

McDermottPlus Check-Up

McDermott+Consulting is pleased to introduce the McDermottPlus Check-Up, your regular update on health care policy from Washington, DC.



This Week's Diagnosis: Was the election only four days ago? Tuesday brought change to Congress. While a handful of races have yet to be called, Democrats will take charge of the House of Representatives, while Republicans will retain control of the Senate come January 2019. We have a full breakdown of what the election results mean for the anticipated health agenda policy [here](#).

Administration

- + **BIRTH CONTROL AND ABORTION BACK IN THE SPOTLIGHT.** The Trump Administration issued two rules this past week that impact access to birth control and abortion. First, a new policy stuck into a proposed rule on [program integrity](#) would require insurers to send a separate monthly bill to their beneficiaries that indicates how much of their premium goes toward coverage of abortion. Second, included in a [final rule](#) on religious exemptions and accommodations under the Affordable Care Act (ACA) is a policy that significantly expands the type of employer that can claim a religious exemption to providing coverage for birth control.
 - o Take note, there are already several lawsuits pending related to the religious exemption. Expect more to be filed on the final rule.
 - o Several states passed stricter abortion laws on Tuesday. Lawsuits are expected to be filed challenging the constitutionality of those laws.
- + **MEDICAID MANAGED CARE RULE.** The Centers for Medicare and Medicaid Services (CMS) issued a [proposed rule](#) overhauling regulations governing Medicaid managed care plans. This includes efforts to provide more flexibility to the states, reduce regulatory and administrative burdens, and increase transparency through program integrity enhancements. The rule includes a proposal to modify current network adequacy standards by replacing time and distance with a more flexible requirement.
- + **ACA ENROLLMENT DOWN.** The Administration released sign-up numbers for the first week of open enrollment for the exchanges. Just over 370,000 people selected plans through HealthCare.gov in the first three days of open enrollment compared to 600,000 in the first four days of the last open enrollment period. Roughly one million fewer people have visited HealthCare.gov. While there are still many weeks for enrollment rates to catch up, stakeholders will be closely watching in light of new alternatives and reduced resources to target ACA enrollment.

- + **MACRA PERFORMANCE DATA.** CMS [released](#) additional elements for year one (2017) performance of the Quality Payment Program. The new data [shows](#) that 71 percent of eligible clinicians earned a positive adjustment and an adjustment for exceptional performance; 22 percent earned a positive adjustment; two percent received a neutral adjustment; and five percent received a negative adjustment. The maximum negative adjustment was four percent; the maximum upward adjustment (including the exceptional performer bonus) was 1.88 percent. Overall, 1,057,824 clinicians received a MIPS adjustment and 99,076 clinicians were qualifying participants in advanced alternative payment models. While a high percentage of clinicians received bonuses, the payment amounts were substantially lower than many had initially hoped. It remains to be seen whether the results in MIPS incent a move to advanced alternative payment models or further fuel calls for repeal.
- + **CMS LETTER ON CLINICIAN BURDEN.** In a [letter](#) to clinicians, CMS highlighted its Patients over Paperwork Initiative and related measures to address regulatory burdens on physicians. The letter focuses on the agency's approach to overhaul evaluation and management (E/M) coding, including updating documentation requirements in 2019 and implementing payment and coding changes beginning in 2021. In a [speech](#) this week, Secretary Alex Azar pointed to the agency's E/M proposal as one example of the agency's approach to follow through on policy proposals even when there is stakeholder pushback.

Next Week's Dose

- + Members of Congress are back in town next week for the official start of the lame duck session, which is expected to be short. Leadership elections are expected to be held next week as Washington begins to internalize the outcome of the midterms.

For more information, contact [Mara McDermott](#) or [Rachel Stauffer](#).

[To subscribe to the McDermottPlus Check-Up, please contact Jennifer Randles.](#)

