



Weekly Health Care Checkup

November 9-13, 2020

IN BRIEF

What Happened This Week: On Saturday, former Vice President Joe Biden secured enough electoral college votes (according to all the major news networks) and was declared the winner of the presidential election to succeed President Trump and become the 46th president of the United States. Biden gave a victory [speech](#) alongside the Vice President-elect, Kamala Harris. President Trump, meanwhile, has refused to concede the election and has filed at least six [lawsuits](#) alleging voter fraud.

On Monday, President-elect Biden [announced](#) the members of his COVID-19 task force, with whom he met with virtually this week. Biden's transition team also [announced](#) members of agency review teams this week. Members include various Obama Administration alums, former and current government officials, and leading industry experts.

That same day, Pfizer and its German partner BioNTech [announced](#) that a preliminary assessment of its coronavirus vaccine trial found that the vaccine was more than 90% effective at preventing the disease in individuals with no history of prior COVID infection.

On Tuesday, the Supreme Court heard oral arguments in the [case](#) that seeks to strike down the ACA.

Also on Tuesday, the Senate Appropriations Committee [released](#) its draft spending bills for Fiscal Year (FY) 2021 in an effort to move the needle on negotiations between the House and Senate on legislation to fund the government beyond the current December 11 deadline.

Senate leadership elections were also held this week. Mitch McConnell (R-KY) and Chuck Schumer (D-NY) were reelected to the 117th Congress as the leaders for their respective parties; however, the majority leader will not be determined until two Senate runoff elections in Georgia take place in January. The full list of Senate GOP leadership can be found [here](#), and the full list of Democratic leadership can be found [here](#).

And in major regulatory news, CMS [released](#) its 2020 Medicaid and Children's Health Insurance Program (CHIP) Managed Care [Final Rule](#).

What to Expect Next Week: Both chambers will return to Washington next week for a post-election "lame duck" session that is slated to wrap up around mid-December.

During this time, expect lawmakers to tie up several loose ends including legislation to fund the federal government beyond the current December 11 deadline. At the same time, several important health care programs will need to be extended past that date, including funding for community health centers and the national health service corps, delay of

disproportionate share hospital cuts under the Medicaid program, and several Medicare reimbursement provisions helping providers in rural areas.

We also expect both the House and Senate to negotiate the differences between their respective annual National Defense Authorization Act (NDAA) bills before the end of the year. Though should President Trump decide to veto the legislation (as he has done in the past), both chambers would need to reach a two-thirds majority to override the president's move (more on that [here](#)).

And while talks of a second coronavirus stimulus package have been ongoing since the summer, an agreement from all parties by the end of the year remains highly [unlikely](#) at this point given that both parties are far apart on some of the major details in the bill.

Over at the White House, we expect transition planning to ramp up. It's also very likely we will see the current Administration tie up loose ends in the form of Executive Orders, regulatory announcements, and members of the President's cabinet / staff announcing their departure.

MCRT POST-ELECTION ANALYSIS

Post-Election Analysis and Potential Implications: MCRT's founding partner, Bruce Mehlman, is out with a new analysis of the elections and their implications for politics and policy. Click [here](#) to read.

Post-Election Health Care Analysis: MCRT partner, Dean Rosen, breaks down what the 2020 election means for health policy in this deck [here](#).

14th & G Post-Election Podcasts:

- MCRT's founding partners, Bruce Mehlman and David Castagnetti, join the firm's lobbyist and 14th and G podcast host, Dean Hingson, to discuss the firm's latest slide deck on Election 2020. In this week's episode, they break down the results, what it means for the next Administration, the next Congress, and how each party will deal with renewed civil wars in their ranks. To access this episode, click [here](#).
- And as Georgia prepares for two Senate runoffs that will determine the Senate Majority, MCRT's lobbyist and 14th and G podcast host, Dean Hingson, is joined by Atlanta Journal-Constitution Politics Reporter, Patricia Murphy to discuss the runoff system, both Senate races, and all the Peach State political happenings. To access this episode, click [here](#).

