National Employers Association

The NEA Monthly Lobbyist Report for Members

NEA December Federal Advocacy Report

Last Updated: December 21, 2024

Work on the Hill

Throughout December, Congress has been engaged in a flurry of major activity as the year draws to a close. A bipartisan agreement is emerging on a year-end health care package, which includes provisions impacting pharmacy benefit managers (PBMs), telehealth expansion, hospital-at-home programs, community health center funding, and health plan transparency. Additionally, the House passed a compromise version of the National Defense Authorization Act (NDAA) on December 11th, which includes significant defense spending and policy changes. To avoid a government shutdown, Congress has reportedly reached a bipartisan deal to extend government funding until March 14th, 2025, including over $100 billion in emergency disaster relief funds.

Lobbyit remains focused on monitoring legislative developments and working with lawmakers to secure NEA's priorities at the end of the 118th and into the 119th Congress.

Guthrie taps Carter as incoming health subcommittee chair

Rep. Brett Guthrie (R-Ky.), the incoming House Energy and Commerce Chair, announced subcommittee leaders for the next Congress. Rep. Buddy Carter (R-Ga.), a pharmacist, will chair the Health Subcommittee, beating out Reps. Morgan Griffith and Gus Bilirakis. Rep. Diana DeGette (D-Colo.) is expected to be the Democratic counterpart.

Carter, a strong advocate for pharmacy benefit manager reform, plans to extend Covid-era telehealth rules for Medicare patients. With Republicans controlling the White House and Congress, Carter will influence changes to the Inflation Reduction Act's Medicare drug price negotiations.

Incoming HELP Chair Cassidy to offer new plan to train more doctors

Senator Bill Cassidy, incoming chair of the Senate Health, Education, Labor and Pensions Committee, is leading a bipartisan effort to address the U.S. doctor shortage by adding 5,000 Medicare-funded residency slots from 2027 to 2031. The plan, supported by Senators Catherine Cortez Masto, John Cornyn, and Michael Bennet, prioritizes primary care and psychiatry, and targets rural and underserved areas. It also proposes creating a Graduate Medical Education Policy Council to advise on residency slot distribution. This initiative follows a similar plan by outgoing Finance Committee chair Ron Wyden and aims to mitigate the projected shortage of over 180,000 doctors by 2037, particularly in rural and low-income communities.

CMS Expansions and Medicaid Innovations

Significant regulatory updates shaped the healthcare landscape in October 2024. CMS proposed expanding access to contraceptives and preventive care under the Affordable Care Act, including broader coverage for over-the-counter options without cost-sharing. Skilled nursing facilities face new Medicare revalidation requirements by May 2025, necessitating detailed disclosures on ownership and management. CMS also finalized guidance for the second cycle of Medicare drug price negotiations, expected to lower costs for beneficiaries by 2027.

CMS approved updated essential health benefit benchmark plans for Alaska, Washington, and the District of Columbia, expanding coverage for services like infertility treatments, hearing aids, and nutritional counseling. New Medicare appeals processes were established for patients reclassified from inpatient to outpatient status. Other notable developments include Medicaid approval for traditional Native American health practices in select states and a minimum wage increase for California healthcare workers. These updates reflect ongoing efforts to enhance healthcare access, affordability, and equity while promoting regulatory compliance.

Implications of the 2024 Election on Healthcare Policy: Telehealth, AI, Health Equity, and Life Sciences

The 2024 election results are expected to influence legislative priorities and regulatory oversight in telehealth, health equity, artificial intelligence (AI), and life sciences.

Telehealth remains a bipartisan priority, with extended flexibilities for prescribing certain controlled substances likely to persist. AI policy, heavily influenced by Biden-era regulations, may see a rollback of oversight measures, with a shift toward innovation and reduced government intervention. Health equity initiatives, particularly those tied to DEI programs, are likely to be scaled back, while bipartisan support for rural healthcare may maintain focus on underserved populations.

Life sciences policy is expected to emphasize drug pricing transparency, innovation, and reducing conflicts of interest. The future of FDA user fee programs and expedited Medicare coverage pathways for breakthrough devices remains uncertain, as these policies could undergo significant revisions. The administration's first 100 days will be pivotal in shaping healthcare priorities, with opportunities and challenges emerging for stakeholders navigating these changes. This evolving landscape underscores the need for vigilance and adaptability as healthcare policy continues to shift.

National health spending spikes to nearly $5T in 2023

In 2023, U.S. health care spending surged by 7.5%, reaching nearly $5 trillion. This increase, the highest since 2020, was driven by more people enrolling in health insurance and seeking medical services. Private health insurance and Medicare were major contributors to this rise. The insured population grew to 92.5%, largely due to increased enrollment in the Obamacare marketplace, supported by enhanced premium subsidies.

Hospital care, prescription drugs, and doctor services saw significant spending increases. Medicaid spending growth slowed, but enrollment remained high at nearly 92 million. Medicare spending also rose, particularly in Medicare Advantage plans.

Despite the spending surge, health care prices grew only 0.6%, indicating that increased service use, not price hikes, drove the spending growth.

