



Federal Legislative/Policy Update Post-Election Outlook: 2024–2026

Chad Mulvany | January 21, 2025

Agenda

1. A Challenging Environment
2. Post-Election Washington
3. Outlook 2024–2026: Legislative & Regulatory Landscape



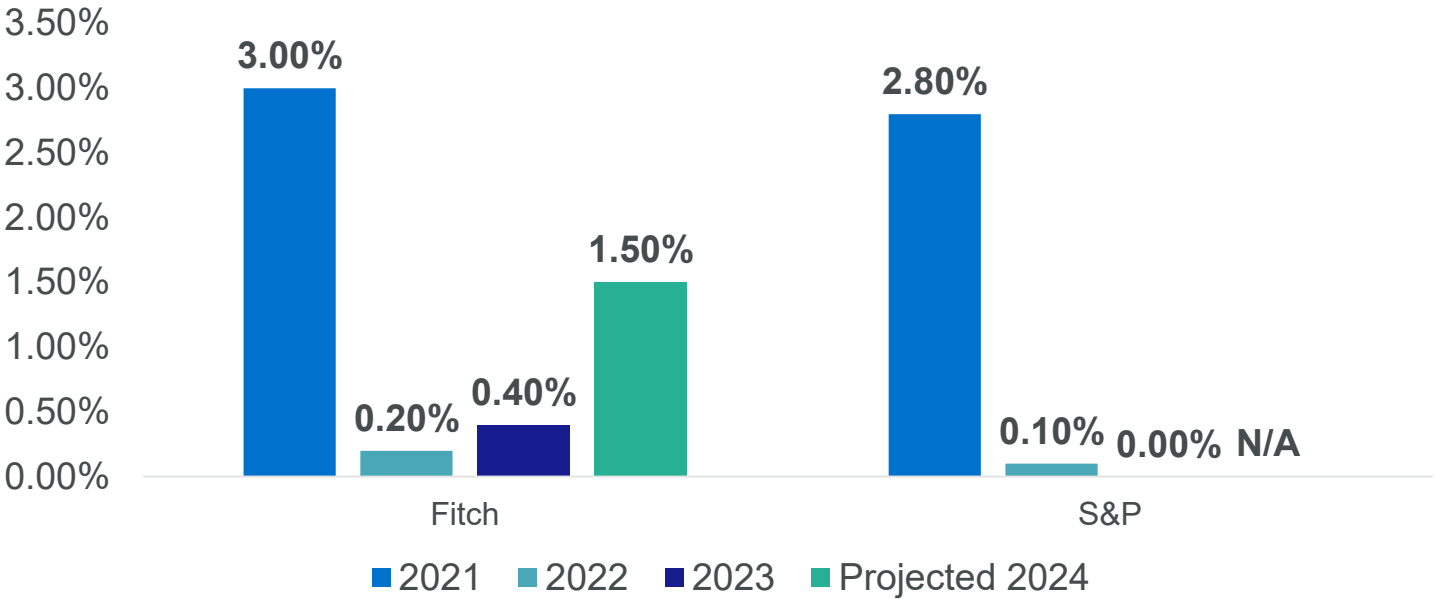


A Challenging Environment

Challenging Margins

Median hospital operating margins have not recovered to pre-pandemic levels.

Fitch and S&P Not-for-Profit Healthcare
Median Operating Margin
2021–2024 (projected)



A New Normal?

“I’m starting to maybe not want to use the word recovery because we may be landing just in a different place altogether with our margins and cash flows.”

Susi Desai
Managing Director/Sector Leader
S&P

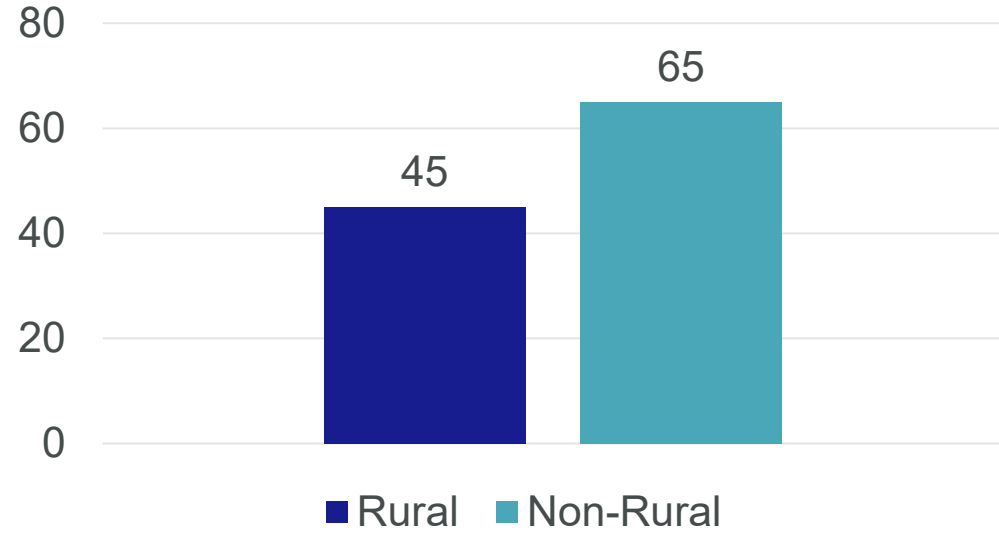
Source: "The Financial State of the Not-for-Profit Hospital Sector: Key Takeaways From the Latest Medians," hfma.org, August 22, 2024.



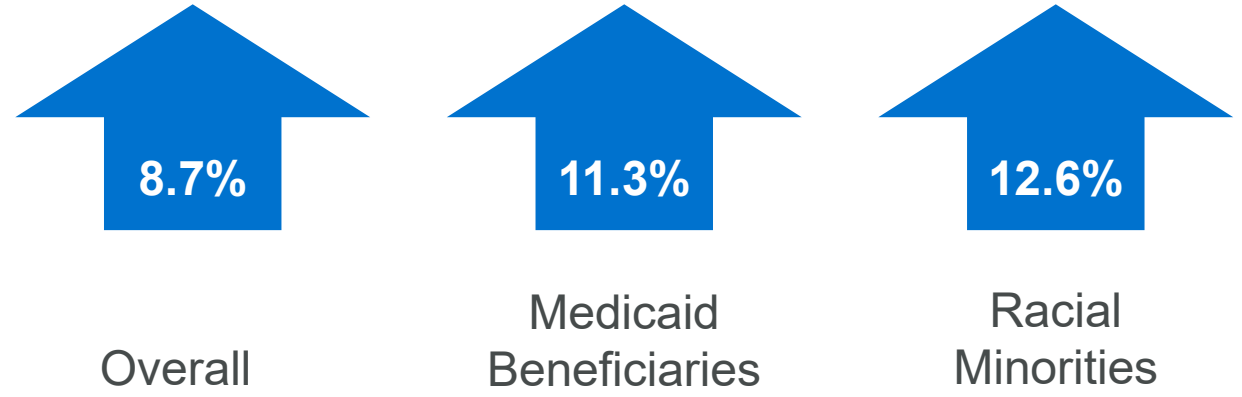
Hospital Closures

110 hospitals closed between 2018–2022, creating access issues & placing lives at risk.

