



Issues for the week ending January 31, 2025

Federal Issues

Legislative

Senate Committees Hold Hearings on RFK Jr. Nomination

On Jan. 29 and 30, the [Senate Finance Committee](#) and [Senate Health, Education, Labor and Pensions Committee](#) held respective hearings on the nomination of Robert F. Kennedy (RFK) Jr. for Secretary of the Department of Health and Human Services (HHS). Some Republican senators questioned Kennedy about his previous statements on vaccines and abortion but were generally supportive of his nomination, while Democrats were unified in opposition.

Why this matters: The Senate Finance Committee will vote on the nomination, which is anticipated this week. Beyond its hearing, the HELP Committee does not play a role in advancing the nomination.

Kennedy's opening statements focused on the chronically ill, the high costs of chronic disease, and the Administration's commitment to "make America healthy again." In his opening remarks and several times

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during questioning, RFK Jr. reiterated his desire to bring “radical transparency” to HHS.

Kennedy consistently expressed support for the Medicare Advantage program and the role of private insurers; however, he did not defend what he referred to as “rapacious behavior by the insurance companies or PBMs.” He expressed concerns with the Affordable Care Act, but ultimately deferred to Congress on whether it should extend the expiring enhanced Advance Premium Tax Credits.

Both Republicans and Democrats raised Medicaid reform at the hearings. RFK Jr. said several times that the Medicaid program is broken and needs reform, but did not elaborate on what reforms were needed. He noted people on Medicaid are not happy with the program, premiums and deductibles are too high, networks are narrow, and quality doctors will not accept it. When directly asked about cutting Medicaid, he responded that President Trump did not tell him he wants to cut Medicaid, but that he wants to make it better. Upon further pressing, RFK Jr. said that any cuts would be up to Congress.

- **Gov. Shapiro to Deliver Budget Address**
- **New, Bipartisan Caucus on Economic Competitiveness**

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- **Shapiro Administration Announces Funding to Support Veterans in the Workforce**
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Federal Issues

Regulatory

AHIP Submits Comments on CY 2026 MA & Part D Proposed Rule

On January 27, AHIP submitted final comments on the [CY 2026 MA & Part D Proposed Rule](#). The comments highlight the importance of ensuring MA and Part D remain strong and innovative and continue to meet the financial and health needs of Medicare enrollees.

Key Takeaway: Instead of moving forward with most of the proposals, AHIP urges the Administration – in keeping with the spirit of the memorandum Regulatory Freeze Pending Review – to reconsider the Proposed Rule in light of the goals of reducing health care costs and promoting affordability.

Other Important Issues:

- Concern over the proposed coverage of anti-obesity medications (AOMs) in Medicare and Medicaid.
- A few provisions of the Proposed Rule are necessary to operate the MA and Part D programs in 2026 and should be finalized to allow for timely incorporation into the 2026 plan year.

Go Deeper: Read AHIP's detailed [comments and recommendations](#).

White House Pause on Federal Financial Assistance Generates Confusion for Medicaid, Other Government Programs

The Office of Management and Budget (OMB) released memo M-25-13 announcing all federal agencies would be forced to suspend payments for federal financial assistance beginning at 5 PM eastern time on Jan.28 — with the explicit exception of Social Security and Medicare. A follow-up Q&A document indicated that the pause would not apply to Medicaid; however, multiple congressional offices reported that Medicaid payment portal were already down in many states. In response to the funding freeze, a group of non-profit organizations and a group of 22 state attorneys general filed separate lawsuits, with the non-profit lawsuit leading U.S. District Judge Loren AliKahn to issue a temporary ruling to block the freeze. On Wednesday, OMB announced that it had rescinded M-25-13, though White House Press Secretary Karoline Leavitt later issued a statement on X noting that the action was “not a rescission of the federal funding freeze. It is simply a rescission of the OMB memo...The President’s EO’s on federal funding remain in full force and effect and will be rigorously implemented.”

Read More

- [OMB Memo M-25-13](#)
 - [OMB Memo Rescinding Memo M-25-13](#)
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CMS Issues Statement on Prescription Drug Pricing; Announces Additional 15 Drugs for Medicare Price Negotiation

On Jan. 29, CMS issued a [statement](#) indicating that lowering drug prices is a priority for President Trump and the agency will incorporate lessons learned from the first round of negotiation in future rounds. Additionally, CMS indicated that it will create opportunities for stakeholders to provide input to improve the Medicare Drug Price Negotiation Program.

CMS [announced](#) the 15 Part D drugs selected for the second cycle of negotiations under the Medicare Drug Price Negotiation Program established by the Inflation Reduction Act.

