

Joe Biden Elected President



Health Policy Briefing

November 9, 2020

Joe Biden defeated Donald Trump to win the 2020 presidential election and become the 46th President of the United States. The election was called on Saturday afternoon for Biden and his running mate Kamala Harris when they surpassed the 270 electoral votes needed to win the presidency. Biden has also won the popular vote, breaking the record for the most votes cast for a presidential candidate. President Donald Trump previewed his planned legal challenges to the outcome over the weekend and continued to question the legitimacy of the election with accusations of widespread voter fraud. His campaign has alleged that Trump supporters were unable to observe ballot counting as closely as they wished to. Biden will formally take over the presidency on Inauguration Day on January 20.

While Democrats will maintain control of the House of Representatives, the party will hold fewer seats in January than it does now. Last week's election saw the 100-member Senate split with Republicans and Democrats each controlling 48 seats. Two of the remaining vacancies are in Georgia, where no candidate garnered at least 50 percent of the vote needed to avoid a runoff. These contests will be held on January 5 to fill the remaining two years on former Sen. Johnny Isakson's (R-Ga.) term, between Kelly Loeffler (R) and Raphael Warnock (D), and to determine the outcome of the race between incumbent David Perdue (R) and challenger Jon Ossoff (D). Races in Alaska involving incumbent Dan Sullivan (R) and North Carolina featuring incumbent Thom Tillis (R) have yet to be called. For more information on the election and outlook for the 117th Congress, please see Hart Health Strategies Inc.'s 2020 Political/Elections Overview at the end of this week's newsletter.

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Republicans' Strong Showing in Congress and State Legislatures

Republicans defied the polls this election and are set to narrow Democrats' majority in the House and possibly maintain control of the Senate. Sen. Susan Collins (R-Maine), for example, won a fifth term by nine percentage points despite every independent and public poll conducted in 2020 showing her trailing challenger Sara Gideon (D). The President also surprised pollsters, increasing his share of the minority vote compared to the 2016 election. His support from both Black voters and Hispanic and Latino voters increased by four percentage points, while support from Asian voters increased by two points. This year's elections marked the first time that no House Republican who ran for re-election lost their race.

The election also resulted in the lowest number of statehouses changing party control in more than 50 years. Only four statehouses saw changes or potential shifts of control: the New Hampshire House and Senate, which Republicans took back from Democrats, and the Arizona House and Senate, the contests of which are still too close to call. The balance of power across the nation's statehouses is particularly important this year given the finalization of the most recent census. This data will be sent to the states beginning next year and be used for the purposes of redistricting. In most states, this process is controlled by the majority party. Before Tuesday's election, Republicans controlled about three-fifths of all 98 partisan legislative chambers. If no other chambers flip as new results come in, this statistic will not change. While only two of the eleven states that held gubernatorial elections this year were expected to be competitive, Republicans were successful in both races, with Mike Parson (R) winning reelection in Missouri and Greg Gianforte (R) replacing Steven Bullock (D) as governor of Montana.

Record Gains for Republican Women

Female candidates accounted for most of the seats that the GOP took from Democrats this election cycle, with GOP women expected to set a new record for the most number of Republican women elected to the House. Two dozen have already won their races, and an additional seven are awaiting the results of their race. The current high for Republican women elected to the House is 25, which took place in 2004. Only 13 Republican women were elected to the 2019-2020 House.

Senate Orientation to Begin Today

New member orientation in the Senate is set to begin today, with Republican leadership elections being held on Tuesday. Sen. Rick Scott (R-Fla.) will run to chair the National Republican Senatorial Committee (NRSC). The position was previously held by Sen. Todd Young (R-Ind.). On the Democratic side, a new Democratic Senatorial Campaign Committee (DSCC) Chair is expected to be named. The position is currently held by Sen. Catherine Cortez Masto (D-Nev.). No other imminent changes are expected to Senate Democratic leadership, unless a sitting senator is selected for a position in the Biden administration.

House Leadership Elections to be Held Nov. 17, 18, and 19

House Speaker Nancy Pelosi (D-Calif.) will run for re-election as speaker for the 117th Congress. Majority Leader Steny Hoyer (D-Md.) also announced his bid to serve in the position again during the next session of Congress, and Majority Whip James Clyburn (D-S.C.) is expected to remain in his leadership spot as well. There will be contested races for assistant speaker and Democratic Caucus vice-chair. Current assistant speaker Ben Ray Lujan (N.M.) was elected to the Senate, and Katherine Clark (Mass.), David Cicilline (R.I.), and Tony Cardenas (Calif.) are running to replace him. Pete Aguilar (Calif.), Robin Kelly (Ill.), and Deb Haaland (N.M.) are vying for the position of caucus vice-chair. The winner would serve alongside Hakeem Jeffries (N.Y.), caucus chair, who is not expected to face competition for his position. Brenda Lawrence (Mich.), Colin Allred (Texas), and Jason Crow (Colo.) are seeking the position of Democratic Caucus representative for junior members. Cheri Bustos, the current DCCC Chair, may also face a challenge, given the disappointing Election Day results. House Democrats plan to return on November 18 and 19, along with members-elect, to choose leaders for the next session of Congress starting in January. This will involve nominating a speaker, who will later be elected by the full House of Representatives.