Community Hospital Closures
2018–2022



Mortality Increase Resulting From Rural Hospital Closure



Sources:
1) "Closed, Converted, Merged, and New Hospitals With Medicare Rural Designations: January 2018–November 2022," crsreports.congress.gov, April 26, 2023.
2) "Impact of Rural and Urban Hospital Closures on Inpatient Mortality," nber.org, June 2020.

Service Line Rationalization

In response to margin pressure, hospitals are eliminating services that are needed by the community but jeopardize the organization's future.

Financial Management

42 hospitals closing departments or ending services

Andrew Cass - Updated Friday, June 30th, 2023

A number of healthcare organizations have recently closed medical departments or ended services at facilities to shore up finances, focus on more in-demand services or address staffing shortages.

Here are 42 closures or services ending, announced, advanced or finalized that *Becker's* has reported since Feb. 2.

1. Hartford City, Ind.-based **IU Health Blackford Hospital** will close its emergency department and no longer offer inpatient services due to a reduction in patient volume
2. The Illinois Health Facilities and Services Review Board on June 27 unanimously [approved](#) a request from **HSHS St. Mary's Hospital** to shutter four of its units. The Decatur, Ill.-based hospital will wrap up its advanced inpatient rehabilitation, obstetrics and newborn nursery, pediatrics and inpatient behavioral health services.

2025 Medicare Payment Updates

The Medicare market basket/conversion factor updates across all payment systems are inadequate (again).

Federal Fiscal Year/Calendar Year 2025 Final
Net Medicare Payment Updates

Payment System	Net Update*
Inpatient/Outpatient PPS	2.9%
LTCH PPS	3.0%
Psych PPS	2.8%
Inpatient Rehab PPS	3.0%
Skilled Nursing PPS	4.2%
Home Health PPS	0.5%
Physician Fee Schedule	-2.8%

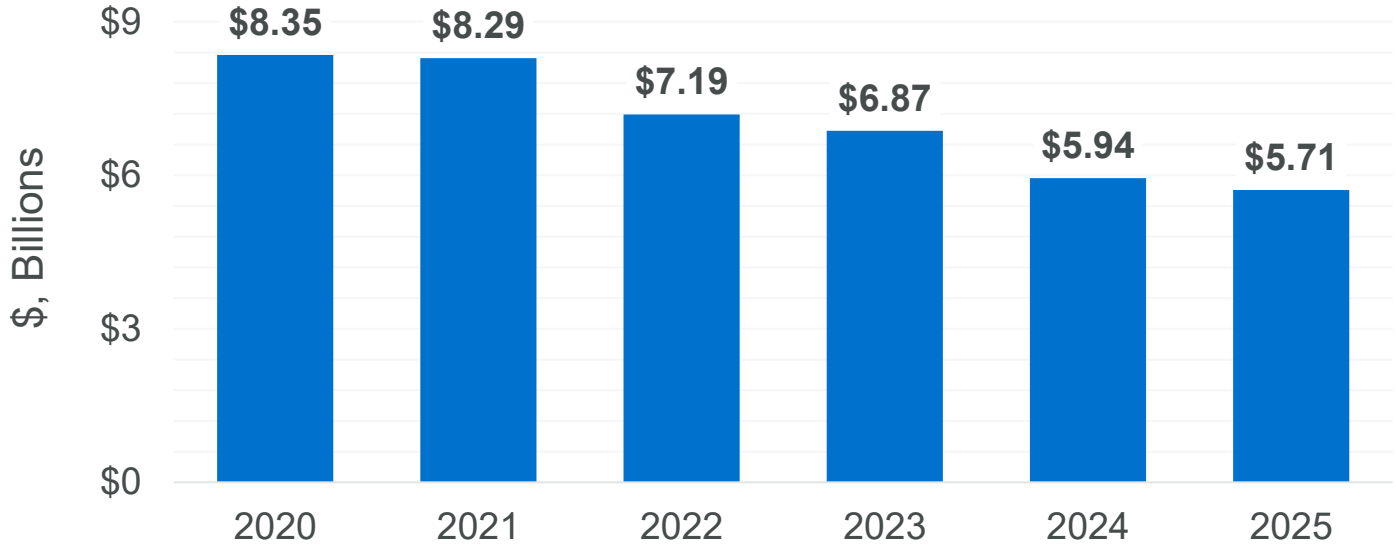
*For hospitals/facilities/providers meeting quality reporting & meaningful use requirement. Only includes market basket update & ACA-mandated productivity adjustment. No other budget neutrality adjustments are included.

Deep Uncompensated Care DSH Cuts

CMS has reduced Medicare uncompensated care DSH payments by 32% since 2020.

CMS' underprojection of uninsured rates has reduced payments to safety net hospitals by \$2.6 billion in 2025 compared to 2020.

