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FAST BREAK: **CONGRESSIONAL MIDTERM ELECTIONS**

Susan Feigin Harris, Timothy Lynch, Kathleen
Rubinstein, David Mendelsohn, and Jake Harper
November 27, 2018



Agenda – Congressional Midterm Elections

- **Political Outcomes and Impact**

- Exit Polling
- House of Representatives
- Senate
- Elections Across the Country

- **Key Healthcare Issues**

- Drug Price Reform
- Opioid Crisis
- The Budget
- Affordable Care Act
- And More ...

- **Looking Ahead**

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Beginning at the Exit (Polling)...



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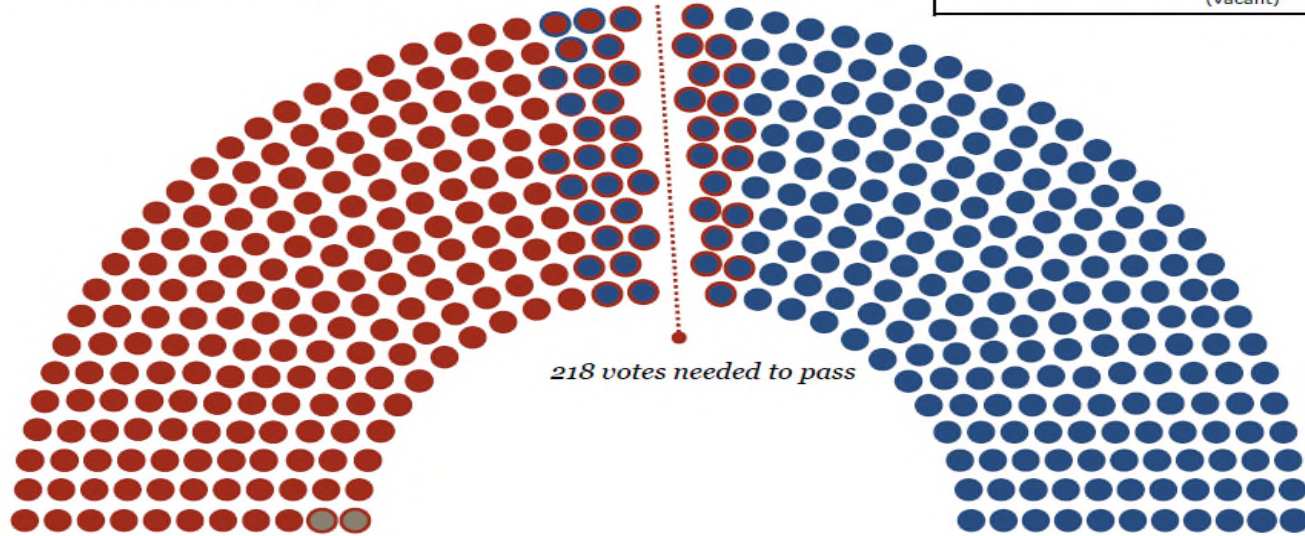
Source: YouTube (Nov 6, 2018)

116th Congress – House of Representatives

Partisan makeup of the House compared to the previous Congress

- Seats flipped R to D (Total: 41)
- Seats flipped D to R (Total: 3)
- Not yet called (color outline is incumbent's party)

	115 th	116 th
Republican	236	200
Democrat	195	233
Not yet called	4 (vacant)	2



116th Congress – House of Representatives

Current Democratic Leadership – 115th Congress



Minority Leader
Nancy Pelosi (CA-12)



Minority Whip
Steny Hoyer (MD-5)



Assistant Minority Leader
James Clyburn (SC-6)

Democratic leadership elections to be held the week of Nov. 26th

116th Congress – House of Representatives

Republican Leadership



Minority Leader

Kevin McCarthy (CA-23)



Minority Whip

Steve Scalise (SC-6)

