

The background of the image is a photograph of the White House in Washington, D.C. The building is white with a prominent portico supported by columns. An American flag flies on a tall pole in front of the building. The sky is blue with scattered white clouds. The text is overlaid on the center of the image.

ELECTION UPDATE

MARCH 8

WARNER 
Pacific



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Political Update

March 8th, 2024

Delegate allocation methods

Winner-takes-all



Proportional



Hybrid



Winner-takes-all - In state primaries or caucuses, the candidate that receives a plurality of votes will receive all the delegates.

Proportional - States assign delegates proportional to the candidates' voting percentage secured in the primary or caucus.

Hybrid - Hybrid delegate allocations combine other methods; for example, some states are proportional up to a maximum voting threshold, where if a candidate hits that threshold, it becomes winner-takes-all.

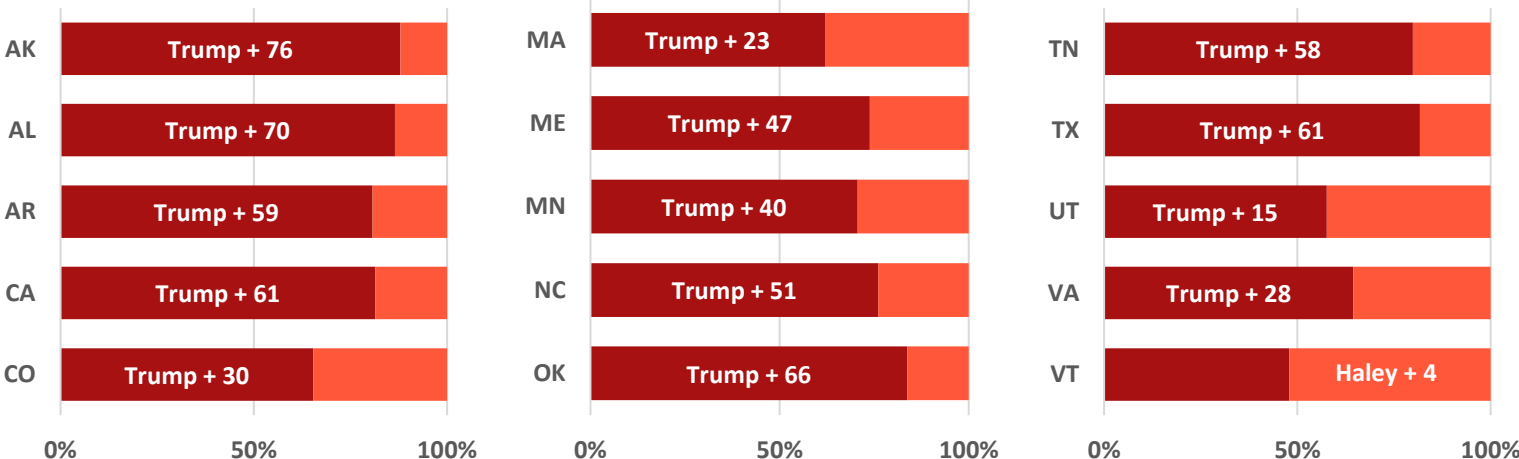
Trump won all but one of the 15 Super Tuesday Republican primary contests

DONALD TRUMP'S SUPER TUESDAY



- Donald Trump picked up victories in 14 states on Tuesday, losing only in Vermont to Nikki Haley by just four points.
- Nikki Haley averaged roughly 26% across all states from Super Tuesday, picking up higher vote shares in Vermont, Utah, Massachusetts, Virginia and Colorado.