House AI Taskforce says Congress should consider enhancing FDA capabilities

A report from the bipartisan House Task Force on Artificial Intelligence suggests that the FDA may need enhanced oversight capabilities to effectively monitor AI in health care. The task force, led by Representatives Jay Obernolte and Ted Lieu, highlights concerns such as privacy risks, biased care delivery, and lack of transparency in AI tools.

The report recommends that Congress consider updating laws to improve the FDA's post-market evaluation of AI technologies and address liability issues when AI makes mistakes. It also suggests developing voluntary standards for data management and a self-evaluation process for AI developers.

Regulators face challenges in overseeing AI tools due to their variable performance and potential degradation over time. FDA head Robert Califf has indicated a need for more staff to properly vet these tools. Federal regulators have been cautious about new rules to avoid stifling innovation, while health systems seek assurance on safety.

The task force did not address concerns about industry self-policing, particularly involving big tech companies. Both regulators and industry are awaiting President-elect Donald Trump's stance on AI regulation. Trump has pledged to rescind President Biden's 2023 executive order on AI and has shown interest in stricter oversight, influenced by Elon Musk's views on the technology's potential risks.

Bills by Issue

National Employers Association (9)

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 2813	Referred To The Subcommittee On Health 2024 12 17	In House	None	None	29.3% 12.4%

Title
Self-Insurance Protection Act

Introduction Date: 2023-04-25

Description
Self-Insurance Protection Act This bill specifies that stop-loss coverage is not health insurance coverage for purposes of regulation under the Employee Retirement Income Security Act of 1974. Stop-loss policies are generally obtained by self-insured health plans or sponsors of self-insured group health plans to reimburse the plan or sponsor for losses incurred in providing health benefits to plan participants in excess of a level set forth in the stop-loss policy. The bill also preempts state laws that prevent employers from obtaining stop-loss coverage.

Primary Sponsors
Bob Good

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 2868	Placed On The Union Calendar Calendar No 87 2023 06 14	In House	None	None	16.5% 95.0%

Title
Association Health Plans Act

Introduction Date: 2023-04-25

Description
Association Health Plans ActThis bill provides statutory authority for the treatment of association health plans (AHPs) as single, large employer health plans for purposes of the Employee Retirement Income Security Act (ERISA).Under AHPs, groups of individuals or small employers join together to purchase health insurance coverage. AHPs were historically subject to the market requirements for individual and small group health plans. In 2018, the Department of Labor issued regulations that allowed an AHP to be considered a single, large employer under ERISA if certain conditions are met. The regulations have been subject to litigation, which is still ongoing.The bill provides that a group of employers is treated as a single, large employer for the purpose of establishing an AHP if the group, among other listed criteria (1) has been in existence for at least two years prior to establishing a group health insurance plan and was formed for a purpose other than offering health insurance, (2) meets any criteria set by Labor in a prior advisory opinion, or (3) meets any other criteria set by Labor through regulations.Additionally, the bill establishes rules for AHPs to set premium rates and prohibits AHPs from discriminating in coverage based on health status-related factors or denying coverage based on preexisting conditions.

Primary Sponsors
Tim Walberg

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	**HR 3799**	**H Amdt 207 On Agreeing To The Hayes Amendment A 001 Failed By Recorded Vote 211 220 Roll No 278 2023 06 21**	**In Senate**	**Monitor**	**Medium**	5.0% 56.3%

Title
CHOICE Arrangement Act

Description
This bill generally provides statutory authority for certain health reimbursement arrangements and other alternative health insurance options for employers. TITLE I--ASSOCIATION HEALTH PLANS ACT This title provides statutory authority for the treatment of association health plans (AHPs) as single, large employers for purposes of the Employee Retirement Income Security Act (ERISA). Under AHPs, groups of individuals or small employers join together to purchase health insurance coverage. AHPs were historically subject to the market requirements for individual and small group health plans. In 2018, the Department of Labor issued regulations that allowed an AHP to be considered a single, large employer under ERISA if certain conditions are met. The regulations have been subject to litigation, which is still ongoing. The title provides that an AHP qualifies as a single, large employer if it (1) among other listed criteria, has been in existence for at least two years before offering health insurance and was formed for a purpose other than offering health insurance; (2) meets any criteria set by Labor in a prior advisory opinion; or (3) meets any other criteria set by Labor through regulations. TITLE II--CHOICE ARRANGEMENT ACT This title provides statutory authority for regulations that allow employers to offer individual coverage health reimbursement arrangements (ICHRAs). Under ICHRAs, employers agree to reimburse employees for incurred medical expenses up to a limit for a specified period (e.g., a calendar year), and employees obtain their own individual coverage that meets certain requirements of the Patient Protection and Affordable Care Act (coverage of preventive services and no annual or lifetime limits). Payments or reimbursements under an ICHRA are tax-exempt and may only be made for medical care provided when the employee was covered by a plan that meets the requirements. Employees may also pair ICHRAs with Medicare coverage. In 2019, the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services issued regulations that allow employers to offer employees ICHRAs if certain conditions are met: (1) the employer offers ICHRAs to all employees in the same class (e.g., all full-time employees) without the choice of an employer-sponsored group health plan, and (2) the employer offers the ICHRA to all employees within the class on the same terms (i.e., the amount of available funds and the terms and conditions of the benefits). The regulations also specify certain notice and verification requirements with respect to ICHRAs. The title provides statutory authority for these regulations and generally refers to ICHRAs as custom health option and individual care expense arrangements. TITLE III--SELF-INSURANCE PROT... (click bill link to see more).