116th Congress – House Committee Leadership

ENERGY & COMMERCE

Jurisdiction Over Healthcare Policy

FRANK PALLONE (NJ) – Chairman
GREG WALDEN (OR) – Ranking Republican

WAYS & MEANS

Jurisdiction Over Tax Policy

RICHARD NEAL (MA) – Chairman
KEVIN BRADY (TX) – Ranking Republican

OVERSIGHT & GOVERNMENT REFORM

Oversight Jurisdiction Over All Federal Agencies & Programs

ELIJAH CUMMINGS (MD) – Chairman
JIM JORDAN (OH) – Ranking Republican

APPROPRIATIONS

Jurisdiction Over All Federal Spending

NITA LOWEY (NY) – Chairman
ROBERT ADERHOLT (AL) – Ranking Republican

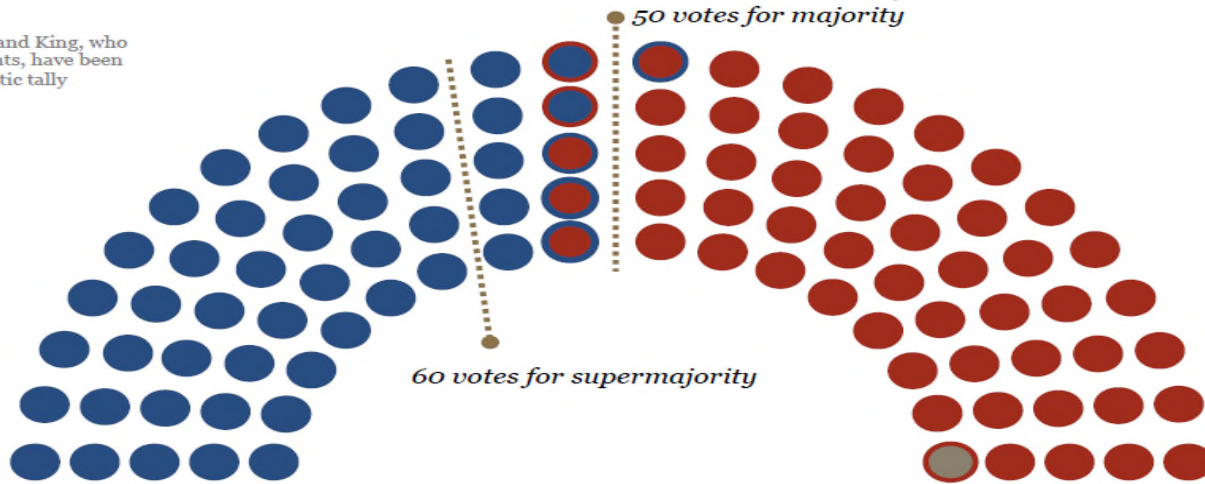
116th Congress – Senate

Partisan makeup of the Senate compared to the previous Congress

- Seats flipped R to D (Total: 2)
- Seats flipped D to R (Total: 4)
- Not yet called (color outline is incumbent's party)

*Independents Sanders and King, who caucus with the Democrats, have been included in the Democratic tally

	115 th	116 th
Republican	51	52
Democrat	49	47
Not yet called	0	1*



Republican Leadership



Majority Leader
Mitch McConnell (R-KY)



Majority Whip
John Thune (R-SD)

(Replacing term-limited John Cornyn (TX))

Democratic Leadership



Minority Leader
Chuck Schumer (D-NY)



Minority Whip
Dick Durbin (D-IL)