DEEP DIVE

Joe Biden Wins Presidential Election, Gives Victory Speech; President Trump Moves Forward with Various Lawsuits:

On Saturday, November 7, 2020, former Vice President Joe Biden secured enough electoral college votes, according to all the major news networks, and was declared the winner of the presidential election to succeed President Trump and become the 46th president of the United States. The news came after days of counting votes due to an unprecedented number of mail-in ballots resulting from the coronavirus pandemic. President-elect Biden was able to flip several states that Trump won in 2016, including Wisconsin, Michigan, and Pennsylvania, leading to his electoral victory of at least 290 electoral votes. Georgia, and North Carolina still are counting, but the results in those states will not impact the outcome as 270 votes are needed.

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On Saturday evening in Wilmington, Delaware, Biden gave a victory [speech](#) alongside the Vice President-elect, Kamala Harris. In his speech, Biden sought to unify the nation and vowed to serve all Americans, not only those who voted for him. He addressed the many challenges the nation is currently facing, most notably the COVID-19 pandemic, and promised to “spare no effort” to turn it around.

President Trump has refused to concede the election and has filed at least six lawsuits alleging voter fraud. Attorney General William Barr wrote a [memo](#) on Monday, authorizing federal prosecutors to investigate “substantial allegations of voting and vote tabulation irregularities.” After the memo was released, Richard Pilger, director of the DOJ Criminal Division’s Election Crimes Branch announced that he was resigning from his position in protest. While the President has not given any evidence to substantiate his claims, the lawsuits are still pending. Most of the elected Republican leadership in Washington is still standing by President Trump, with Senate Majority Leader Mitch McConnell and others declaring that every legal vote should be counted before a winner is officially declared. Yet, there are increasing signs that the outcome will be inevitable at some point. President-Elect Biden is moving forward with transition planning (see below) and President Trump has reportedly told close allies, according to [news reports](#) that he is seriously considering a repeat bid in 2024.

President-elect Biden Reveals COVID-19 Taskforce and Top Priorities for Combatting the Virus: On November 9, 2020, President-elect Biden [announced](#) the members of his COVID-19 task force, with whom he met with virtually on Monday. The task force will be led by former Surgeon General Vivek Murthy, former Food and Drug Administration Commissioner David Kessler, and Marcella Nunez-Smith, a public health professor at Yale University. The team is comprised of a dozen members in total and includes top infectious disease scientists and physicians. Additionally, the Biden team highlighted the pandemic as a top priority on the Biden-Harris transition website. Top [initiatives](#) include ensuring Americans have access to free COVID testing, addressing shortages of personal protective equipment, providing evidence-based guidance, and planning for equitable distribution of vaccines and treatments. On Monday, Biden also made a televised plea for Americans to wear masks to help reduce the spread of the virus. He advised the public that “infection rates are going up, hospitalizations are going up, deaths are going up” and warned that America will be facing a “dark winter” based on current statistics of the virus.

Pfizer Announces Coronavirus Vaccine 90% Effective at Preventing the Disease: On Monday, Pfizer and its German partner BioNTech [announced](#) that a preliminary assessment of its coronavirus vaccine trial found that the vaccine was more than 90% effective at preventing the disease in individuals with no history of prior COVID infection. Scientists noted that, while this level of protection is certainly impressive and promising, the information provided by Pfizer has not been peer-reviewed or published in a scientific journal. Various questions remain about the vaccine, such as how long the immune protection will last and whether it will successfully prevent the virus in people of all ages. The vaccine, if approved, will likely be scarce at first. The company announced that it will be able to provide 50 million vaccines by the end of 2020, which is enough to inoculate 25 million people, as the vaccine requires two doses. However, Pfizer believes it will be able to vaccinate approximately 1.3 billion people by the end of 2021. In the coming weeks, the company plans to seek an emergency-use authorization from the FDA.