Primary Sponsors
Kevin Hern

Bill Summary: Last edited by Jacob Kohn at Jun 22, 2023, 1:42 PM The CHOICE Act makes several improvements, including: - Association Health Plans Act Would Allow Businesses to Pool Risk and Negotiate Lower Costs - Self-Insurance Protection Act Levels the Playing Field for Small Business - Custom Health Option and Individual Care Expense Arrangement Act Creates Certainty and Improves Individual Coverage HRAs (ICHRAs)

Introduction Date: 2023-06-05

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 3800	Received In The Senate And Read Twice And Referred To The Committee On Finance 2024 09 18	In Senate	None	None	33.0% 31.6%

Title
Chronic Disease Flexible Coverage Act

Introduction Date: 2023-06-05

Description
Chronic Disease Flexible Coverage ActThis bill provides statutory authority for certain guidance from the Internal Revenue Service (IRS) that expands the types of preventive care that may be offered under high deductible health plans (HDHPs) without a deductible.In 2019, the IRS issued guidance that allows HDHPs to cover certain items and services for individuals with chronic conditions without a deductible, including medications and monitoring devices for those with diabetes or heart conditions. The bill provides statutory authority for this guidance.

Primary Sponsors
Brad Wenstrup

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 5317	Referred To The Subcommittee On Health 2024 12 17	In House	None	None	13.7% 48.2%

Title
To amend the Internal Revenue Code of 1986 to allow distributions from a health flexible spending arrangement or health reimbursement arrangement directly to a health savings account in connection with establishing coverage under a high deductible health plan.

Introduction Date: 2023-08-29

Primary Sponsors
Michelle Steel

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 5687	Placed On The Union Calendar Calendar No 317 2024 02 13	In House	None	None	20.1% 7.8%

Title
HSA Modernization Act of 2023

Introduction Date: 2023-09-26

Primary Sponsors
Beth Van Duyne

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	**HR 5688**	**Placed On The Union Calendar Calendar No 330 2024 02 26**	**In House**	**None**	**None**	10.3% 53.3%

Title
Bipartisan HSA Improvement Act of 2023

Introduction Date: 2023-09-26

Description
Bipartisan HSA Improvement Act of 2023This bill allows an individual to contribute to a health savings account (HSA), as part of a high deductible health plan (HDHP), while also participating in a primary care service arrangement, receiving qualified items or services at an employer-sponsored on-site clinic, or if covered under a spouse’s flexible spending arrangement (FSA). Further, the bill allows individuals to rollover amounts in an FSA or health reimbursement arrangement (HRA) into an HSA.The bill defines a primary care service arrangement as one in which an individual is provided primary care services by a primary care practitioner for a periodic fixed fee of no more than $150 a month for an individual (or no more than $300 a month for an arrangement that covers more than one individual).Additionally, under the bill, qualified items or services received at an employer-sponsored, on-site clinic include physical exams, immunizations, nonprescription drugs or biologicals, treatment for injuries related to an individual’s employment, preventative care for chronic conditions, and vision and hearing screenings.The bill allows an individual to contribute to an HSA, as part of an HDHP, even if covered by a spouse’s FSA. However, amounts in the spouse’s FSA must be used to reimburse the spouse’s eligible medical expenses for the plan year before being rolled over into the individual’s HSA.Finally, individuals may be able to rollover up to the annual FSA contribution limit from an FSA or HRA into an HSA upon enrolling in an HDHP.

Primary Sponsors
Lloyd Smucker

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	**HR 5737**	**Referred To The Subcommittee On Health 2024 12 17**	**In House**	**None**	**None**	11.1% 7.0%

Title
Elevating HSA Limits Act of 2023

Introduction Date: 2023-09-26

Primary Sponsors
Beth Van Duyne

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	**S 3224**	**Read Twice And Referred To The Committee On Finance 2023 11 02**	**In Senate**	**None**	**None**	5.0% 53.3%

Title
Chronic Disease Flexible Coverage Act

Introduction Date: 2023-11-02

Description
Chronic Disease Flexible Coverage ActThis bill provides statutory authority for certain guidance from the Internal Revenue Service (IRS) that expands the types of preventive care that may be offered under high deductible health plans (HDHPs) without a deductible.In 2019, the IRS issued guidance that allows HDHPs to cover certain items and services for individuals with chronic conditions without a deductible, including medications and monitoring devices for those with diabetes or heart conditions. The bill provides statutory authority for this guidance.

Primary Sponsors
John Thune