



The Healthsperien team remains focused on shifting events in advance of the 2020 Election to continue to better understand potential implications for health care policy and offer insights to our clients. We are fielding many questions related to the impact of first Presidential debate between President Trump and former Vice President Biden, the announcement that the President and First Lady have coronavirus, the extension of the public health emergency (PHE) declaration, and the upcoming confirmation hearings for Amy Coney Barrett for the Supreme Court.

- The President's coronavirus diagnosis highlights the continued challenges with the disease and raises questions about how it will impact the final days of his campaign, particularly given its impact in older Americans. Our view is that if the President's symptoms remain mild, he will continue to aggressively campaign while in quarantine and will leverage public attention on his condition and recovery to appeal to voters. We do not believe this development changes his posture on COVID-19 policy or negotiations with Congress over a new relief package and will continue to highlight the need for the economy to open.
- If the President's condition worsens, attention will turn more intensively to Vice President Pence and his perspectives on health care policy. In our analysis, Pence's views have long been integrated with the President's in the development of Executive Orders and general health policy direction vis a vis health insurance coverage, so we do not expect to see any meaningful changes in direction if Pence takes on a broader role.
- HHS Secretary Alex Azar announced on twitter the extension of the current PHE beyond the scheduled October 23 expiration, which comes the same day the President and First Lady's coronavirus diagnosis was announced. Notably, current flexibilities afforded under the PHE will now extend beyond January's Presidential inauguration enabling a new Congress and Administration to determine the future of flexibilities, including telehealth.
- The confirmation process of Amy Coney Barrett is likely to move forward in our assessment, and attention will focus on her perspectives on the issues at stake in the upcoming Affordable Care Act oral argument (scheduled for November 10th). As we noted in our recent analysis of the potential election outcomes, we believe that while the case and the court vacancy elevate the public focus on the potential for disruption to health care coverage, it more brings greater attention to Justice Kavanaugh's potential views on core questions in the case (e.g., severability of an unconstitutional provision) than on the impact of a new justice. Experts on the issues at stake believe that it is unlikely the law in its entirety will fall and see a range of possible outcomes, including a re-hearing of the case at the lower court level (which could extend the course of the case well into a next term) and also see Barrett's potential openness to the severability argument that would allow the law to stand.
- Issues related to the future of the Affordable Care Act were a focus of the first Presidential debate this week and led the 90-minute discussion, but mainly used by Biden to highlight the potential impact of filling the Supreme Court vacancy. While the debate format and contentious tenor did not provide an opportunity of a deeper discussion of issues in health policy or Biden's proposal to expand coverage, the candidates offered criticisms of each other's approach to the COVID-19 pandemic. The moderator raised questions about Trump's health care plan, and he pointed out the various elements of his Executive Orders (also described in our memo) that focus on addressing problems with the health care system.

We continue to monitor developments in the health care landscape as the election moves forward. Our most recent analysis can be found [here](#).