manage a rigid central agenda

Health and Human Services (HHS)



Nominee:
Robert F. Kennedy, Jr.
Make America Healthy
Again MAHA”

Centers for Medicare & Medicaid Services (CMS)



Nominee:
Dr. Mehmet Oz
Cardiothoracic Surgeon
Former Senate
Candidate

White House Office of Management & Budget



Nominee:
Russ Vought
Former OMB Director &
Significant Contributor
to “Project 2025”

Budget Reconciliation: When will health care cuts be decided?

2025 TIMELINE

1

February 21, 2025:
Senate Passed its version of
FY25 Budget Resolution

3

April 10, 2025:
House passed the Senate
amended FY25 Budget
Resolution. Passing identical
budget resolutions allows
for the reconciliation
legislating process to begin.

5

NEXT STEP:
Each chamber must pass
the same reconciliation bill.
Passage can be by simple
majority

2

February 25, 2025:
House Passed its version of FY25 Budget
Resolution
Includes the \$880B deficit reduction
instruction, which will necessarily implicate
Medicaid cuts, though the popular program
is not explicitly listed in the House-passed
version

4

KEY POLICY DECISION POINT:

The reconciliation bill specifying actual cuts must be
drafted based on reconciliation instructions from the
budget resolution
Committees of jurisdiction must provide their legislative
recommendations to their respective Budget Committee by
the deadline prescribed in the budget resolution
House Energy and Commerce and Senate Finance are the
committees that have Medicaid jurisdiction and would
decide Medicaid policy

6

NEXT STEP:
President signs the
reconciliation bill



OTHER KEY DATES:

Deadline for Congress to extend government funding to prevent a government shutdown **Midnight September 30, 2025**
Expiration of the Tax Cuts and Jobs Act of 2017 (Trump Tax Cuts) **December 31, 2025**

Recission

“White House to ask Congress to cut \$9B in funds, including for NPR, PBS, USAID”

The Annual Congressional Appropriations Process directs the Executive Branch how they must spend money.

The Trump administration is asking the 119th (current) Congress to pass a bill cancelling \$9.3B in funding requirements passed by previous Congresses.

Recission only requires simple majorities in both the House and Senate to pass.



EPSTEIN
BECKER
GREEN

Health Care, Medicine and Science Implications

Projected Impact of the Second Trump Term on U.S. Public Health



Erosion of vaccine confidence

due to public promotion of misinformation and anti-vaccine narratives



Loss of scientific transparency

as advisory bodies are sidelined and communication is politicized



Reduced vaccine access

as federal support for campaigns, education, and CDC infrastructure is rolled back



Increased vulnerability to outbreaks

without vaccine promotion, safety monitoring, and reduced funding for disease surveillance



Delays in protection

From preventable diseases, especially where ACIP timelines and coverage decisions are disrupted



Exacerbation of inequities

with lower-resourced communities more affected by limited access and misinformation

Projected Impact of the Second Trump Term on Vaccines Business



Reduced early-stage innovation

due to funding cuts and academic research constraints, limiting pipeline development



Delays in product approvals

and recommendations, directly impacting launch strategy and revenue forecasting



Less collaboration with agencies

due to loss of expertise and institutional knowledge through HHS workforce reductions and leadership turnover



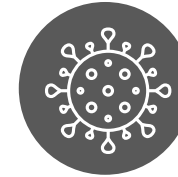
Investment pullback

in biotech and vaccine R&D, especially for smaller companies with fewer products and lack of stable financing



Reimbursement challenges

due to delays in ACIP recommendations and disruptions in standard CDC communications like MMWR



Limited future asset choice

particularly for large manufacturers reliant on external innovation and smaller partner companies



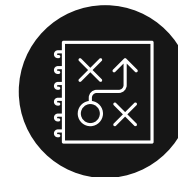
Increased regulatory uncertainty

including missed FDA deadlines and lack of advisory committee transparency, complicating development timelines



Shrinking viable markets

and reduced ROI for companies using novel technologies and with assets in pandemic preparedness, respiratory, or adult vaccine areas



Unpredictable policy shifts

weakening the U.S. market's reliability for global portfolio planning

Key Employer Takeaway: Monitor agency action and USSC *Braidwood* decision

Telehealth

What is Permanent vs What to Watch

What Is Permanent (Behavioral Health)?

- Medicare patients can receive telehealth services for behavioral health care in their home
- No originating site geographic restrictions for Medicare behavioral telehealth services
- Behavioral telehealth services in Medicare can be delivered using audio-only communication platforms
- Marriage and family therapists and mental health counselors can serve as Medicare distant site providers

What to Watch (extension by Congress to extend past September 30, 2025 needed)?