116th Congress – Senate Committee Leadership

HEALTH, EDUCATION, LABOR & PENSIONS

Jurisdiction Over Healthcare Policy

LAMAR ALEXANDER (TN) – Chairman

PATTY MURRAY (WA) – Ranking Democrat

FINANCE

Jurisdiction Over Tax Policy

CHUCK GRASSLEY (IA) – Chairman

RON WYDEN (OR) – Ranking Democrat

APPROPRIATIONS

Jurisdiction Over All Federal Spending

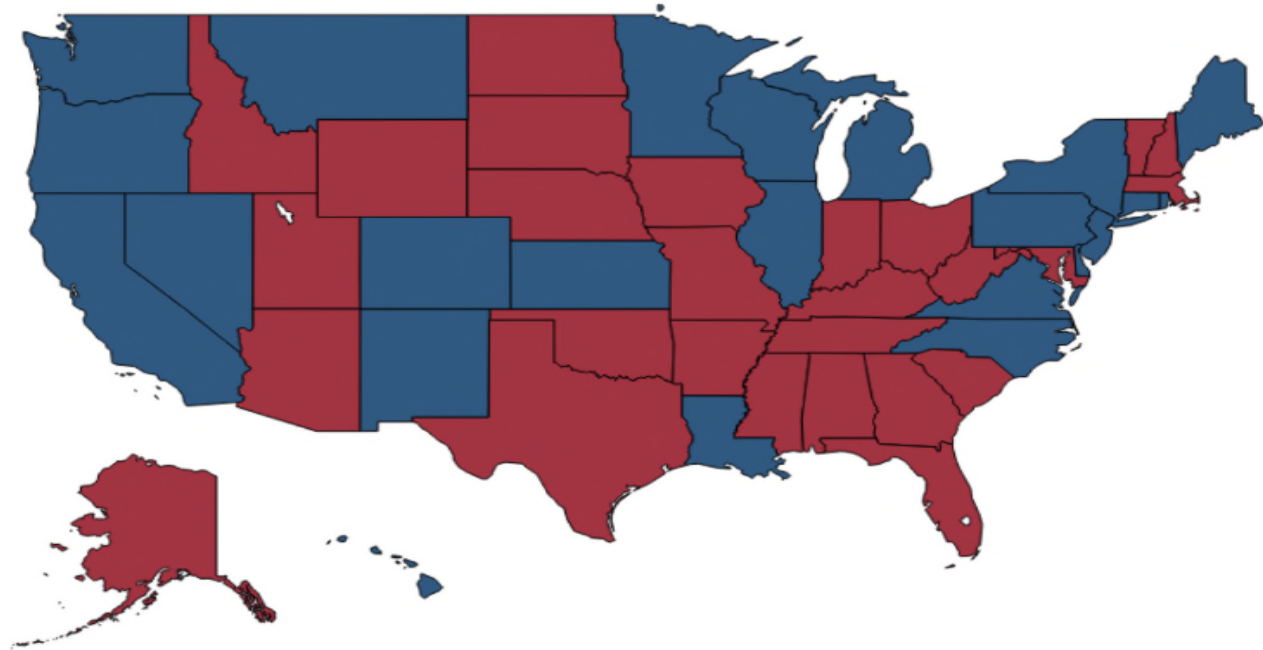
RICHARD SHELBY (AL) – Chairman

PATRICK LEAHY (VT) – Ranking Democrat

Elections Across the Country

Control of governorships after the 2018 elections

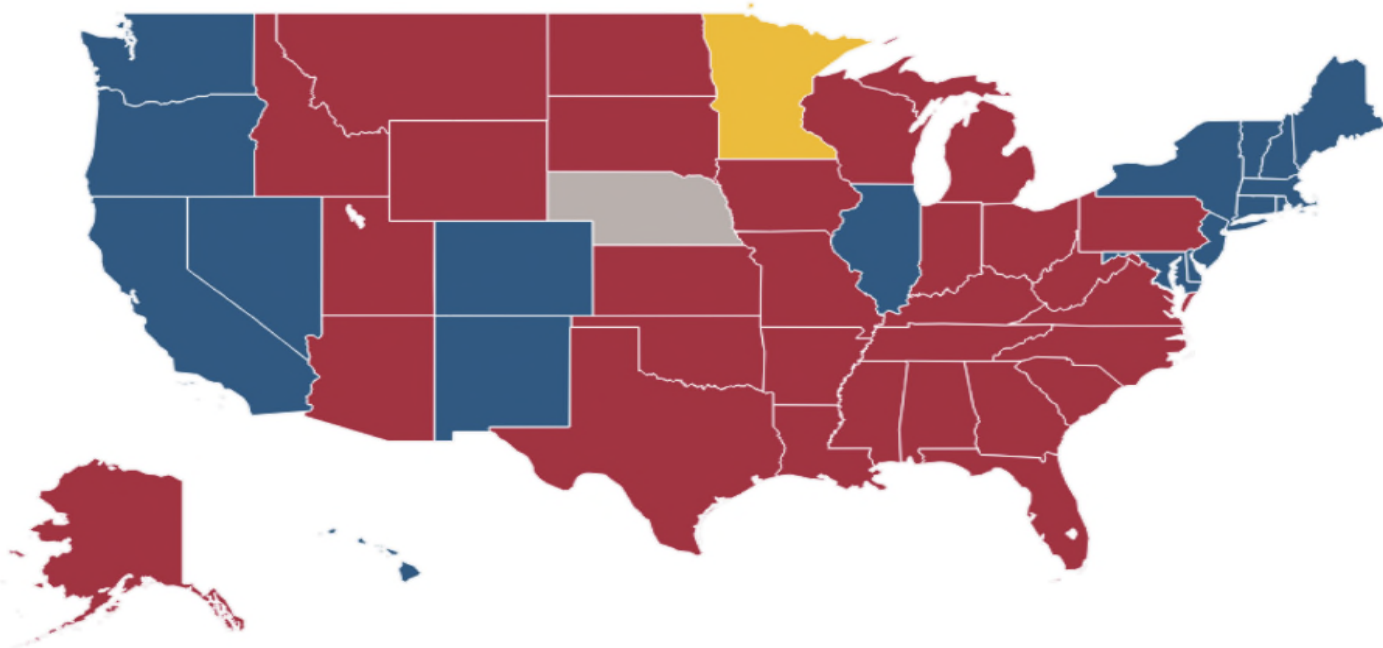
■ Democratic governor (23) ■ Republican governor (27) ■ Election not yet called (0)