The Selected Drugs: 1) Ozempic, Rybelsus, Wegovy; 2) Trelegy Ellipta; 3) Xtandi; 4) Pomalyst; 5) Ibrance; 6) Ofev; 7) Linzess; 8) Calquence; 9) Austedo, Austedo XR; 10) Breo Ellipta; 11) Tradjenta; 12) Xifaxan; 13) Vraylar; 14) Janumet, Janumet XR; and 15) Otezla.

By the Numbers: CMS estimates that the selected drugs accounted for approximately 14% of total Medicare Part D gross covered prescription drug costs, or \$41 billion in gross costs, between November 1, 2023, and October 31, 2024.

Accompanying Materials:

- [CMS Press Release](#)
 - [CMS Fact Sheet](#)
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State Issues

New York

Legislative

Legislative Committee Activity

The Senate Health and Insurance Committees and the Assembly Health Committee are meeting this week and will be considering bills of interest to plans.

Senate Insurance

February 3, 11:30 a.m.

- **S.868 (Bailey) / A.2449 (Cruz)** – Expands the existing requirement for coverage of enteral formulas to include coverage for the cost of certain infant and baby formulas.
- **S.2000 (Addabbo)/A.1195 (Peoples-Stokes)** – Mandates health insurance coverage for follow-up screening or diagnostic services for lung cancer.

Senate Health **February 4, 12 noon**

- **S.1634 (Rivera)/A.1915-A (Paulin)** – Requires health insurers to report to the percentage of overall annual health care spending on primary care services and mandates at least 12.5% of all total annual expenditures be directed to primary care services.

Assembly Health **February 4, 10:30 a.m.**

- **A.700 (Gonzales-Rojas)/S.707 (May)** – Requires the Department of Health to post MLTC enrollment, financial and quality data on the DOH website in an interactive format.
- **A.1691 (Paulin)/S.3359 (Rivera)** – Expands health care services provided by telehealth and requires payment parity Federally Qualified Health Centers for care delivered where neither the provider nor the patient were located in a clinic.

The Joint Budget Hearing on Health and Medicaid is scheduled for Tuesday, February 11, 2025, at 9:30 a.m.

Regulatory

DFS Issues Supplemental Guidance to Insurers on PrEP

The Department of Financial Services (DFS) has issued additional guidance (**Supplement No. 3 to Insurance Circular Letter No. 21 (2017)**) to all NYS regulated health insurers regarding coverage and prior authorization prohibition for Pre-exposure Prophylaxis (PrEP).

In accordance with Insurance Law §§ 3216(i)(39), 3221(l)(22), and 4303(vv), health insurers that provide coverage for antiretroviral prescription drugs prescribed for the treatment or prevention of HIV or AIDS, including PrEP, are prohibited from subjecting any such drugs on their formulary to prior authorization. This is follow up guidance to legislation passed and signed in June 2024.

State Issues

Pennsylvania

Legislative

Gov. Shapiro to Deliver Budget Address

On Tuesday, Governor Shapiro will present to a joint session his proposed FY 2025/2026 budget. It is anticipated that the budget proposal will highlight the need to reform and shift priorities in the Department of Human Services' Medicaid budget, with the majority leaders of both caucuses highlighting the need to review the expenditures of medications such as GLP-1s. Additionally, it is anticipated that the Governor will continue his push for expanded K-12 education funding, transportation funding, and the legalization and taxation of recreational marijuana.

After this week, both chambers will adjourn until the week of March 17 while the Appropriation Committees hold agency budget hearings where agency leaders will outline their respective proposed budgets.

New, Bipartisan Caucus to Focus on Economic Competitiveness

State lawmakers recently announced the formation of a new bipartisan, bicameral caucus aimed at advancing policies that spark business growth and enhance the commonwealth's long-term economic competitiveness.

The Pennsylvania Competitiveness Caucus plans to hold its first meeting later this month and focus on public policies that affect Pennsylvania's ability to attract and keep businesses. Co-chairing the caucus are Senators Kristin Phillips-Hill (R-York) and Lisa Boscola (D-Northampton) and Representatives Paul Friel (D-Chester) and Josh Kail (R-Beaver).

As the state faces challenges in retaining businesses, attracting new investment, and reversing stagnant population growth, the caucus will serve as a dedicated platform for lawmakers to collaborate on policies that drive economic growth and make Pennsylvania an attractive place to live and work.

Why this matters: Hospitals power local economies, create jobs, and make communities attractive places to live. Economic development can't happen without strong local hospitals.

The hospital industry looks forward to working with members of the competitiveness caucus and the business community to advance policies that ensure hospitals can continue their critical role enabling business growth.

Regulatory

Shapiro Administration Announces Funding to Support Veterans in the Workforce

The Pennsylvania Department of Labor and Industry last week announced nearly \$600,000 in grants to three organizations as part of the Veterans Employment Program (VEP). The funding will help veterans and their spouses overcome employment barriers and secure family-sustaining careers, state officials said.