Medicare Uncompensated Care DSH Pool
2020–2025



Source: Analysis of FFY 2020–2025 IPPS Final Rules



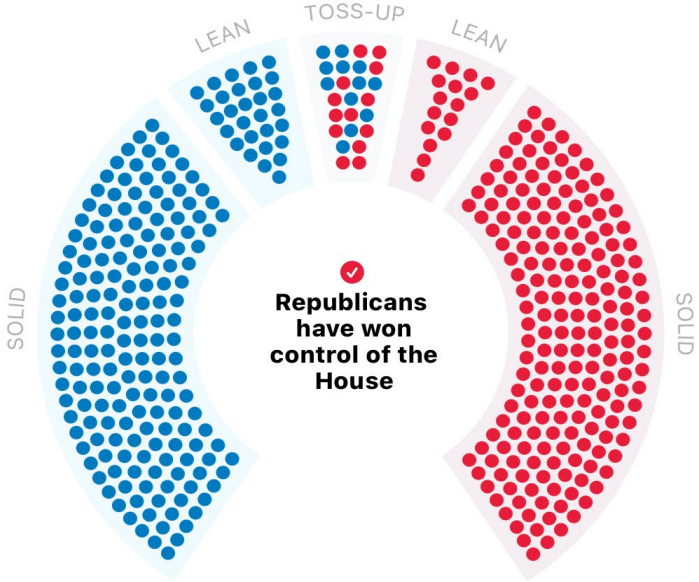
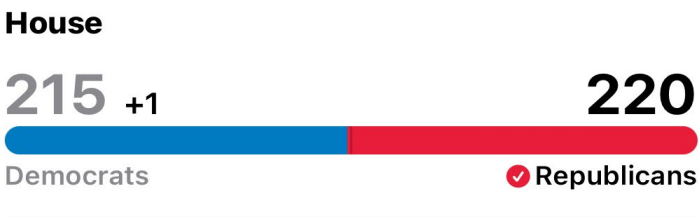


Post-Election Washington

2024 Election – Congress

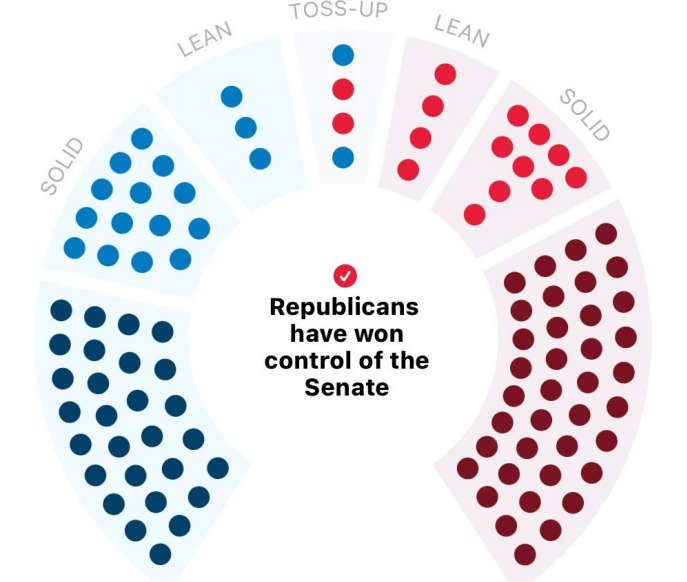
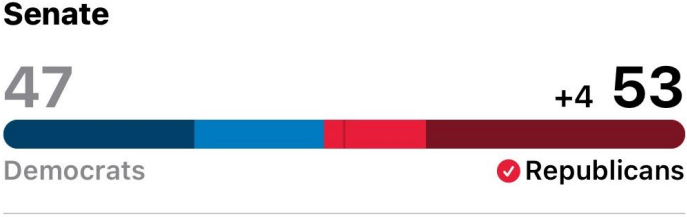
The Republicans have held the House of Representatives ...

... & have taken the Senate, enabling legislation to be passed by “reconciliation.”



Ratings: Cook Political Report

Lead Called



Ratings: Cook Political Report

Lead Called Not up for election

2024 Election – Administration

Trump '47 will be more effective in the first 100 days than Trump '45.

Regulatory changes will depend on appointments to HHS & CMS.



CMS Administrator Dr. Mehmet Oz

President Trump's nominee for CMS administrator has previously advocated for Medicare Advantage for All.

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Medicare Advantage For All Can Save Our Health-Care System

Steve Forbes Forbes Staff

"With all thy getting, get understanding."

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We need a mechanism to urgently fund health-care sites decimated by our nation's Covid-19 response. Simultaneously, poorer Americans, many of whom are Black and Latino, are suffering disproportionately during the crisis because of the poor-quality health care available to them, which has been an ongoing problem in this country for generations. We offer a proven solution to both crises that should attract enough Democrats and Republicans to improve our health-care financing landscape.

Supreme Court Overturns “Chevron Deference”

The overturning of “Chevron Deference” opens the door to legal challenges of CMS rules in any number of areas that impact hospital finances.

July 02, 2024 05:00 AM

How the Supreme Court’s regulation ruling will change healthcare

BRIDGET EARLY   

The Supreme Court has dramatically transformed the dynamic between federal agencies such as the Centers for Medicare and Medicaid Services and the entities they regulate.

On Friday, the high court **weakened the executive branch’s authority** to interpret laws and enhanced the judiciary’s power to resolve disputes about congressional intent. On Monday, justices ruled that plaintiffs may bring suit against old regulations if they claim new injuries.

Potential Regs at Risk of Litigation Post-Chevron

- 340B Program
- SNF Staffing Ratios
- No Surprises Act – QPA
- Home Health Budget Neutrality Cuts
- Medicare DSH Payments



Outlook 2024–2026: **Legislative & Regulatory Landscape**

2025 Federal Funding

A continuing resolution (CR) funding the federal government expires March 14, 2025. The legislation, passed in December, includes several healthcare "extenders."

"Extenders" Included in CR	
ACA Medicaid DSH Cuts	April 1, 2024
"Clear" 4% Medicare PAYGO Cut	TBD
Telehealth Waivers	March 31, 2024
Community Health Center Funding	March 31, 2024
Replenish FEMA Funding	TBD
Medicare Low Volume Hospital	March 31, 2024
Medicare Dependent Hospital	March 31, 2024



2025 – Forcing Functions

Upcoming legislative “must do's” create opportunities for major health policy changes.