Elections Across the Country

Control of state legislatures after the 2018 elections

■ Democratic-controlled ■ Republican-controlled ■ Split Legislature ■ Nonpartisan ■ Election not yet called



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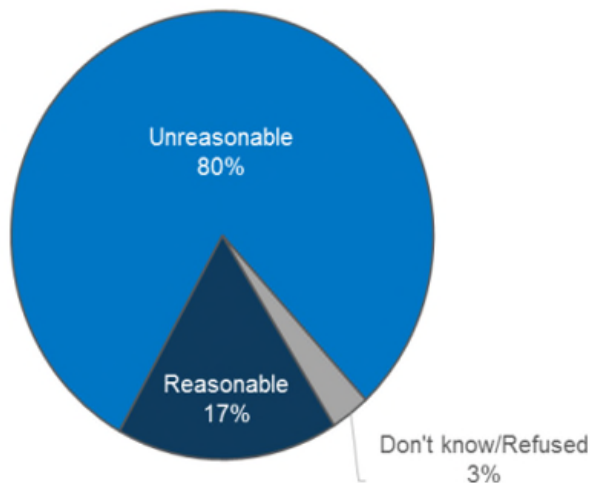
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Drug Price Reform – What Americans Think

Eight in ten Americans say prescription drug costs are unreasonable

In general, do you think the cost of prescription drugs is reasonable or unreasonable?

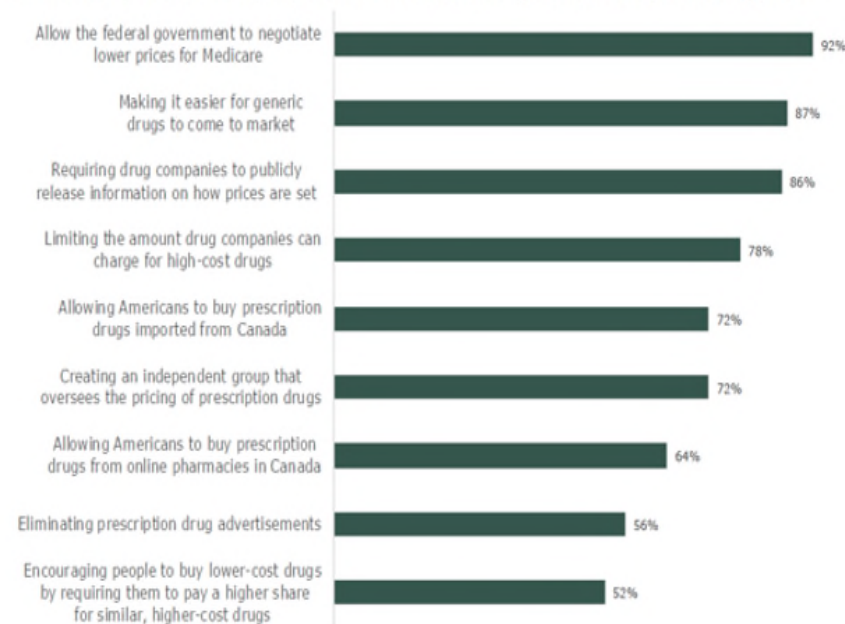


SOURCE: KFF Health Tracking Poll (conducted March 8-13, 2018)