- Medicare patients can receive telehealth services for non-behavioral health care in their home
- There are no geographic restrictions for originating site for Medicare non-behavioral telehealth services
- An in-person visit within six months of an initial Medicare behavioral telehealth service, and annually thereafter, is not required (FQHC/RHC – January 1, 2026)
- Non-behavioral telehealth services in Medicare can be delivered using audio-only communication platforms

Employer Health Plan Telehealth Developments:

- The CARES Act of 2020, as extended through the CAA, 2023, allowed HDHPs to provide first-dollar coverage of telehealth without negatively affecting participants' HSA eligibility
- The extension expired at the end of the 2024 plan year (December 31, 2024, for calendar year plans)
- An employer that provides HDHP health plan coverage will need to amend its HDHP if it includes first-dollar telehealth coverage

Key Employer Takeaway: Update telehealth benefits for HDHPs with first-dollar coverage. Monitor for further extensions of September 30, 2025 date.

Artificial Intelligence (AI)

President Trump's Artificial Intelligence (AI) Action Plan Takes Shape as NSF, OSTP Seek Comments

Workforce Bulletin

February 24, 2025 | Blogs | 4 minute read

- January 23, 2025 President Trump signs EO 14179 “Removing Barriers to American Leadership in Artificial Intelligence” rescinding President Biden’s AI EO
- Directed the Office of Science and Technology and Policy (OSTP) to create an AI Action Plan
- February 6, 2025 the National Science Foundation’s Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) put out a Request for Information on the AI Action Plan on behalf of OSTP
- Comments were due March 15th, there were over [10,000 comments received.](#)
- Still waiting on the release of the AI Action Plan
- Unclear if health care will feature prominently or at all

Key Considerations

Managing Enterprise Risk Through Robust Governance Frameworks

- Per [KPMG Generative AI Survey](#) of 225 senior business leaders at companies with \$1 billion or more in revenue, GenAI is dramatically shifting how leaders are charting the course for their organizations:
 - 71% are leveraging data in decision making, 52% say it is shaping competitive positioning, and 47% say it is opening new revenue opportunities
 - Executives say AI investment and ROI will increase in the short term. 83% of respondents say their GenAI investments will increase over the next 3 years, and 78% are confident in the ROI of planned investments. The Importance of Having a Compliance Program for the Creation and Use of AI Tools
- What Makes a Corporate Compliance Program “Effective”?
- Current Voluntary Compliance Frameworks to Consider
- Heat Map Exercise - Estimating Enterprise Risk on Creation and Use of AI Tools
- How Stakeholders can get started creating an Internal Voluntary AI Tool Compliance Program

Current Voluntary Compliance Frameworks to Consider

- In the healthcare industry context, the Department of Health and Human Services Office of the Inspector General (HHS-OIG) has adopted the broad principles of the USSG 7 key criteria when creating its own more specific 7 elements of an effective voluntary compliance program for those companies that do business with HHS and handle sensitive health care information, such as health care providers and health care insurance companies. See [HHS OIG Compliance Guidance](#)
- Creating and implementing policies and procedures
- Designating a compliance officer and committee
- Conducting effective compliance training and education
- Operating effective lines of communication such as hotlines for reporting questionable conduct
- Conducting internal and external monitoring and auditing
- Enforcing standards through well publicized disciplinary guidelines
- Responding promptly to detected issues and undertaking appropriate corrective action

The Importance of Having a Compliance Program for the Creation and Use of AI Tools



The goal to Mitigate Risk of Noncompliance



Key Employer Takeaway: Establishing a compliance program specific to AI will help mitigate enterprise risk.

HR Benefits Implications

Diversity Equity and Inclusion

DEI

Project 2025 repeatedly called for the abolition of DEI offices and staff

President Trump has issued two EOs specific to DEI targeting both the government and the private sector

[EO 14151](#) *Ending Radical and Wasteful Government DEI Programs and Preferencing* (issued on January 20, 2025)

[EO 14173](#) *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* (January 21, 2025)

EBG lawyers are helping employer clients manage the uncertainty and nuance of this ever-evolving space as these and other executive actions make their way through the courts.

Key Employer Takeaway: Review internal policies and monitor developments.