Key Legislative Deadlines

Tax Cuts, Jobs Act, ACA Enhanced Subsidies

Dec. 31, 2025

FFY 2026 Budget

Oct. 1, 2025

Debt Ceiling Jan. 2, 2025

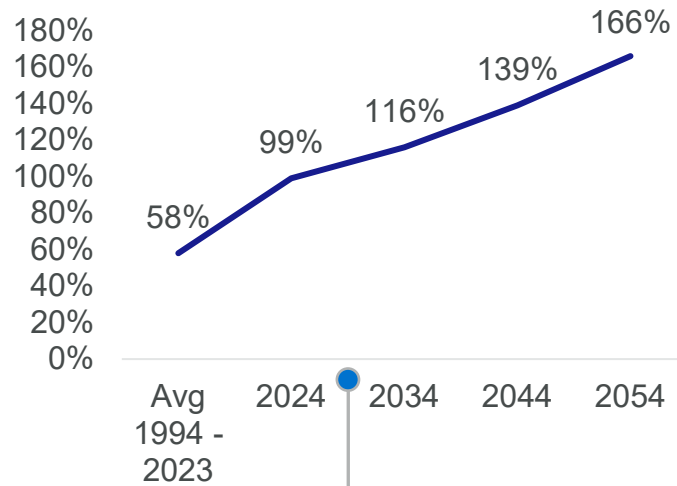
FFY 2025 Budget Dec. 20, 2024



Driving Factors

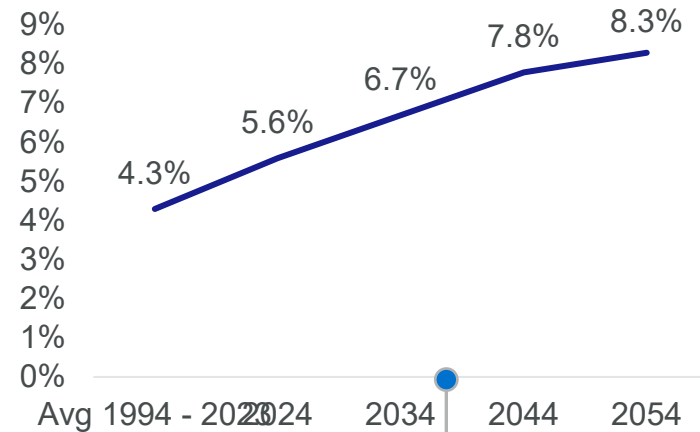
Escalating costs & concerns about outcomes drive continued interest by policymakers in policy changes to improve value.

Federal Debt Held by the Public
Percentage of GDP



2033: Social Security TF Depleted

Projected Federal Outlays for Health Programs
Percentage of GDP



2036: Medicare Part A TF Depleted

Select Outcome Measures

19%
2021 to 2022

Increase in **adverse events** resulting in permanent/severe harm or death

38%
2020 to 2021

Increase in **maternal mortality** deaths per 100,000 live births

73%

Adults believe the healthcare system is **not meeting their needs**

n=2,519 adults in March 2023

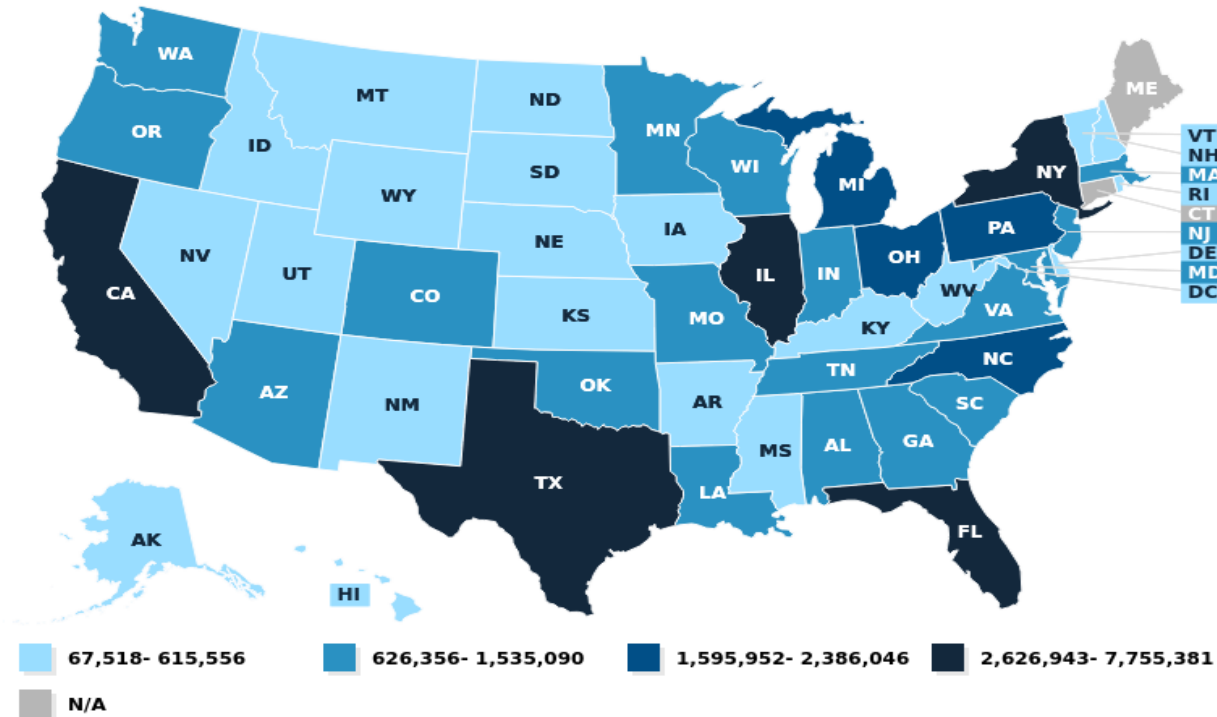
Sources:

- 1) "The Long-Term Budget Outlook: 2024 to 2054," cbo.gov, March 2024.
- 2) "The Evolution (and Future) of Value-Based Care," advisory.com, July 5, 2024.

Medicaid at Risk

- President Trump promised not to cut Medicare & Social Security, leaving Medicaid at risk.
- Extracting savings may be difficult politically.

Total Monthly Medicaid & CHIP Enrollment and Pre-ACA Enrollment: Pre-ACA Average Monthly Enrollment, J



SOURCE: KFF's State Health Facts.