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A larger portion of Americans favor taking major steps to lower prescription drug costs

Percent of responders who say they favor each of the following actions to bring down drug prices:



Sources: Ashley Kirzinger, et al. "Kaiser Health Tracking Poll – March 2018: Views on Prescription Drug Pricing and Medicare-for-all Proposals." Kaiser Family Foundation, March 8, 2018.

Drug Price Reform – Congress

115th Congress

- **Enacted legislation**
 - Drug price transparency
 - Banning the practice of pharmacy gag clauses
 - Patient Right to Know Drug Prices Act
 - Know the Lowest Price Act
 - Signed into law Oct. 10

116th Congress

- **What will Congress do?**



Drug Price Reform – Trump Administration

PRESIDENT TRUMP'S BLUEPRINT TO LOWER PRESCRIPTION DRUG PRICES

Immediate solutions as laid out by Trump's blueprint:

Increased competition

- Prevent manufacturers from “gaming” regulatory processes
- Promote innovation and competition for biologics
- Block Medicaid and ACA programs from raising prices in the private market

Better negotiation

- Experiment with value-based purchasing in federal programs
- Allow more substitution in Medicare Part D
- Give Medicare Part D sponsors significantly more power when negotiating with manufacturers
- Work to address “the problem of foreign free-riding”

Incentivize lower list prices

- Require manufacturers to include the list price of drugs in advertisements
- Update Medicare's drug-pricing dashboard to make price increases and generic competition more transparent

Lower out-of-pocket costs

- Prohibit Medicare Part D contracts from blocking pharmacists from telling patients when they could pay less by not using insurance
- Include information about drug price increases and lower-cost alternatives in the Part D Explanation of Benefits statement

LIST PRICES IN TV ADVERTISEMENTS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 403

[CMS-4187-P]

RIN 0938-AT87

Medicare and Medicaid Programs; Regulation To Require Drug Pricing Transparency

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Federal Health Insurance Programs for the Aged and Disabled by amending the Medicare Parts A, B, C and D programs, as well as the Medicaid program, to require direct-to-consumer (DTC) television advertisements of prescription drugs and biological products for which payment is available

ALIGN WITH INTERNATIONAL PRICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Chapter IV

[CMS-5528-ANPRM]

RIN 0938-AT91

Medicare Program; International Pricing Index Model for Medicare Part B Drugs

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Advance notice of proposed rulemaking with comment.

SUMMARY: We are issuing this advance notice of proposed rulemaking (ANPRM) to solicit public comments on potential options we may consider for testing changes to payment for certain separately payable Part B drugs and biologicals (hereafter called “drugs”).

MEDICAID WAIVERS – OUTCOMES-BASED PAYMENTS

DEPARTMENT OF HEALTH & HUMAN SERVICES
Center for Medicaid & CHIP Services
750 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1899



Center for Medicaid and CHIP Services
Medicaid and Elderly Health Programs Group

June 27, 2018

Beky Ponomarev, Chief Executive Officer
Arkansas Health Care Authority
626 N. Lincoln Blvd.
Little Rock, AR 72105

Dear Ms. Ponomarev:

We have received Arkansas State Plan Amendment (SPA) 18-0088, received in the Dallas Regional Office on March 29, 2018. This amendment proposes to revise the Arkansas State plan to incorporate language that reflects the state's intent to negotiate supplemental rebate agreements for pharmaceuticals involving value-based purchasing arrangements with drug manufacturers.