REPUBLICAN RESULTS IN SUPER TUESDAY CONTESTS

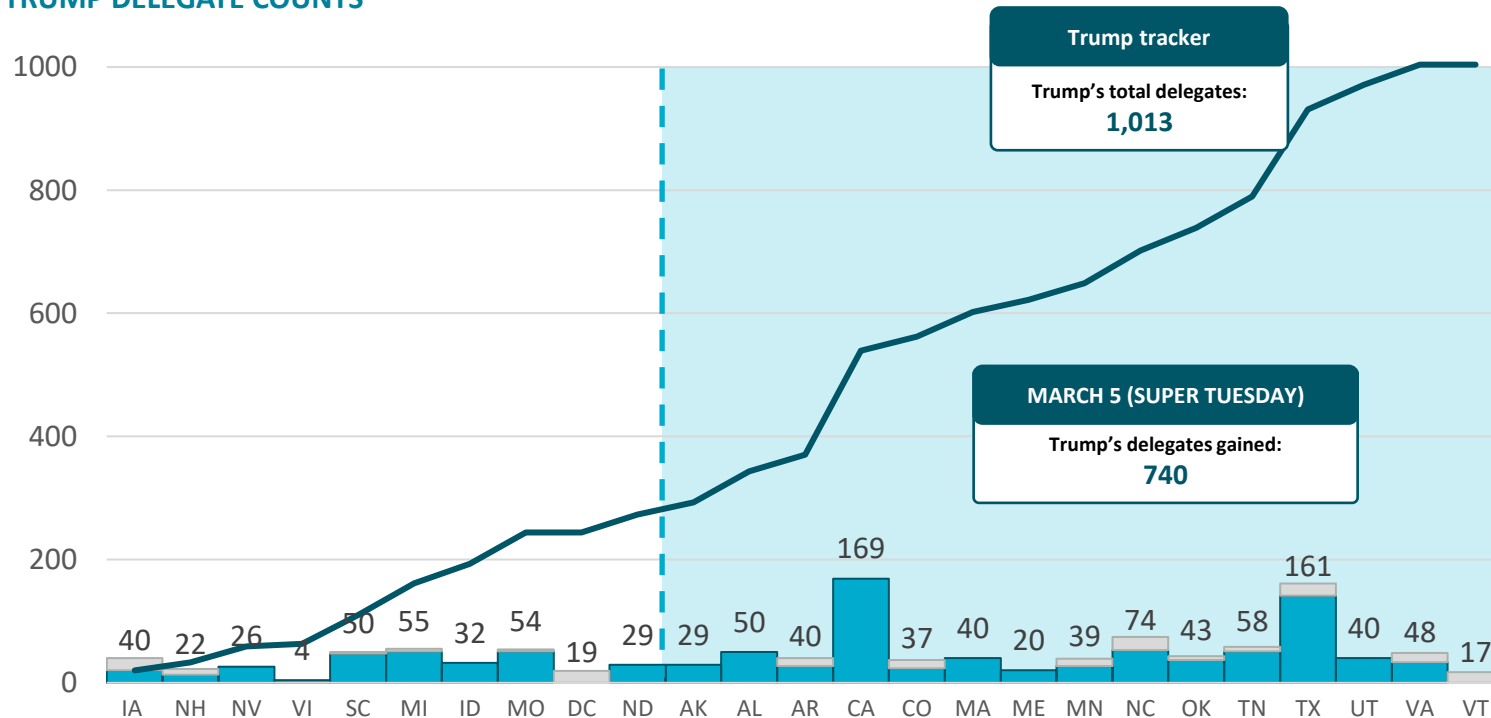


Trump is on pace to secure the GOP nomination by March 19



As of March 6th – Super Tuesday – Trump gained 731 delegates, with several delegates remaining to be assigned from states still counting votes. Thus far, Trump has secured 1,013 of 1,114 delegates allocated so far, putting him on pace to secure the 1,215 delegates needed for the GOP presidential nomination by March 19

TRUMP DELEGATE COUNTS



Former presidential competitors emerge on Trump's VP shortlist



“The person that I think I like is a very good person, pretty standard. I think people won't be that surprised, but I would say there's probably a 25% chance it would be that person,”

Donald Trump on his preferred pick for Vice President.

SHORTLIST OF VICE PRESIDENT CONTENDERS



Sen. Tim Scott (R-SC)

A former candidate for the GOP nomination, Scott positioned his support behind Trump since exiting the race Together.



Gov. Ron DeSantis (R-FL)

DeSantis did not attack Trump as forcefully as others on the campaign trail; he pledged to support Trump's candidacy after dropping out of the race.



Vivek Ramaswamy (R)

Ramaswamy was not able to garner enough support to become a legitimate primary challenger, and he endorsed Trump after exiting the race.