Potential Policy Actions

Legislation:

- “Rationalize” ACA Match Rate
- Per Capita Caps
- Allow ACA DSH Cuts
- Enable Work Requirements

Administrative Action:

- Allow Waiver Flexibility
- Supplemental Payment Scrutiny
- DHS “Public Charge” Requirements

Exchange Subsidies & Insurance Market “Reform”

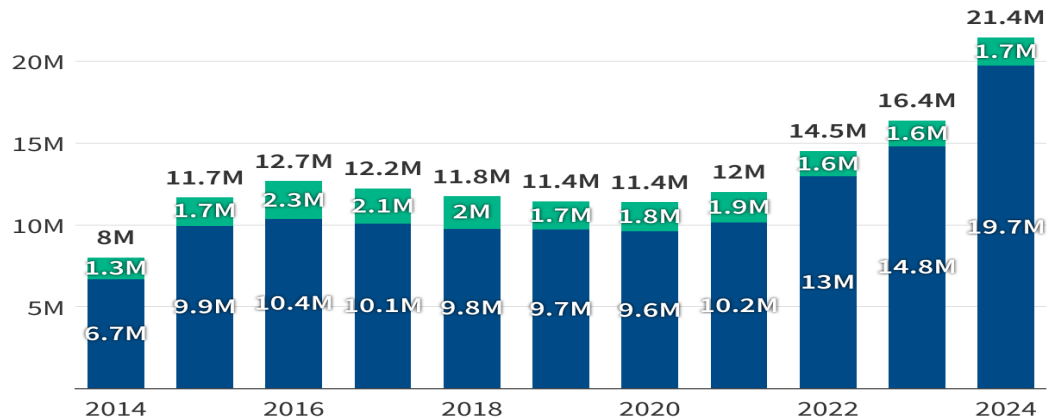
There appears to be little appetite to attempt another repeal of the ACA.

Figure 1

The Number of ACA Marketplace Enrollees Receiving Premium Tax Credits in 2024 Has Nearly Doubled Since 2020

Affordable Care Act Marketplace Enrollees Receiving Advanced Premium Tax Credits (APTC), 2014-2024

■ Number of Consumers Receiving APTC ■ Number of Consumers Without APTC



Note: The number of consumers without APTC includes individuals with unknown financial assistance status in 2014-2016. The number of consumers receiving APTC is approximated for 2016.

Source: KFF analysis of 2014, 2015, and 2016 ASPE Open Enrollment reports and Marketplace Open Enrollment Period Public Use Files for 2017-2024

KFF

Potential Policy Actions

Legislation:

- Extend enhanced exchange subsidies?

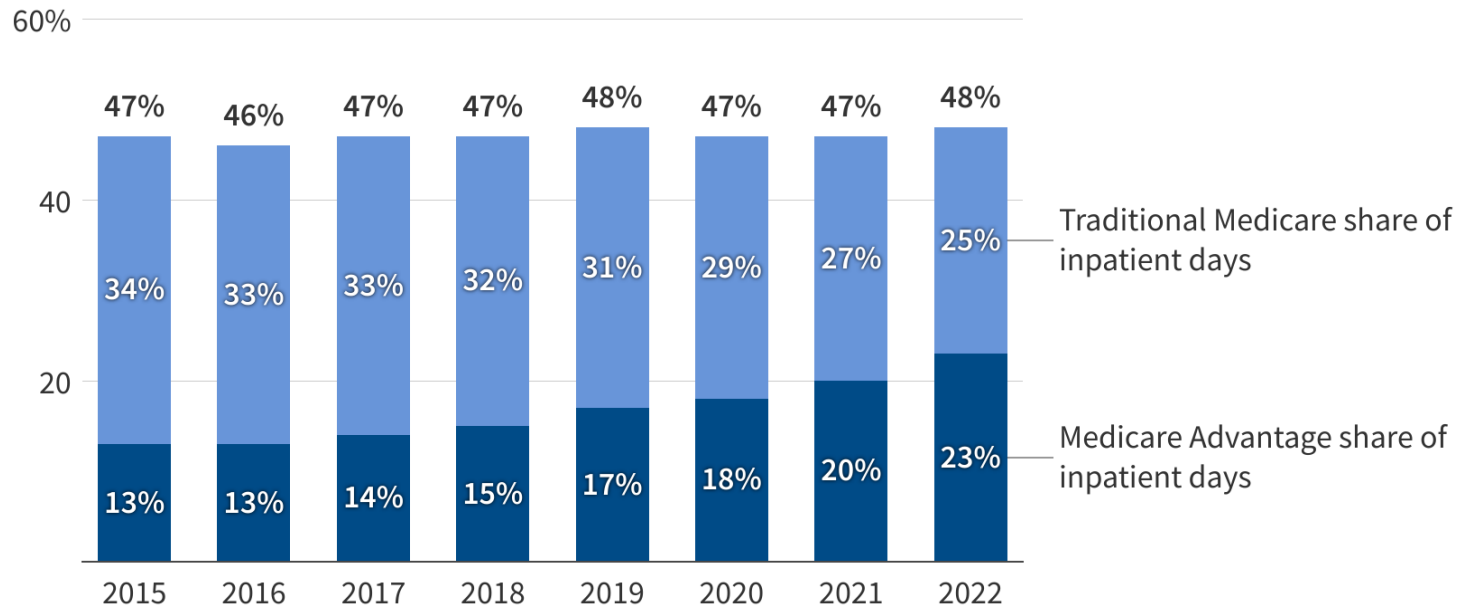
Administrative Action:

- Expand insurance options

Medicare Advantage Benefits

MA plans will likely see a more favorable regulatory environment & continue to grow.

Medicare & Medicare Advantage Days as a Percentage of Total Inpatient Days 2015–2022



Note: Sample includes general short-term hospitals with full-year cost reports that ended in a given year, excluding hospitals located in U.S. territories as well as those that were missing data on Medicare Advantage shares, traditional Medicare shares, or both in a given year.

Source: KFF analysis of RAND Hospital Data, 2015-2022

KFF

Potential Policy Actions

Legislation:

- Default enrollment option?
- Prior authorization reform

Administrative Action:

- Improve payment updates
- Revisit changes to star ratings
- Minimize coding scrutiny

340B Legislation & Litigation

- Legislative action is unlikely unless hospitals suffer a significant loss in court.
- The administration is likely to reduce Part B payments for 340B drugs ... again.

	Federal	State
Legislative	<p>H.R. 7635: 340B PATIENTS Act</p> <p>SUSTAIN 340B Act</p> <p>H.R. 8574: 340B ACCESS Act</p>	<p>Contract Pharmacy Laws Passed <i>KS, MD, MS, AR, LA, WV, MO, MN</i></p>
Litigation	<p>AHA v. Becerra <i>Supreme Court of the U.S.</i></p> <p>Novartis v. Carole Johnson <i>Court of Appeals for D.C. Circuit</i></p> <p>Sanofi-Aventis U.S. v. HHS et al. <i>U.S. Court of Appeals for the Third Circuit</i></p>	<p>Contract Pharmacy Laws Upheld <i>AR, MD, LA</i></p> <p>Contract Pharmacy Laws Challenged <i>LA, MS, WV, MN, MO, KS</i></p>



Site-Neutral Payments

Policies expanding site-neutral payments & encouraging care delivery in lower cost settings are likely.