Based on the information provided, we are pleased to inform you that, consistent with the regulations at 42 CFR 455.26, SPA 18-0088 is approved with an effective date of

DEPARTMENT OF HEALTH & HUMAN SERVICES
Center for Medicaid and CHIP Services
750 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1899



Center for Medicaid and CHIP Services
Medicaid and Elderly Health Programs Group

September 14, 2018

Kathleen Miller, Acting Director
Medicaid Services Administration
State of Arkansas, Department of Health and Human Services
Capital Center - 7th Floor
601 South Main
Little Rock, AR 72201

Dear Ms. Miller:

We have received Arkansas State Plan Amendment (SPA) 18-0088, received in the Chicago Regional Office on September 27, 2018. This amendment proposes to revise the Arkansas state plan to incorporate language that reflects the state's intent to enter into outcomes-based rebate agreements with drug manufacturers through negotiated rebate agreements.

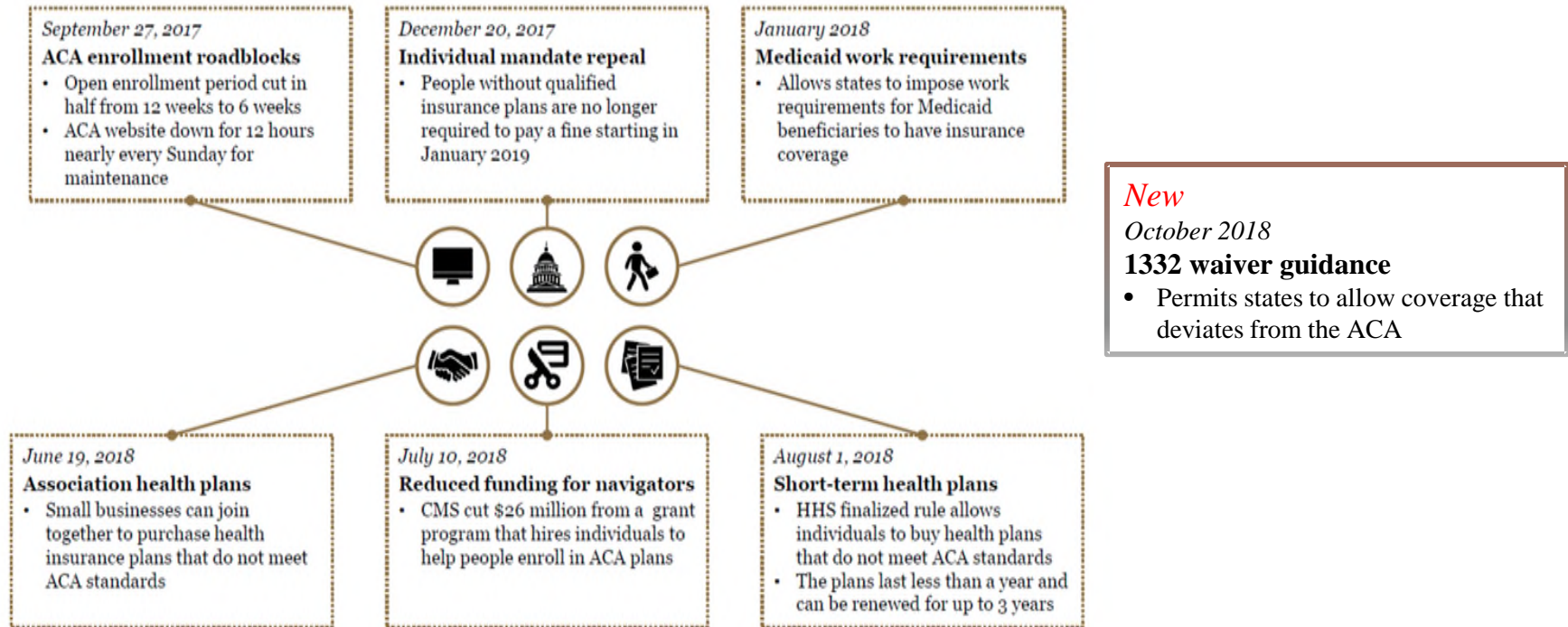
Based on the information provided, we are pleased to inform you that, consistent with the regulations at 42 CFR 455.26, SPA 18-0088 is approved with an effective date of September 18, 2018. A copy of the signed SPA-179 form, as well as the pages approved for