Trump reported intent to reveal his choice for Vice President sometime in the next couple of months



- Trump's final competitor for the GOP nomination, Nikki Haley, previously served under the Trump administration, but she and Trump ruled out the possibility of Haley as Trump's VP

OTHER POSSIBLE VICE PRESIDENT CONTENDERS



Kristi Noem
Governor (R-SD)



Kari Lake
U.S. Senate candidate (R-AZ)



Lindsey Graham
U.S. Senator (R-SC)



Tulsi Gabbard
Former U.S. Rep. (D-HI-2)



Sarah Huckabee Sanders
Governor (R-AK)



Byron Donalds
U.S. Rep. (R-FL-19)



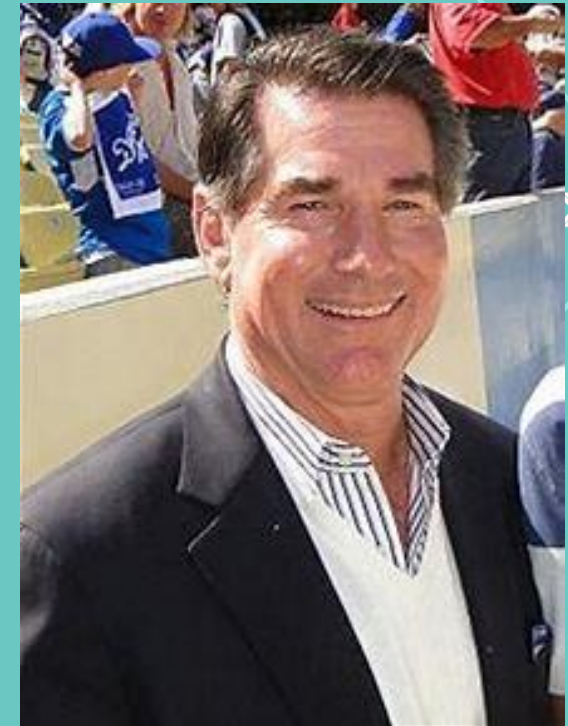
Elise Stefanik
U.S. Rep. (R-NY-21)



Ben Carson
Former HUD Secretary

California Senate Primary Focus

- The race to replace Dianne Feinstein's seat is a key race in California and for the country.
- In a crowded and very competitive race, Adam Schiff is the winner and will face off against a Republican seat in November.
- This is a seat in that has been held by a Democrat for many years.



California's Prop 1

- On Thursday, polls showed Prop 1 winning by a single percentage point, with 50.5% for it and 49.5% against it.
- The measure would authorize \$6.38 billion to build housing for people with severe mental health issues.
- Controversy surrounds the funding, which would take some funds from services currently being provided for preventive care and less serious mental health services.
- Additionally, it shifts decision-making and control of the funds from counties to the state level.



Texas Senate Primary

- U.S. Rep. Colin Allred has won the Democratic nomination in Texas to take on Republican Sen. Ted Cruz.
- Allred, a former NFL player who first won his Dallas-area seat by ousting a Republican incumbent in a hard-fought 2018 race, has focused on healthcare — including his support for the Affordable Care Act and abortion rights.
- Allred is also a prolific fundraiser, outraising Cruz \$4.8 million to \$3.4 million in 2023's fourth quarter and ending the year with \$10.1 million in the bank to Cruz's \$6.2 million.
- Democrats view this as a key opportunity to pick up another Senate seat in November.

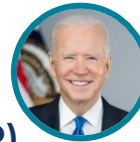


The Impact of a Trifecta

Political Snapshot

> Presidential election

The 2024 presidential election appears to be a rematch between current and former presidents, incumbent Joe Biden (D) and Donald Trump (R)



> Senate elections

Democrats currently hold a 51-49 majority in the Senate. And of the 34 senate seats up for grabs, 23 of them are Democratic to just 11 Republican.



> House of Representatives elections

Republicans hold a slim majority in the House, 219-213, with 14 of them having vulnerable Republican incumbents.



> Gubernatorial elections

11 states will hold gubernatorial elections in 2024, and only two sitting governors will seek re-election, leaving the other nine seats open.



“ CHARLIE COOK

Back-to-back presidential elections in 2016 and 2020 have had trifecta outcomes, with the White House as well as House and Senate majorities all going the same direction, often resulting in 180-degree directional changes in public policy and governance.