Gender Affirming Care (GAC)

Executive Order “Protecting Children from Chemical and Surgical Mutilation”

- [The Executive Order](#) does not immediately change any rules or regulations but:
 - Directs all federal agencies to “immediately take appropriate steps to ensure that institutions receiving Federal research or education grants end” gender affirming care for people under nineteen
 - Ex. April 11, 2025 [Letter to State Medicaid Directors](#) to essentially tell them not to reimburse for GAC because it is not a high quality of care
 - Gender affirming is defined to include the use of puberty-blockers, hormone therapy and surgical procedures
 - Restricts gender affirming care coverage under group health plans that receive federal financial assistance (e.g., plans that receive a CMS retiree drug subsidy or are structured as an Employer Group Waiver Plan) and insured plans that are Medicare Supplemental Arrangements
 - Lawsuits have been filed in federal courts (WA and RI) challenging the legality of the EO and courts have issued temporary restraining orders blocking enforcement of the EO

Gender Affirming Care (GAC) (cont'd)

Executive Order “Protecting Children from Chemical and Surgical Mutilation”

- Plan coverage policies (usually use TPA's if self-insured) – need to review:
 - Policies generally provides for gender affirming care for minors, including puberty-blockers, hormone therapy and surgical procedures but indicate that any services are subject to applicable law
 - Confirm that in administering the plan, TPA will review the law of the state where the procedure is to be performed to confirm whether it is permitted
 - Any state law requiring or barring coverage of gender-affirming care would likely be preempted for a self-funded ERISA plan, although it may impact fully insured plans
 - However, state criminal laws generally are not preempted
 - The U.S. Supreme Court heard arguments in *U.S. v. Skrmetti* in December 2024 and is expected to issue its decision in June 2024
 - The question in that case is whether Tennessee's law banning gender-affirming hormone therapies violates the Equal Protection Clause of the U.S. Constitution
 - If the Court upholds Tennessee's law, some expect national employers to expand travel benefits under group health plans to cover gender affirming care if they do not already

Gender Affirming Care (GAC) (cont'd)

Executive Order “Protecting Children from Chemical and Surgical Mutilation”

- MHPAEA: Gender dysphoria is generally considered a mental health condition under the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), which means that any limits on coverage for gender affirming care that are not imposed on medical surgical benefits may violate the MHPAEA.

Key Employer Takeaway: Review policies to ensure account for state law; monitor USSC case; monitor developments in employer-sponsored plan.

Reproductive Rights

Status of Preventative Care

- *Kennedy v. Braidwood* at the Supreme Court
 - Plan must cover preventive services with \$0 cost share
 - USSC heard oral arguments in *Kennedy v. Braidwood* in May regarding legality of USPTF
 - If plaintiffs succeed, USPTF recommendations after March, 2010 would not have force of law
 - Issues with practicalities of updating fully-insured plan filings
 - Self-insured can continue to cover; reductions in benefits need to comply with notice requirements

Current Employer Offerings

- Travel Benefits
 - Many plans provide travel benefits in wake of *Dobbs*
- Fertility Benefits
 - Some states mandate coverage for fully insured plans
 - Self-insured plans can be more/less generous
 - Also include under travel benefits

Potential Changes to IVF

- We expect the President's Executive Order on "Expanding Access to In Vitro Fertilization" from February 18th to result in policies impacting employer coverage of IVF benefits
- Domestic Policy Counsel recommendations to the President on "protecting IVF access and aggressively reducing out-of-pocket and health plans costs for IVF treatment" expected this month (May 2025)

Privacy

- Prohibit the use or disclosure of "highly sensitive" PHI by an entity covered by the HIPAA privacy rules for a criminal, civil, or administrative investigation into or proceeding against any person in connection with seeking, obtaining, providing, or facilitating reproductive health care, where such health care is lawful under the circumstances in which it is provided; and
- Prohibit the identification of any person for the purpose of initiating such investigations or proceedings

Key Employer Takeaway: Monitor developments.

EPSTEIN
BECKER
GREEN

Health Policy Impacting Employers

Familiar Features of A Republican Health Policy Agenda



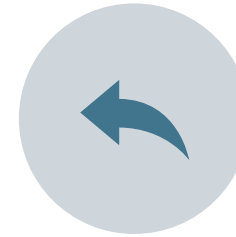
DEREGULATION: AGENCIES MUST IDENTIFY AT LEAST 10 EXISTING RULES TO REPEAL WITH ANY *NEW* REGULATION.



REDUCE FEDERAL HEALTH PROGRAM SCOPE AND SPEND: SIGNIFICANT REFORMS FOR MEDICARE, MEDICAID, AND THE ACA MARKETPLACE.



PRICE TRANSPARENCY: ENHANCE REQUIREMENTS FOR PLANS AND PROVIDERS TO DISCLOSE ACTUAL PRICES.



REVERSING DEMOCRATIC POLICIES: REVERSE DEI, CLIMATE CHANGE, AND HEALTH EQUITY.
BUT
TAKE CREDIT FOR IRA.