The Budget and Appropriations

- **What Congress did (and did not do) for FY 2019**
- **What we're watching in 2019**
 - Spending caps
 - Debt ceiling expires Mar. 1
 - Sequestration 2.0???
 - Healthcare programs expiring Oct. 1
 - Medicare extenders
 - Medicaid DSH relief

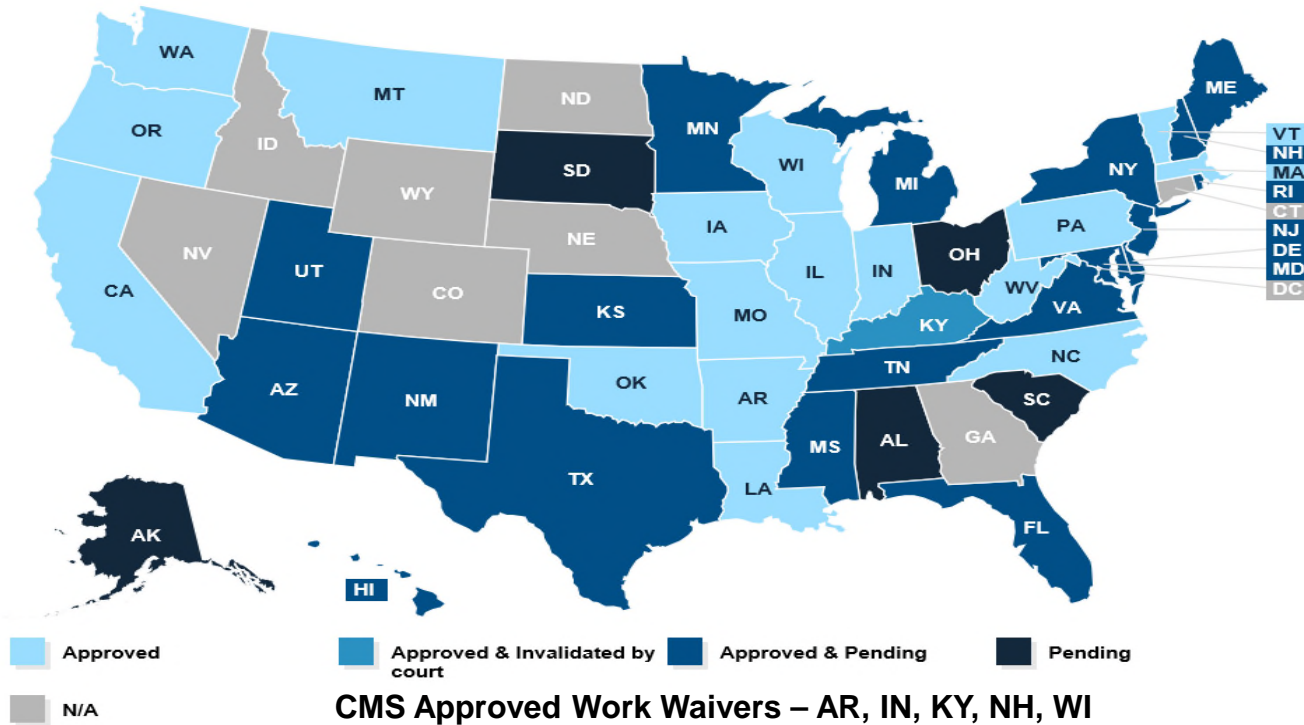


Affordable Care Act – Ongoing Efforts to Unwind



Sources: Robert Pear, "Short Term Health Insurance? Up to 3 Years Under New Trump Policy," New York Times, August 1, 2018; Haeyoun Park and Margot Sanger-Katz, "We're Tracking the Ways Trump Is Scaling Back Obamacare. Here Are 14," The New York Times, July 11, 2018.