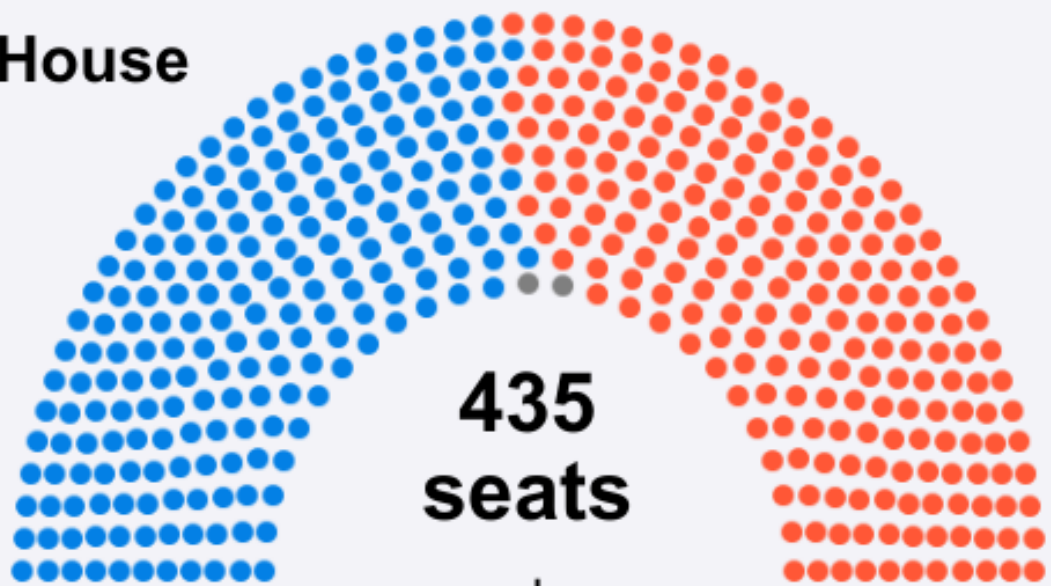


Composition of the 118th Congress



● Democrats ● Republicans ● Independents ● Vacancies

House



**435
seats**

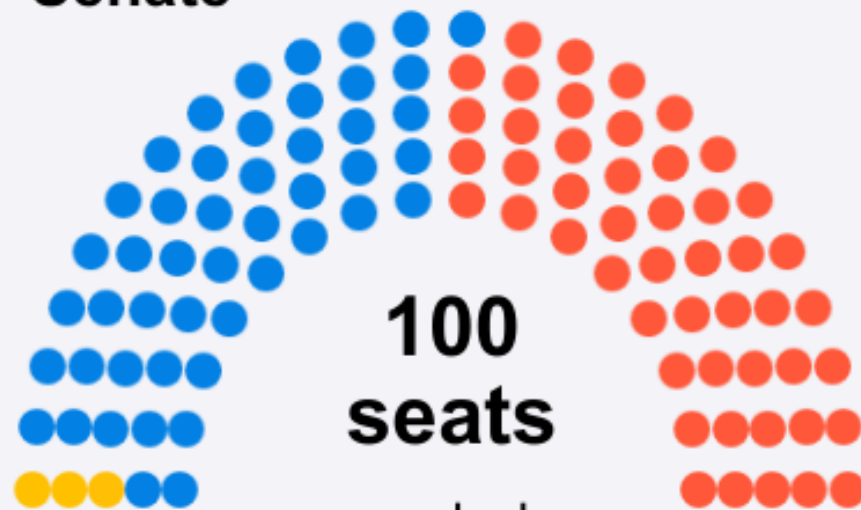
212 Democrats
0 Independents

218
votes for
majority*

220 Republicans
2 Vacancies

Vacancies: NY-3, CA-20

Senate



**100
seats**

48 Democrats
3 Independents**

51
votes for
majority*
60
votes for
cloture*

49 Republicans
0 Vacancies

*If no vacancies and all members vote

**Sens. Sanders (VT) and King (ME) caucus with the Democrats; Sen. Sinema (AZ) caucuses with neither party but receives committee assignments from Democrats

Mitch McConnell Stepping Down

- Mitch McConnell has announced that after 40 years, he would hand over his position as Senate Republican leader.
- This is a monumental change, and the big question is: What does his exit mean for health care and health insurance?
- This largely depends on which of the three possible candidates succeeds them.