The VEP initiative seeks to help veterans, members of all reserve units and the Pennsylvania National Guard, and spouses of veterans and service members translate their military skills to civilian life.

Montgomery County-based Business Interface Workforce Services, LLC (\$198,820) to provide individualized care and coordination of workforce development resources.

Bucks County-based Educational Data Systems, Inc. (\$200,000) to create a partnership between Bucks and Montgomery counties addressing employment barriers through specialized career development programs, among other initiatives.

Westmoreland and Fayette County-based Private Industry Council of Westmoreland/Fayette, Inc. (\$193,167) to support veterans and their spouses through group mentorship, personalized coaching, and comprehensive support services.

Additional information is available online.

Why this matters: Hospitals support initiatives that help grow and support the health care workforce. This includes opportunities to support veterans and their families as they transition from military service to civilian life.

Draft Recommendations Published to Mitigate Risk of Harm Related to Shoulder Dystocia

The Pennsylvania Patient Safety Authority (PSA) and the Pennsylvania Department of Health (DOH) jointly released draft recommendations in the January 25, 2025, **Pennsylvania Bulletin** (55 Pa.B 888) focused on mitigating risk of harm due to shoulder dystocia for all hospitals and birthing centers licensed to provide obstetrical care.

Hospitals are encouraged to review the draft recommendations and offer comments during the 30-day public comment period, which ends on Monday, February 24, 2025.

Background: These draft recommendations include requirements for:

- Risk assessment
- Simulation training and competency assessment
- Debriefing and documentation

During 2022, the PSA identified an increase in the occurrence of reportable harm events related to neonatal complications including shoulder dystocia. Subsequently, hospitals were asked to provide additional event details which led to a safe table discussion. These draft recommendations are a result of those efforts and have been preliminarily approved by the PSA board during the January 2025 meeting.

Why this matters: Many questions remain regarding the recommendations, most notably if DOH will adopt, through formal rulemaking, these recommendations as mandatory licensure requirements.

State Announces Funding to Establish Evidence Kit Tracking System

The Shapiro administration last week announced \$2.5 million to support a new statewide sexual assault evidence kit tracking system.

The new funding follows the passage of a [bill](#) last year requiring the establishment of an electronic statewide sexual assault evidence tracking system. The new tracking system will enable survivors to monitor the status of their rape kits throughout the testing process. It also is part of a larger effort to reduce the backlog of processing for these kits.

The funds will be used to establish the new tracking system and support training and technical assistance provided to rape crisis programs, hospitals, law enforcement, and other key stakeholders. Some of the funding also will help establish a state-level multidisciplinary team to build on collaborative efforts related to sexual assault evidence collection and other system-wide reforms.

Why this matters: Hospitals support the ongoing efforts to establish the new sexual assault kit tracking system, and supported the passage of [House Bill 2032](#) which required the state police to issue a [report](#) on establishing the new tracking system in Pennsylvania. It also preserved the right for an assault victim to remain anonymous when seeking care through a forensic rape exam while still having the evidence of that assault collected, preserved, and tested.

Additional information about last week's announcement is available [online](#).

Industry Trends

Policy / Market Trends

Background on Presidential Executive Orders

- **What is an Executive Order?** An executive order is a formal document, signed by the President, that articulates Administration policy or instructs members of the executive branch of the federal government to take certain actions. Presidential executive orders, while widely publicized, are fundamentally internal communications of the federal government.

- **How do Executive Orders Impact Private Companies?** Executive orders are used by the President to communicate the Administration's policies and priorities to the various federal departments and agencies. As such, they are not binding on private third parties unless and until federal agencies take specific actions to implement the new policies. For federal contractors, this will generally be through the contracting process. For other third parties, they only become binding through sub-regulatory guidance or formal rulemaking.
- **Are there Other Ways Executive Orders Can Impact Private Companies?** Yes. The policies articulated through an executive order can impact how audits are conducted, the enforcement actions agencies choose to take, and the positions the federal government takes in litigation.
- **What is a Private Sector Analogy to an Executive Order?** The closest private sector analogy to a presidential executive order would be the CEO of a major corporation formally announcing an intent to change business strategy. Such an announcement is important information and may be widely publicized, but it only directly impacts customers and business partners once it is implemented through actions such as changes in products, prices, business processes or contracts.
- **Are Regulations Issued Pursuant to a Biden Executive Order that has been Rescinded by President Trump Still Binding?** In most cases, yes. Regulations that have been finalized through the formal notice and comment period and went into effect prior to January 20, 2025, remain in effect until rescinded or modified by agency action. Rules that are currently in process or have not yet gone into effect have been [frozen or postponed for review](#).
- **How Quickly can an Executive Order be Implemented?** It depends on the type of agency action required. Many purely internal agency changes – such as staff reorganization or return to work requirements – can be made relatively rapidly. On the other hand, formal changes to federal regulations are subject to the Administrative Procedure Act (APA) and must go through a notice and comment period which can add a significant delay to the process.
- **Are Executive Orders Subject to Legal Challenge?** Yes. Several of President Trump's recent executive orders have already been challenged in court. For instance, lawsuits have been filed in Massachusetts, New Hampshire and Washington state challenging the executive order on birthright citizenship, and a temporary injunction has been issued blocking implementation. Similarly, a recently issued Office of Management and Budget (OMB) memorandum freezing certain federal assistance funding was challenged by 22 Democratic state attorneys general, and an injunction blocking implementation was issued shortly before it was scheduled to go into effect. (The memo was later rescinded by OMB, though the executive order that prompted the OMB action has not been rescinded.)