CMS Issues Medicaid and CHIP Managed Care Final Rule: On Monday, the Centers for Medicare and Medicaid Services (CMS) [announced](#) the 2020 Medicaid and Children’s Health Insurance Program (CHIP) Managed Care [Final Rule](#). This rule updates 2016 regulations that were critiqued as being “overly prescriptive,” costly, and administratively burdensome for state programs. The agency has said that the Final Rule issued this week “achieve[s] a better balance between appropriate federal oversight and state flexibility, while also maintaining critical beneficiary protections, ensuring fiscal integrity, and promoting accountability for providing quality of care to people with Medicaid and CHIP.”

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Supreme Court Hears Oral Arguments in Affordable Care Act Case: On Tuesday, November 10, 2020, the Supreme Court heard oral arguments in the [case](#) that seeks to strike down the Affordable Care Act (ACA), which insures more than 20 million Americans. The Trump administration, along with various Republican-led states, have asked the Court to hear the case in hopes that it will rule the ACA unconstitutional. However, Chief Justice John Roberts and Justice Brett Kavanaugh both suggested on Tuesday that it may not be the Court's role to invalidate the entire ACA. Instead, the Justices suggested that, under the Court's prior decisions, they could strike down the "individual mandate" (a provision of the ACA), while leaving the rest of the Act in place. In a separate [case](#) in 2012, the Supreme Court ruled that the Individual Mandate is a constitutional "tax" under Congress' power to tax and spend. However, in 2017, Congress reduced the penalty for failing to comply with the individual mandate to \$0, potentially impacting the mandate's constitutional validity. The Supreme Court has now agreed to resolve this dispute, and a decision will likely be rendered in the coming months.

COVID Stimulus Talks Ongoing But Deal Unlikely by End of Year: Congress is now in a "post-election session" that is slated to wrap up around mid-December. While talks of a second coronavirus stimulus package have been ongoing since the summer, Monday's reports of Pfizer's vaccine success and reduced unemployment numbers prompted Senate Majority Leader Mitch McConnell to state that Congress should now pass a "targeted" COVID relief bill by the end of 2020. Democrats and Republicans have been unable to come to an agreement for months due to disputes over the bill's price tag. Due to this, an agreement from all parties by the end of the year, while possible, remains highly unlikely.

Democrat and Republican Senate Leadership Announced: After Senate leadership elections on Tuesday, it was announced that Mitch McConnell (R-KY) and Chuck Schumer (D-NY) were reelected to the 117th Congress as the Senate leaders for their respective parties. The Senate majority leader, however, will not be determined until two Senate runoff elections in Georgia take place this coming January. The remaining GOP leadership roles will stay the same, except for Rick Scott (R-FL), who will become the leader of the National Republican Senatorial Committee. Democratic leadership will also largely stay the same, except for the additions of Senator Cory Booker (D-NJ), who will become the Vice Chair of the Democratic Policy and Communications Committee, and Senator Catherine Cortez Masto (D-NV), who will become the Vice Chair of Outreach. The full list of Senate GOP leadership can be found [here](#), and the full list of Democratic leadership can be found [here](#).

Senate Appropriations Committee Releases Draft FY 21 Spending Bills: On Tuesday, the Senate Appropriations Committee released its draft spending bills for Fiscal Year (FY) 2021 in an effort to move the needle on negotiations between the House and Senate on legislation to fund the government beyond the current December 11 deadline. The House passed 10 out of 12 of their own respective spending bills earlier this year, though the Senate never advanced any of its own spending bills for FY 2021. Looking ahead, both Senate Majority Leader Mitch McConnell (R-KY) and House Speaker Nancy Pelosi (D-CA) have said they intend to reach an agreement and pass all 12 bills in the form of an omnibus spending bill by the end of the year. This [press release](#) includes links to the Senate Appropriations subcommittee allocations, as well as the legislative text, explanatory statement, and highlights for each of the FY21 appropriations bills (all of this can be found by scrolling to the end of the press release). For situational awareness, click [here](#) to read the statement from Chairman Shelby (R-AL); click [here](#) to read Vice Chair Leahy's (D-VT) statement following the release of the bills.