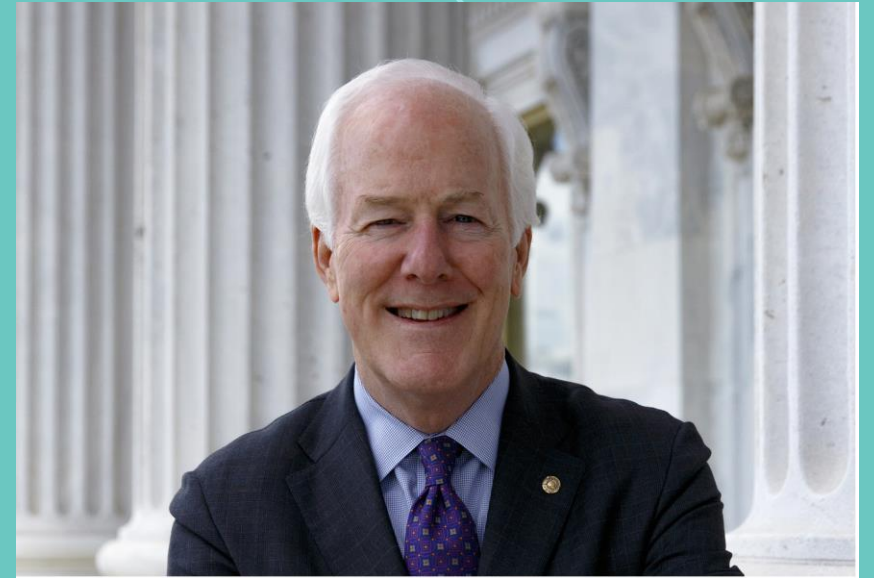
John Thune

- The first candidate is John Thune. Thune is the second-ranking Republican and has sometimes taken moderate positions, meaning that there is more chance of moving positive efforts forward.
- While still a conservative Republican, he is interested in PBM reform, but has been influenced significantly by the National Community Pharmacists Association.
- He voted against the Grassley-Wyden drug price bill in 2019, reflecting his concern with anything that might look like price controls.



John Cornyn

- Cornyn takes a harder line on pharma drug pricing than many of his Republican colleagues.
- Although his positions are far from those of Democrats, he did sponsor a bipartisan bill to crack down on patent thickets and product hopping designed to delay generic competition.
- He voted FOR the Grassley-Wyden bill but was opposed to the provision that limited drug price increases to the inflation rate.



John Barasso

- Barasso is the most Trump-aligned of the three contenders.
- He has opposed Medicare drug price negotiations but co-sponsored the Grassley-Wyden bill on drug pricing.
- He has called for a reversal of Medicare payment cuts to doctors, which is not surprising given he was an orthopedic surgeon and rodeo doctor before coming to Congress.



Key Legislative Issues Under Consideration

Pharmacy Benefit Managers

- While almost everyone in Congress wants address PBM reform, the House and Senate are divided on whether policy changes should apply to the commercial market or just federal health programs.
- House Republicans feel expansion to the private market goes too far, and want to limit the scope to Medicare and Medicaid.
- A ban on spread pricing in Medicaid to prevent PBMs from charging payers more than they pay a pharmacy are seen as low-hanging fruit.
- Changes that apply to the private market are more controversial, especially requiring that PBMs be paid a flat fee instead of being paid on the price of the drug.

The Biden Administration and Prescription Drug Pricing



BACKGROUND

- On December 7, President Biden announced measures to reduce prescription drug costs by tackling anticompetitive practices in healthcare.
- Biden outlined a framework that would allow agencies to exercise “march-in rights,” enabling the government to seize drug patents from major drug companies if they are not “reasonably” accessible to the public.

WHAT TO WATCH

- Companies like CVS, PCA Rx, and Cost Plus Drugs plan to work together to address affordability challenges and prioritize price transparency.

Other Issues: Ghost Networks

- Senator Ron Wyden, Chair of the Senate Finance Committee, has been very vocal about his concern for people seeking mental healthcare and the lack of accuracy in health plan provider directories.
- He has expressed a desire to penalize plans with inaccurate directories.
- The Finance Committee staff has conducted a secret-shopper study with findings that they were only able to obtain an appointment 18% of the time.
- Health plans have responded that they depend on doctors to submit accurate and up-to-date information on details that only they know, like provider and facility names and whether they are accepting new patients, addresses, and phone numbers.
- Expect more action on this issue.