- **Do Recent Supreme Court Decisions Affect How Regulatory Actions Taken In Response to these Executive Orders will be Reviewed by the Courts?** Yes. The decision in [Loper Bright Enterprises v. Raimondo](#) and *Relentless, Inc. v. Department of Commerce* changed the level of deference that courts give to regulatory actions taken by federal agencies. Under prior precedent (known as “Chevron deference”) courts deferred to federal agencies when the statute at issue was ambiguous and the agency’s interpretation was reasonable. The Loper Bright decision requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency’s legal interpretation simply because a statute is ambiguous. This reduced level of deference means that agency regulatory actions will now be more easily challenged in court.
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Underfunding MA Would Compound the Impact of Two Years of Cuts

AHIP posted a [new blog](#) highlighting the importance of adequately funding Medicare Advantage for the 34 million seniors and disabilities who rely on it.

Not Keeping with the Pace: CMS indicates that the policies in the Advance Notice – which was released prior to the inauguration – would, on average, increase funding by 2.23% in 2026. However, medical costs for seniors have been rising much more. A preliminary review of CMS growth rate estimates for 2026 suggests medical costs for MA enrollees will rise approximately 9% next year.

A Reminder: MA funding was cut in each of the last two years – while underlying medical costs have continued to rise substantially. [Several recent analyses](#) show that MA beneficiaries are already experiencing negative consequences, including higher out-of-pocket costs, reduced supplemental benefits, and fewer coverage choices.

Value of MA: The blog highlights how MA provides seniors better care at lower costs than FFS and performs better on key measures related to prevention and chronic care management.

The Bottom Line: With seniors’ usage of medical services expected to remain high, a third consecutive year of insufficient MA funding would cause additional negative consequences for seniors’ benefits, costs and choices. MA policies for 2026 should appropriately reflect the expected cost of caring for seniors next year.

5 Facts on Health Care Tax Credits

The Keep Americans Covered coalition highlighted [five key facts](#) about the enhanced premium tax credits, which make coverage more affordable in the individual market:

1. **Americans Facing Insurmountable Cost Increases:** If Congress fails to act before a 2025 deadline, premiums will double for the average enrollee and cost tens of thousands of dollars more for many families.

2. **Americans Will Lose Health Coverage Without Them:** According to an [analysis](#) by Oliver Wyman, the premium increases will be so severe that more than 5 million people will lose coverage entirely, including nearly 2 million with chronic conditions.
3. **Children Rely on Coverage:** In 2022, 1.6 million children were covered by the health insurance bought on the individual market, according to data from the U.S. Treasury Department.
4. **They Promote Fairness for Those Without EPC:** These tax credits give small business owners, independent contractors, and gig workers the same kind of help big-company employees have enjoyed for years by providing them with a tax benefit as well, making it possible to purchase affordable health coverage.
5. **They're Popular:** A [survey](#) from Keep Americans Covered found 86% of voters in the 2024 election want the tax credits extended, including 82% of people who voted for the President.

Go Deeper: Explore KAC's [interactive map](#) and [cost calculator](#) to see the impact of enhanced tax credits.

More than 24 Million Select Coverage During Individual Market Open Enrollment

A record 24.2 million consumers signed up for plan year 2025 health coverage during the 2025 open enrollment period, including nearly 4 million new enrollees, according to [new data](#) from CMS.

By the numbers:

- All Marketplace Plans – 24,166,491
- New Consumers – 3,938,907
- Returning Consumers – 20,227,584

Why it matters: The [individual market is working](#) for millions of Americans. This highly competitive market offers affordable, stable options that are now providing a record number of Americans the health, security, and peace of mind that comes with comprehensive coverage.

Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: <http://legis.delaware.gov/>.

New York Legislation: <https://nyassembly.gov/leg/>

Pennsylvania Legislation: www.legis.state.pa.us.

West Virginia Legislation: <http://www.legis.state.wv.us/>

For copies of congressional bills, access the Thomas website –
<http://thomas.loc.gov/>.

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