Biden-Harris Transition Team Announces Agency Review Teams: On November 10, 2020, the Biden-Harris transition team [announced](#) members of agency review teams. The members announced include various Obama Administration alumni, former and current government officials, and leading industry experts. Several noteworthy members include Ur Jaddou, former chief counsel for U.S. Citizenship and Immigration Services in the Obama Administration, who will lead the Department of Homeland Security team, as well as former Obama veterans Chiquita Brooks-LaSure and Robert

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Gordon, who will both lead the Health and Human Services team. Though the Biden-Harris team is moving forward with transition efforts, the review teams' ability to work with the agencies to which they have been assigned will be limited given that the General Services Administration has not yet certified that Biden won the election. The full list of members can be found [here](#).

UPCOMING COVID / HEALTH-RELATED CONGRESSIONAL HEARINGS

WHAT: Senate Commerce, Science and Transportation Subcommittee on Manufacturing, Trade, and Consumer Protection (Hybrid) [Hearing](#): Examining the American Manufacturing Industry's Response to the COVID-19 Pandemic

WHEN: Tuesday, November 17 at 2:30pm

WITNESSES:

- Mr. Ravi Bulusu, Founder, MolMas
- Mr. Rick Krska, President and Chief Executive Servant, InkCycle, Inc.
- Ms. Tiffany Stovall, Chief Executive Officer, Kansas Manufacturing Solutions
- Mr. Michael Wessel, Commissioner, U.S. Economic and Security Review Commission

WHAT: Senate Homeland Security and Governmental Affairs Committee Subcommittee [Hearing](#): Modernizing Federal Telework: Moving Forward Using the Lessons Learned During the COVID-19 Pandemic

WHEN: Wednesday, November 18 at 3:00pm

WITNESSES:

WHAT: Senate Homeland Security and Governmental Affairs Committee Full Committee [Hearing](#): Early at Home Treatment: An Essential Part of a COVID-19 Solution

WHEN: November 19, 2020 at 10:00am

WITNESSES:

- TBA

ADMINISTRATION ANNOUNCEMENTS

Centers for Medicare & Medicaid Services

- [Federal Health Insurance Exchange Weekly Enrollment Snapshot: Week 1](#)
- [CMS Takes Steps to Ensure Medicare Beneficiaries Have Wide Access to COVID-19 Antibody Treatment](#)
- [Trump Administration Announces Medicaid and CHIP Managed Care Final Rule, Continues Commitment to Transform Medicaid by Delivering Greater Flexibility to States](#)

Food and Drug Administration

- [FDA Offers Guidance to Enhance Diversity in Clinical Trials, Encourage Inclusivity in Medical Product Development](#)
- [Dr. Hahn's Remarks to the GRx+Biosims 2020 Virtual Conference](#)
- [Click here for the full list of all new FDA updates.](#)

Guidance Documents from the Centers for Disease Control and Prevention

- [Click here for the full list of all new CDC updates.](#)

National Institutes of Health

- [Treatments For People With Early COVID-19 Infection is an Urgent Research Focus](#)

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- [Hydroxychloroquine Does Not Benefit Adults Hospitalized With COVID-19](#)
- [Neighborhood Conditions Associated With Children's Cognitive Function](#)

QUICK LINKS

- [Additional Mehlman Castagnetti Resources on COVID-19](#)
- [Johns Hopkins University Map of Global Cases of Coronavirus](#)
- [CDC Map of Coronavirus Cases in the US](#)
- [CMS COVID-19 Stakeholder Call Recording/Transcripts](#)
- [Kaiser Family Foundation: State Data and Policy Actions to Address Coronavirus](#)

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