Medicaid – 1115 Waiver Activity

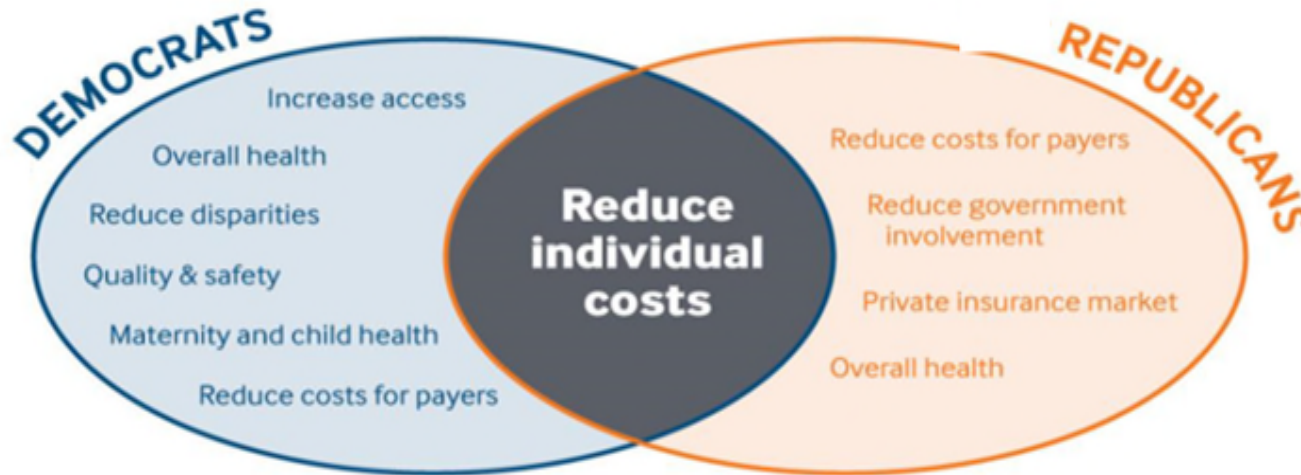


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Looking Ahead – Where's the Common Ground?



Source: The Commonwealth Fund (Aug. 2017)

Adapted from C. Pagel, D. W. Bates, D. Goldmann et al., "A Way Forward for Bipartisan Health Reform? Democrat and Republican State Legislator Priorities for the Goals of Health Policy," *American Journal of Public Health*, published online Aug. 17, 2017.

Looking Ahead – Preparing for a New Landscape

- **Recommendations for clients**

- Evaluate your delegation; get to know your members
- Educate your delegation to your institution and its issues

- **Capitol Hill**

- Loss of many senior members and institutional knowledge
- Parties positioning ahead of 2020 [Medicare for All?]

- **Healthcare policy changes**

- Divided government generally impedes large programmatic reforms
- Policy changes focused on appropriations and the regulatory process
- Focus remains on agencies and the states

Thanks!



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[Click Here for full bio](#)

Susan Feigin Harris assists a diverse group of healthcare clients on a variety of federal and state regulatory issues, including reimbursement issues and disputes including Medicare, Medicaid, and commercial payors. Susan's clients include hospitals, physician groups, trade associations, and government relations entities seeking strategic advice concerning policy advocacy. Susan negotiates numerous contracts on behalf of her clients and works with providers to ensure they are appropriately licensed, certified, and enrolled in government programs.

Thanks!



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Senior Director

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[Click Here for full bio](#)

Timothy P. Lynch directs all activities, including the strategic and operational functions, of the Washington Strategic Government Relations and Counseling Practice. He monitors legislative and political trends and developments, as well as managing lobbying registration and reporting, visits to government officials, and relationships with trade associations. In addition, Morgan Lewis's clients seek his advice on government relations and public policy issues.

Thanks!



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Kathleen helps healthcare providers navigate the uncertainties of a shifting policy landscape. She has spent most of her career at the intersection of public policy and healthcare law, focusing on the regulation and financing of the Medicare and Medicaid programs, implementation of the Affordable Care Act, and government-led initiatives on healthcare reform. Colleagues turn to Kathleen for insight on healthcare policy and related issues and seek her out for collaboration in the development of articles and presentations of topical interest for healthcare clients.

Thanks!



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Fast Break: Holiday Gifts

Featuring Jake Harper

➤ December 18, 3:00 PM (EST)

Check out all our webinars on our [Fast Break Series Page!](#)