BILL U.S. Senator for Louisiana
CASSIDY, M.D.



MAGGIE HASSAN
UNITED STATES SENATOR FOR NEW HAMPSHIRE

LOWERING HEALTH COSTS FOR SENIORS FRAMEWORK

U.S. Senators Bill Cassidy, M.D. and Maggie Hassan are working together on the below policy options for site-neutral payment reform. This paper explores policy options for payment reform that would reduce health care costs for patients and taxpayers, improve the financial stability of Medicare, reduce provider consolidation, and provide assistance to hospitals serving rural and high-needs communities.

INTRODUCTION

The high cost of health care in the United States is a significant burden on families and taxpayers. Three in four adults worry about their ability to afford unexpected medical bills for themselves or their family.¹

As hospitals expand their ownership of physician practices and outpatient care facilities, patients are increasingly paying high hospital prices in these previously low-cost settings. Under the Medicare program, taxpayers and patients now share the cost of hospital “facility fees” – hundreds of dollars in additional fees which are now being charged when a patient gets basic care, such as a steroid injection or an allergy test. Patients with private insurance are also facing hundreds of dollars in facility fees for basic care, without ever setting foot in a hospital.

Potential Policy Actions

Legislation:

- Repeal “Section 603” HOPD exemptions
- Site neutrality across HOPD, ASC, & MD office
- Off-campus HOPD billing identifier
- Funding to support rural/safety net hospitals

Administrative Action:

- Phase out inpatient only list
- Expand ASC covered procedure list

More Price Transparency Enforcement

Republicans view transparency as a core strategy for increasing competition & reducing costs.

Hospitals Not in Compliance With Machine-Readable File Requirement
November 2024 OIG Report

HPT Rule Requirements	Number of Noncompliant Hospitals in Our Sample	
	Stratum 1 (30 Hospitals)	Stratum 2 (70 Hospitals)
Description of services	0	6
Gross charge for services	0	6
Negotiated charge by payer and plan	1	19
Minimum negotiated charge (see footnote 16)	1	15
Maximum negotiated charge (see footnote 16)	1	15
Discounted cash price	1	14
Hospital accounting or billing codes	0	6
Standard charges available on public website	0	5
Easily accessible, without barriers	0	5
Appropriate naming convention	0	17
Updated annually	1	21
Total number of hospitals that did not comply with MRF requirements	2	32

Potential Policy Actions

Legislation:

- Codify requirements in statute
- Increase penalties & enforcement actions
- Expand applicable sites

Administrative Action:

- Aggressive enforcement

Source: "Not All Selected Hospitals Complied With the Hospital Price Transparency Rule," oig.hhs.gov, November 2024.

Nursing Home Staffing Ratios

81% of nursing facilities nationwide must increase staffing levels.

Key Provisions of CMS Nursing Facility Staffing Ratio Final Rule



Total nursing staffing standard of 3.48 hours per resident per day (HPRD)



Implement & enforce standards, regardless of individual facilities' patient case mix



RN required to be always on site



Nursing home care assessments would be revised

Money for Nothing

If Congress cancels the staffing requirements it “saves” \$22 billion that can be applied to other policy priorities.

Sources:

- 1) "CMS Finalizes Skilled-Nursing Facility Staffing Standards," calhospital.org, April 25, 2024.
- 2) "A Closer Look at the Final Nursing Facility Rule and Which Facilities Might Meet New Staffing Requirements," kff.org, May 21, 2024.

Supply Chain Meets Tariffs

President Trump's economic plan calls for levying tariffs to encourage domestic manufacturing & offset tax cuts.

Potential Policy Actions

- Levies of 10–20% on imported goods
- Levies of 60% on Chinese goods



Fact Sheet: Impact of Tariffs on Health Care Equipment

Background

Having adequate and up-to-date medical supplies, devices and equipment are necessary for hospitals to deliver high quality care to patients. The United States relies on foreign countries, especially China, for medical equipment and supplies. As of May 2, the U.S. has imported \$14.9 billion in medical equipment in 2024, compared with \$14 billion at this time last year, according to the Census Bureau.

In late May, the Biden administration announced a plan to raise tariffs on a number of Chinese made items, including electric vehicles, solar cells and a number of other products. Imports of syringes, medical masks, respirators and gloves from China will see higher tariffs, although the size of the increases and when the hikes will take effect vary. Most increases will take effect on Aug. 1.¹

A May 22 Federal Register notice from the Office of the U.S. Trade Representative announced some exceptions:²

- Tariff increases for semiconductors are delayed until Jan. 1, 2025.
- Proposed increases for lithium-ion non-electrical vehicle batteries, medical gloves and natural graphite will take effect Jan. 1, 2026.
- There are other special situations. For example, there were tariff exclusions for 77 medical products that have been exempted from the tariffs since the COVID-19 pandemic. They were set to expire on May 31, but on May 24, the government announced that most of these health care products were being granted a one-year extension — through May 31, 2025.

Sources:

- 1) "Fact Sheet: Impact of Tariffs on Health Care Equipment," aha.org, July 1, 2024.
- 2) "The Trump Agenda: Here's What to Expect From His Second Term," politico.com, November 6, 2024.

Telehealth

While CMS extended some flexibilities in the CY 2025 final rules, legislation is required to ensure telehealth services are widely available. This is estimated to cost \$4 billion.

