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Society of Interventional Radiology
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Frequently asked questions

Donald Trump's health care executive order

On Oct. 12, President Donald Trump signed an executive order on health care, which may have a significant impact on health care coverage.

What is an executive order?

An executive order is a formal directive issued by the President of the United States instructing federal agencies on how to use their resources. It does not create new law, but guides agencies on how to implement laws and statutes already in existence.

What does the Oct. 12 health care executive order do?

The health care executive order would expand health care coverage options by instructing federal agencies to loosen health insurance plan regulations to make it easier for trade groups and small businesses to negotiate with insurance companies to offer better deals on health care coverage. Specifically, the executive order instructs the Health and Human Services (HHS), Labor and Treasury Departments to expand coverage by allowing cross-state association health plans, extending the duration of short-term plans and boosting healthcare reimbursement arrangements. Trump's order instructs the Labor Department to study how to make this process easier, with the hopes of providing them with a broader range of policies at lower rates. President Trump's goal is to give Americans more options for health insurance coverage at more affordable rates than is currently being offered under the Affordable Care Act (ACA).

How will the executive order accomplish this?

There are three main directives under this order:

- **Allow small employers to form association health plans across state lines**. Traditionally, association health plans are sponsored by trade organizations or interest groups, but the executive order directs *federal* regulators to amend the rules governing these plans so that they are no longer subject to *state* regulation. The executive order would expand the definition of groups that could qualify as an employer under the Employee Retirement Income Security Act (ERISA). As a result, association health plans regulated by ERISA would be federally regulated and subsequently exempt from state benefit mandates.

Additionally, the order would make ERISA-regulated self-insured plans exempt from several of the major ACA mandates. Under the order, these plans would not have to provide "essential health benefits" mandated under the ACA and actuarial value standards. This section of the order, however, forbids association health plans from denying coverage to those with pre-existing conditions.

- **Expand the duration of short-term insurance plans.** The order amends the regulations behind short-term insurance plans, intended for people who are in between jobs or who are going through other life transitions, to allow for longer-term use. These plans have lower rates, but typically less comprehensive coverage. Under current regulation, these plans last for three months at a time. The order would increase the duration to just under a year. Such plans are exempt from many of the ACA's regulations, which means insurers could offer plans that do not cover the required benefits available under ACA-regulated plans and insurers could deny coverage to those with pre-existing conditions. These plans also allow insurers to charge people who are not considered healthy more for coverage, and would allow insurers to drop coverage to people who are sick. Because these plans do not offer as much coverage, they tend to be cheaper than traditional ACA plans. This could result in fewer people opting for plans under the ACA, and subsequently more insurance companies opting out of providing coverage. Those who have short-term coverage are not considered insured, and still subject to the penalties under the ACA that deal with non-coverage.
- **Expand the availability and permitted use of health reimbursement arrangements (HRAs).** The executive order broadens the ability of employers to provide funding to their employees to purchase HRAs. This could include using employer-contributed, non-taxable HRA funds toward individual market premiums. A 2013 IRS notice initially prevented employers from using HRA money to fund their employees' individual health insurance premiums. This was amended in 2016 through the 21st Century Cures Act, which allowed employers with under 50 employees to make HRA contributions that could be used to pay for health insurance premiums on the open market. The executive order would also allow HRAs to be used in conjunction with nongroup coverage, thereby resulting in more coverage options for consumers.

What does this mean for the ACA?

The Affordable Care Act remains the law of the land. Although the executive order does not technically alter any of the major provisions within the ACA, there could still be some significant ramifications if the order were to be implemented. Proponents of the order claim that it will expand coverage options for consumers at lower costs. However, opponents of the order say it will drive health care costs up because the new plans would cherry-pick the healthiest consumers out of the individual market, leaving only those sicker patients on the ACA exchanges. In turn,

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prices would rise because the pool of people in the ACA exchanges would be those with more serious health care conditions. Ultimately, the executive order could result in higher premiums for those still on the ACA exchanges and offer lower premiums with less coverage for those who participate in the new plans. There is also some risk to insurers eventually exiting the marketing based on these proposals.

Does this have any effect for patients on Medicare or Medicaid?

No. None of these changes will directly impact these patients.

When would these proposals go into effect?

Because this is an executive order, and not law, the proposals set forth only ask the agencies to "consider" the proposed policies. They would still need to be introduced through the formal rulemaking process, which includes a formal notice and comment period. Without interruption, it would still take several months for these new policies to take effect and the final product may vary from what is outlined in the order.