MARKET-BASED SOLUTIONS: SOFTER TOUCH ON AI REGULATION; OUTSOURCING OF GOVERNMENT FUNCTIONS

Make America Healthy Again



Addressing Priority Health Conditions

mental health disorders;
obesity; diabetes; and,
other chronic diseases



Expanded Access & Benefits

Ensure the “availability” of expanded treatment options
“Flexibility” for lifestyle-change and disease-prevention coverage



Federal Research

Prioritize “gold-standard research” on the root causes of why Americans are getting sick
Focus on avoiding and eliminating conflicts of interest that “skew outcomes and perpetuate distrust”



Nutrition

“Agencies shall work with farmers to ensure that United States food is the healthiest, most abundant, and most affordable in the world”

Medicaid Cuts: Footing the (Tax) Bill



- **Increase eligibility burdens** by implementing additional work requirements, removing limitations on eligibility checks, allowing for required in- person interviews, and time limits to provide required documentation (\$164 billion)
- **Limit states' abilities to raise funds** through directed payment programs and providers fees/taxes. Impacts will vary by state (\$200 billion)
- **Reduce federal medical assistance percentage (FMAP) floor** of 50% which would disproportionately impact high-income states with robust coverage (\$387 billion)
- **Reduce or eliminate *enhanced* FMAP for Expansion States** which is currently 90% (up to \$1.9 trillion)
- **Implement Medicaid per-capita caps**; a fundamental restructuring of how Medicaid is financed by the federal government (\$900 billion)

ACA Reforms and Alternatives

- Elimination of Enhanced ACA Marketplace Subsidies (\$46 Billion)
 - Expected to lead to a decline in marketplace enrollment by 4 million by 2026
- Abolition or decrease in Medicaid expansion funding
 - Harder vote than it seems: Nine states have 'trigger laws' that would activate if federal funding is cut
- Diminished Support for Enrollment
 - A 90% reduction in funding for enrollment assistance (navigators)
- Increase hurdles for ACA marketplace subsidies
 - Subject of Administrations first novel proposed rule



Trump Bump for Medicare Advantage ?

The Republican political firewall for MA has fractured, and some Republican members are pushing hard to move away from some cuts to traditional Medicare and Medicaid and seek savings from MA.

Support for MA Plans...

- 2026 Advance Notice included an aggregate 5.06% increase to MA revenue (approximately \$25 billion)
- “Seamless Continuation Clause” may provide for executive authority to make MA enrollment the default for certain new Medicare beneficiaries

But more exposure than plans hoped:

- The Administration has not let up pressure on oversight of plan billing practices
- Advance Notice moved forward with Biden’s v28 risk adjustment model implementation
- Supplemental benefits are not necessarily safe



Tariffs and Pharmaceuticals

- Historically pharmaceutical products have been left out of trade wars due to potential harms
- PhRMA recently commissioned an Ernst & Young analysis that found that the U.S. imported \$203B in pharmaceutical products in 2023 with 73% coming from Europe. Total U.S. sales of finished pharmaceuticals in 2023 were \$393B. (the report was not made public)
- PhRMA has been making the argument that these tariffs would undermine U.S. domestic manufacturing
- On April 14th The Commerce Department opened a 21-day public comment period to investigate reliance on foreign drug production as a national security concern. Comments are due May 7th



Pharmacy Benefit Manager (PBM) Reform



In the 118th Congress there were several bi-partisan bills introduced to bring down the cost of prescription drugs by targeting the practices of PBMs

According to the Congressional Budget Office (CBO) these PBM transparency proposals could reduce the deficit by over \$2B



February 19, 2025 House Energy and Commerce Committee held a [Hearing on Pharmacy Benefit Manager Practices](#) to address marketplace consolidation that has led to fewer options for patients and employers and less competition to keep costs in check

Likely PBM reform will move this Congress

Unclear if it will be in reconciliation (partisan) or in a government funding bill (bi-partisan)



Also being taken up by the States

16 states restrict spread pricing

12 states advancing legislation to establish a PBM duty of care

Questions?

Rachel Snyder Good | rgood@ebglaw.com

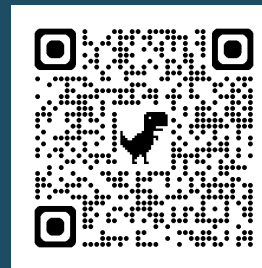
Christine Worthen | cworthen@ebglaw.com

Philo Hall | phall@ebglaw.com

David McNitt | dmcnitt@thenationalgroup.net

To stay up to date on topics from
today's presentation, please
subscribe using the link below or
scanning the QR code:

<https://www.ebglaw.com/subscribe>



Questions?

Upcoming NEBGH events:

- **May 13** – AI in HR and Benefits: What's Smart, What's Risky, and What's Next
- **May 19** – Mondays with Dr. Mark & Dr. Michael
- **June 5** – 14th Annual Health & Wellness Benefits Conference
- **September 18** – 2025 Pharmacy Benefits Conference



Subscribe and listen to NEBGH's Podcast