Permanent Flexibility

- Audio only in qualifying circumstances
- Opioid treatment periodic assessment

Flexibility Through 2025

- Frequency limits for I/P, NF, & CCU consults
- Reporting practice address
- Services provided by FQHCs & RHCs
- Resident supervision
- Direct supervision

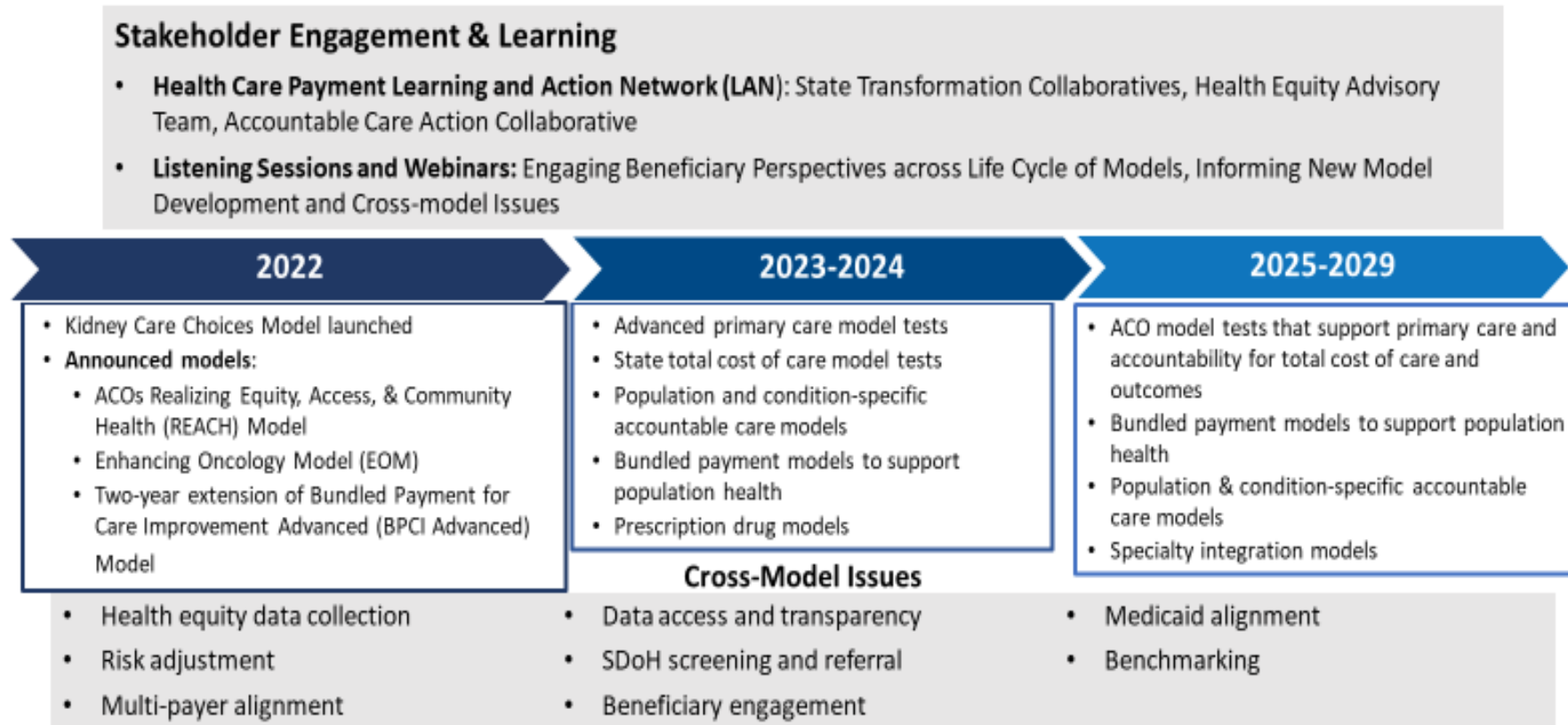
Congressional Action

- Originating site
- Geographic restrictions
- Outpatient therapy, diabetes self-management, medical nutrition therapy

Value-Based Care Post-Election?

CMMI under President Trump will create or expand models that provide a vehicle for health plans & other private sector entities to take risk on FFS patients.

CMMI Strategy Roadmap| Models, Initiatives, and Engagement



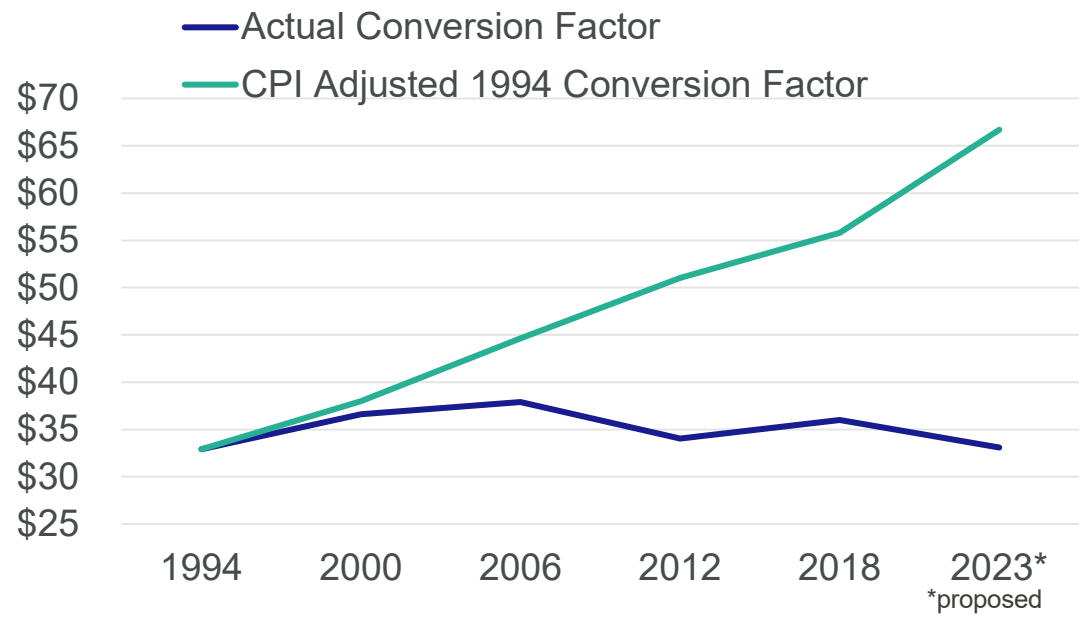
Source: "Person-Centered Innovation – An Update on the Implementation of the CMS Innovation Center's Strategy," cms.gov, November 2022.