End-Stage Renal Disease

- HR 6860 - Restore Protections for Dialysis Patients Act would mandate that ESRD care (including dialysis) be covered by group health plans and that an expanded list of providers be included on a preferred basis.
 - Between 2012 and 2019, the initiation of dialysis care for privately insured patients with kidney failure increased employer plans' average monthly spending from \$5,025 to \$19,654.
 - Spending on dialysis for patients in commercial plans in the first year of treatment was \$238,126 – compared to \$80,509 spent on Medicare patients.
 - This is largely because just two dialysis providers control 80% of the ESRD market.
 - This legislation would give these providers a competitive advantage over other providers in the market.
- This would not foster the healthy competition that is needed but rather increase the high costs already being experienced.

Cost of Healthcare

- Currently, providers that own multiple facilities can charge different amounts for the same care depending on where care was received.
 - For example, the price of the same X-ray or MRI could vary whether it is at a physician's office or hospital setting.
- The idea of having Medicare pay the same for outpatient services, regardless of the medical setting, would save both taxpayers and patients money.
- This issue impacts all markets, but enacting site-neutral payment reform in just the Medicare market alone would help lower costs (because Medicare prices serve as a benchmark for private markets).
- TH.R. 5378 (The Lower Costs, More Transparency Act): Reps. Frank Pallone (D-NJ) and Cathy McMorris Rodgers (R-WA) included site-neutral payments for physician-administered drugs, which is limited but a start towards site neutrality.
- The bill passed the House and must be passed by the Senate to become law.
- In a sign of an uphill climb, the Senate Finance Committee Chair has expressed concerns about the impact on rural hospitals, noting that "The Senate is a pretty rural place."
- The CBO says the modest House-passed legislation would save about \$3.8 billion over 10 years.
- More sweeping proposals affecting more than physician-administered drugs would save over \$100 billion.

Employer Reporting

- S. 3204 (The Employer Reporting Improvement Act) and S. 3227 (The Paperwork Burden Reduction Act) PASSED the HOUSE!
- Provides much-needed relief for employers seeking to comply with the reporting requirements under Section 6055 and 6056 for enforcement of the ACA.
- Reduces the number of individuals and amount of information that would need to be reported; eliminates the requirement to collect dependent Social Security Numbers; provides ALEs more time to respond to first IRS letter; limits time horizon for IRS lookback for prior compliance period.
- The House already passed both bills in June; if these vital pieces of legislation are passed by the Senate, the landmark bills will be sent to the president's desk to sign into law.

ERISA

- The Employee Retirement Income Security Act of 1974 (ERISA) was enacted to protect the interests of employee benefit plan participants and their beneficiaries.
- It sets minimum standards for plans while also setting standards for providing information, fiduciary responsibility, procedures for handling benefits, and remedies for beneficiaries.
- Maintaining ERISA's preemption is essential to avoid a fragmented legal landscape and ensure consistent, effective administration of employee benefit plans nationwide.
- ERISA is being challenged on multiple fronts on the state and federal level — watch for more coming on this soon.

Telehealth

- Legislative action taken during the pandemic allowed Health Savings Account (HSA)-qualified high-deductible health plans (HDHPs) to cover telehealth services before reaching the deductible.
- It also allowed patients to choose and purchase telehealth services outside their HDHP, without impacting their eligibility for an HSA.
- These flexibilities will expire at the end of 2024, unless action is taken.
- Many large employers are already making benefits decisions for the 2025 plan year and need to know if these flexibilities will be in place.

Health Savings Accounts

- Introduced: HR 5688: The Bi-Partisan HSA Improvement Act of 2023 - provides long-overdue fixes to specific HSA issues, including changing of tax code to allow direct primary care arrangements to be compatible with HDHP-HSA plans.
- It also permits limited use of employer on-site medical clinics and other employment-related health services without risking HSA eligibility.
- Permits individuals with HSA-qualifying family coverage to contribute to an HSA if their spouse is enrolled in a medical flexible spending account (FSA).