House Republican leadership elections are scheduled to be held November 17. The top three members – Minority Leader Kevin McCarthy (R-Calif.), Minority Whip Steve Scalise (R-La.), and Republican Conference Chair Liz Cheney (R-Wyo.) – are running unopposed. A vote on conference rules for the 117th Congress and Steering Committee structure ratification will take place on November 18. The Steering Committee will meet at a later time once the structure is ratified to determine which members will lead and sit on the panel.

Biden to Announce COVID-19 Task Force

President-elect Joe Biden will announce his 12-member coronavirus task force today. The group will be co-chaired by former Surgeon General Vivek Murthy, former commissioner of Food and Drugs David Kessler, and Yale University professor of public health Marcella Nunez-Smith. It will also include former Obama administration health adviser Ezekiel Emanuel. Biden's previously released [coronavirus response plan](#) aims to increase testing capacity, fund the safe reopening of schools and businesses, and provide for equitable and free vaccine distribution.

HHS Rule Review Proposal Meets Criticism from Lawmakers

A [proposed rule](#) from the U.S. Department of Health and Human Services (HHS) has been met with criticism by House Democratic leaders. The regulation would provide for HHS to review each of its regulations every 10 years, requiring regulations that are more than 10 years old to be reviewed within the first two years of the rule's enactment. Regulations that are not reviewed during the provided window will expire. This would leave 2,480 rules for HHS to review during the first two years of the regulation. House Speaker Nancy Pelosi (D-Calif.) characterized the proposal as a reflection of the Trump administration's "disdain for science and governance." Energy and Commerce Chair Frank Pallone (D-N.J.) also raised concerns that it would divert resources away from other more important department priorities. **Public comments on the rule are due by December 4**, except for certain provisions that will be open for comment through January 4.

HHS Once Again Updates the PRF Reporting Requirements

All providers who receive more than \$10,000 in funds (excluding any funds related to the uninsured) from the Provider Relief Fund (PRF) must follow the PRF Reporting Requirements. These Reporting Requirements include key calculations for determining whether a provider is able to retain those funds or if the U.S. Department of Health and Human Services (HHS) will opt to recoup certain funds. On November 2, HHS further [updated](#) its Reporting Requirements and its [FAQs](#). The new question highlights a significant clarification within the Reporting Requirements. This update clarifies that any lost patient revenue is NOT offset by any funds received for coronavirus-related expenses. Therefore, now, to determine if a provider should retain any PRF funds, the provider will first determine any health care related expenses attributable to coronavirus that another source has not reimbursed and is not obligated to reimburse and then calculate any changes from 2019 in patient revenues. This clarification should ensure that most providers are eligible to retain a larger portion of the PRF funds.

Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic. Please remember to clear your cache to ensure you download the most recent documents.

- [COVID-19 Testing](#)
- [Disaster Primer](#)
- [Federal Relief Overview](#)
- [Health Care Workers on the Front Lines](#)
- [Hospice and Palliative Care](#)
- [Nursing Resources](#)
- [Personal Protective Equipment](#)
- [Physician Provisions](#)
- [Re-Opening America](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business – PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)

Recently Introduced Health Legislation

H.R.14 — *To increase the Federal commitment to defeating the virus that causes COVID-19 and prepare for future pandemics, and for other purposes; Sponsor: Rep. Hudson, Richard [R-NC-8]; Committees: House - Budget; Homeland Security; Energy and Commerce; Judiciary; Transportation and Infrastructure; Science, Space, and Technology; Ways and Means*

H.R.8702 — *To amend title XVIII of the Social Security Act to provide for an increase in payment under part B of the Medicare program for certain services in response to COVID-19; Sponsor: Rep. Bera, Ami [D-CA-7]; Committees: House - Energy and Commerce; Ways and Means*

H.R.8705 — *To amend the Public Health Service Act to authorize grants to institutions of higher education to develop programs and materials to educate students who have a substance use disorder on treatment options for such disorder, and for other purposes; Sponsor: Rep. Dean, Madeleine [D-PA-4]; Committees: House - Energy and Commerce*

H.R.8709 — *To direct the Secretary of Health and Human Services to enter into an arrangement with the National Academies of Sciences, Engineering, and Medicine to conduct a comprehensive study on the health care impacts of the use of kinetic impact projectiles in the United States, and for other purposes; Sponsor: Rep. Fudge, Marcia L. [D-OH-11]; Committees: House - Energy and Commerce*

H.R.8710 — *To amend title 38, United States Code, to extend the authorization period for emergency treatment in non-Department of Veterans Affairs medical facilities under the Veterans Community Care Program; Sponsor: Rep. Higgins, Brian [D-NY-26]; Committees: House - Veterans' Affairs*

H.R.8723 — *To condition receipt of State funding from the Bureau of Health Workforce on adoption by the State of the Interstate Medical Licensure Compact, and for other purposes; Sponsor: Rep. Yoho, Ted S. [R-FL-3]; Committees: House - Energy and Commerce*

H.R.8725 — *To amend title XIX of the Social Security Act to improve access to adult vaccines under Medicaid; Sponsor: Rep. Soto, Darren [D-FL-9]; Committees: House - Energy and Commerce*

H.R.8727 — *To amend title XVIII of the Social Security Act to make permanent certain telehealth flexibilities under the Medicare program related to the COVID-19 public health emergency; Sponsor: Rep. Carter, Earl L. "Buddy" [R-GA-1]; Committees: House - Energy and Commerce; Ways and Means*