Physicians: Unsustainable Growth Rate

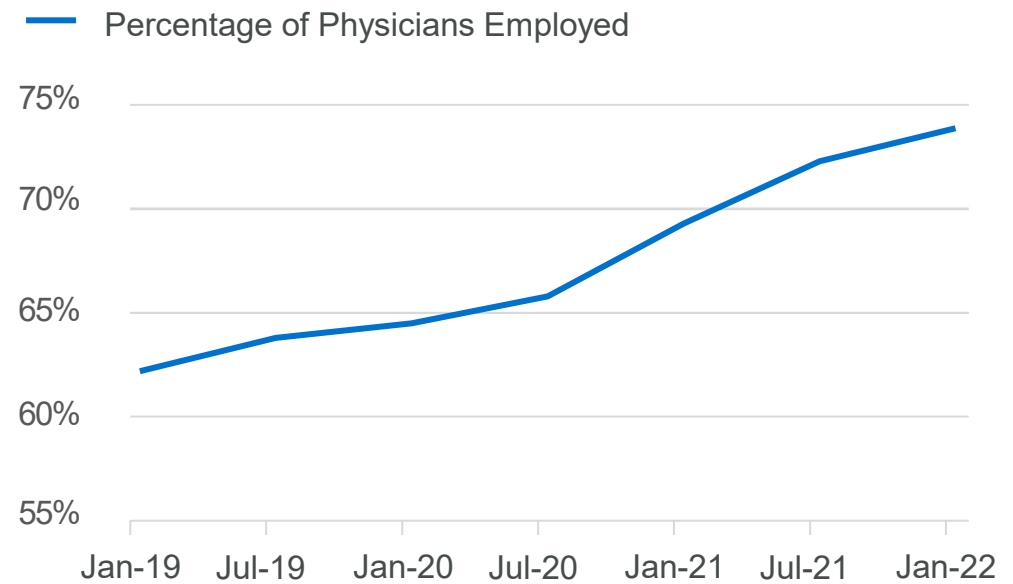
Updates to the Physician Fee Schedule haven't kept pace with inflation ...

Contributing to the physician employment trend.

Physician Fee Schedule Conversion Factor vs. Inflation
Adjusted 1994 Conversion Factor: 1994 to 2023



Percentage of Physicians Employed: 2019 to 2022



Sources:
 1) "History of Medicare Conversion Factors," ama-assn.org, 2024.
 2) "CPI Inflation Calculator," bls.gov, 2024.
 3) "COVID-19's Impact On Acquisitions of Physician Practices and Physician Employment 2019–2021," physiciansadvocacyinstitute.org, April 2022.



Medicare Physician Payment Reform Likely

Congress will likely again address the conversion factor at the end of the year. A broader overhaul of the physician payments is anticipated in the near term.

DIVE BRIEF

Senate Finance Committee tackles Medicare physician pay reform

On Friday, the committee released a white paper proposing Medicare adjust doctor reimbursement to account for inflation, a key goal for physician lobbies.

Published May 20, 2024

Medicare reimburses outpatient physicians through an annual payment rule called the physician fee schedule, or PFS. The PFS determines how much to pay doctors for specific services by starting with relative value units — measures of the resources needed to perform a service — adjusting them for a physician's geographic area, and multiplying that by a conversion factor.

Increasing Scrutiny of Medical Debt

Medical debt continues to generate headlines ...

... the CFPB recently finalized a rule banning credit reporting.

In This Kansas Courtroom, the Hospital Dominates the Docket

More than 15 million Americans have medical debt, and the issue of collection is particularly tough in rural America

PRATT, Kan.—Last summer, a rural hospital on the Kansas plains began filing dozens of lawsuits against patients who hadn't paid their medical bills.

In July and August 2023, four of every five sheriff-delivered court summonses in Pratt County were from Pratt Regional Medical Center. In September, 95% of civil cases set to be heard in Magistrate Judge Ronald Sylvester's Pratt courtroom were brought by the

Final rule

Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)

JAN 07, 2025

The Consumer Financial Protection Bureau (CFPB) is issuing a final rule amending Regulation V, which implements the Fair Credit Reporting Act (FCRA), concerning medical information. The FCRA prohibits creditors from considering medical information in credit eligibility determinations. The CFPB is removing a regulatory exception that had permitted creditors to obtain and use information on medical debts notwithstanding this statutory limitation. The final rule also provides that a consumer reporting agency generally may not furnish to a creditor a consumer report containing information on medical debt that the creditor is prohibited from using.

Sources:

- 1) "In This Kansas Courtroom, the Hospital Dominates the Docket," wsj.com, May 26, 2024.
- 2) "CFPB Proposes to Ban Medical Bills From Credit Reports," consumerfinance.gov, June 11, 2024.

Not-for-Profit Status Scrutinized

The community benefit standards continue to receive bipartisan interest from both chambers of Congress.

United States Senate

WASHINGTON, DC 20510

August 7, 2023

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

The Honorable Edward T. Killen
Commissioner
Tax Exempt and Government
Entities Division
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Werfel and Commissioner Killen:

We write today regarding our concern over the growing amount of medical debt,¹ and the role your agencies can play in providing greater transparency and oversight into nonprofit hospitals, which hold a portion of this debt.²

More than half of the approximately 5,000 community hospitals in the United States operate as private, nonprofit organizations.³ Under IRS rules, nonprofit hospitals that provide “benefits to a class of persons that is broad enough to benefit the community” may qualify for tax exemptions.⁴ One study estimated that these exemptions were worth over \$28 billion in 2020.⁵

United States Senate

WASHINGTON, DC 20510

November 19, 2024

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Commissioner Werfel:

Medical debt is a burden that weighs heavily on the lives of one out of every three adults in the United States.¹ It accounts for 58 percent of all debts in collections,² and medical debt disproportionately affects Black and low-income Americans.³ Unpaid hospital bills account for a significant portion of medical debt in the United States. However, while roughly 73 percent of U.S. adults with medical debt owe money to hospitals,⁴ nearly 3,000 nonprofit hospitals⁵ – more than half of all community hospitals in the United States – qualify for tax-exempt status as “charitable” organizations.⁶

Under longstanding IRS rules, charitable institutions like nonprofit hospitals must be organized and operated exclusively for an exempt purpose.⁷ While the promotion of health is an exempt purpose, not every entity that promotes health is entitled to a tax exemption.⁸ Instead, to qualify for a federal tax exemption based on the promotion of health, an organization must “primarily benefit the community.”⁹ We are concerned that some nonprofit hospitals may fall short on this measure.

Sources:

- 1) "Grassley, Colleagues to TIGTA and IRS – Nonprofit Hospital Tax Exemption," grassley.senate.gov, August 7, 2023.
- 2) "Warren, Grassley Pressure IRS To Crack Down on Nonprofit Hospitals Taking Advantage of Tax Code," warren.senate.gov, November 19, 2024.

Questions?



forv/s
mazars

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