Regulatory Concerns

Regulatory Concerns

Increasing Actions to Expand the ACA Could Increase Cost and Decrease Plan Options

- There is increasing scrutiny over ensuring access to the ACA, including adequate network adequacy, adequate information on prices, and full transparency on every aspect of cost and availability of care.
 - This has resulted in new reporting and audit requirements, which have been particularly difficult for employers to comply with in the pharmacy and mental health areas.
- There is also new concern about whether alternative non-ACA plan options are diminishing the integrity of the ACA pools.
 - A roll back of Trump-era rules on short-term limited duration plans has been proposed.
 - Limits on hospital indemnity products, particularly when they are paired with MEC plans, has also been proposed.
 - Questions are being asked about level funding for small groups and whether it has an impact on ACA small employer pools.
 - Prognosis: We could see limits on level funding for employers with fewer than 50 employees.
- There are new proposals about the essential benefits package and how it is structured and, in particular, a proposal to include adult dental as a part of the mandated essential benefits package.
 - It remains to be seen whether this aspect of the proposed rule will be retained, since it significantly impacts premium subsidies in the individual market in addition to costs to the consumer and small employers.

Mental Health Parity Compliance

- Recently, the DOL has made compliance with MHP laws a top enforcement priority, focusing on nonquantitative treatment limitations, such as prior authorization requirements, step therapy and provider reimbursement rates.
- Health plans and issuers are required to conduct comparative analyses of the NQTLs used in their plans as compared to medical/surgical benefits, with explanations of practices and why the plan meets mental health parity requirements.

Mental Health Parity Proposed Rule

- A new proposed rule issued in August 2023 would impose extensive expansions to the current requirements.
- Plans would be required to collect, evaluate and consider actual usage data instead of relying on descriptions of coverage.
- A special rule would be added relating to network composition and would establish additional requirements for the comparative analysis.

Association Health Plans

- The DOL issued a proposed rule rescinding 2018 regulations on Association Health Plans (AHPs).
- Prior to 2018, AHPs operated under a strict regulatory framework. The plans were required to:
 - ❑ Be formed by groups with a close common interest,
 - ❑ Be related to their industry or profession,
 - ❑ Comply with ACA essential health benefits
- The landscape shifted significantly in 2018 under President Trump, with new rules:
 - ❑ Allowed broader array of unrelated employers,
 - ❑ Self-employed individuals could also participate,
 - ❑ Flexibility to circumvent community-rating rules
- BUT, in March 2019, the U.S. District Court for the District of Columbia vacated the 2018 rule.
- This effectively ended the Trump administration's AHP goals.
- Most AHPs today still follow pre-2018 regulations because of this decision.
- This means that the new proposed rule will have little impact on the current state of association health plans.

Medicare Advantage Proposed Rule

- In the proposed rule, CMS acknowledges that independent agents “have become an integral part of the industry, helping millions of Medicare beneficiaries to learn about and enroll in Medicare, MA plans and PDPs by providing expert guidance on plan options in their local area, while assisting with everything from comparing costs and coverage to applying for financial assistance.”
- However, the proposed rule also operates under the assumption that MA agents are incentivized by large plans to steer beneficiaries to certain plans over others based on “excessive compensation” and other bonus arrangements rather than what is best for the beneficiary.
- According to CMS, the proposed regulations ensure that compensation is comprised of “only the legitimate activities required of agents and brokers.”

Medicare Advantage Proposed Rule

- Overall, if finalized as written, CMS would redefine agent and broker compensation by eliminating “administrative fees” and capping the maximum compensation for enrollment at \$642 and would reduce administrative payments to \$31 per year.
- In addition to altering the compensation structure, the proposed rule would generally prohibit contract terms between MA organizations and field marketing organizations (FMOs) – which CMS claims result in volume-based bonuses for enrollment into certain plans, and “which may interfere with the ability of agents or brokers to assist the enrollee in finding the plan that is best suited to their needs.”
- The proposed rule would reduce administrative payments to \$31 per year, an approximate 85% reduction.
- The final rule is expected in late March or April.

Preventive Care Benefits

- Health Plans are no longer required to cover COVID-19 diagnostic tests and related services without cost sharing.
- COVID-19 immunizations still must be provided without cost sharing but can be limited to in-network providers.
- Ongoing litigation has challenged preventive care being defined for some services based on recommendations of the U.S. Preventive Services Task Force.
- The federal government is considering expanding preventive care services to include over-the-counter preventive products, such as oral contraceptives.

Thank
you



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