

# COMPLIANCE BULLETIN

## Trump's Early Initiatives May Impact Health Plan Compliance



In the first months of his second term, President Donald Trump and his administration have issued executive orders (EOs) and policy changes that may have significant implications for employer-sponsored health plans. These initiatives include:

- An [EO](#) prioritizing increased **health care price transparency** and directing federal agencies to further implement and enforce transparency rules;
- An [EO](#) directing policy changes to **protect access to in vitro fertilization (IVF) and reduce out-of-pocket and health plan costs** for such treatments; and
- A [recission](#) of Biden-era guidance related to **gender-affirming care for minors** by the Department of Health and Human Services (HHS).

These actions do not change any existing legal requirements. However, they serve as important indicators and directives to federal agencies regarding Trump's health policy priorities. It is likely that the Trump administration will issue proposed rules or take other regulatory action on these topics in the coming months. Already, HHS has issued a [proposed rule](#) that, if finalized, would place new restrictions on eligibility and enrollment opportunities in the Affordable Care Act (ACA) Health Insurance Marketplaces.

### Action Items

Employers should expect new regulatory action over the next several months implementing Trump's health policy priorities, including those outlined above. Employers should watch for developments and assess the impact of any new regulatory action on their health plan coverage. For example, federal agencies will likely enhance health plan price transparency measures in the future, which may require employers to work with their third-party vendors regarding updates to plan communications and tools.

### Improve Health Care Price Transparency

Over the last few years, several new transparency requirements have gone into effect for employer-sponsored health plans and health insurance issuers. These new transparency requirements are designed to improve the quality of health care and lower costs by making more information accessible to plan participants and the public.

On Feb. 25, 2025, Trump issued an [EO](#) titled "Making America Healthy Again by Empowering Patients With Clear, Accurate, and Actionable Healthcare Pricing Information." The EO states that progress on health care price transparency at the federal level has stalled since the end of Trump's first term. To ensure that patients have the information they need to make well-informed health care decisions, the EO directs federal agencies to take the following actions within 90 days:

- Require the disclosure of actual prices of items and services, not estimates;
- Issue updated guidance or proposed regulations ensuring pricing information is standardized and easily comparable; and
- Issue guidance or proposed regulations updating enforcement policies designed to ensure compliance with the transparent reporting of complete, accurate and meaningful data.

Although most employers rely on their issuers or third-party administrators to satisfy many transparency requirements, employers should still monitor this topic for additional guidance from federal agencies. In addition to taking regulatory action on these items, federal agencies may issue guidance on advanced explanation of benefits (EOBs), which is a key transparency requirement that has not taken effect yet. When this requirement takes effect, health plans and issuers will need to send an EOB to covered individuals explaining the estimated cost of an item or service, including the individual's estimated cost sharing, before a scheduled service.

## Expand IVF Access and Reduce Costs

On Feb. 18, 2025, Trump signed an [EO](#) titled "Expanding Access to In Vitro Fertilization," which calls for his administration to provide policy recommendations for reducing IVF procedure barriers and "aggressively reducing out-of-pocket and health plan costs for IVF treatment" within 90 days. As background, as many as 1 in 7 couples struggle with infertility and may face significant financial hurdles to accessing IVF. The cost of IVF can range from \$12,000 to \$25,000 per cycle, and multiple cycles may be needed to get pregnant. IVF is often not fully covered by health insurance. Only one-quarter of employers report coverage of IVF for their employees. Just a handful of states require health insurance issuers to provide some sort of coverage for IVF. Without this coverage, many Americans pay out-of-pocket for IVF treatments.

It is unclear how the Trump administration may consider expanding access to IVF and reducing costs, but this may include additional coverage mandates for health insurance. Employers should watch for any developments that would impact their health plan coverage.

## Limit Gender-affirming Care for Minors

On Feb. 20, 2025, HHS [rescinded](#) its guidance on gender-affirming care from March 2, 2022, effective immediately. HHS was directed to rescind this guidance by Trump's [EO](#) titled "Protecting Children from Chemical and Surgical Mutilation." The 2022 guidance stated that transgender medical interventions may improve both physical and mental health outcomes for minors and outlined the application of federal civil rights and patient privacy laws to such medical treatments. For example, Section 1557 of the ACA prohibits discrimination based on race, color, national origin, sex, age or disability in health programs and activities that receive federal funding. The 2022 guidance stated that Section 1557 prohibits discrimination based on gender identity in federally funded health care settings. Employer-sponsored health plans are only subject to Section 1557 to the extent they receive federal financial assistance.

According to HHS, the 2022 guidance no longer reflects its views, and the rescission is a significant step in aligning civil rights and health information privacy enforcement with the Trump administration's policies. While this development demonstrates the Trump administration's position on this topic, it does not affect any final rules or court decisions. The latest [final rule](#) under Section 1557 provides, among other things, that sex discrimination includes discrimination on the basis of sexual orientation and gender identity, as well as sex stereotypes, sex characteristics, and pregnancy or related conditions. However, a federal district court has [issued](#) a nationwide injunction preventing enforcement of the final rule as it relates to gender identity. It is expected that the Trump administration will issue new guidance and rulemaking regarding Section 1557 in the future, stating that its protections do not extend to gender identity.

## Restrict Marketplace Eligibility and Enrollment

On March 10, 2025, HHS released a [proposed rule](#) that would implement new standards for the ACA's Marketplaces to address improper enrollments and promote stable and affordable health insurance markets. If finalized, the changes could make it more difficult for consumers to enroll in coverage, potentially reducing Marketplace enrollment. Key reforms of the proposed rule include:

- Ending the availability of the monthly special enrollment period for individuals with household incomes below 150% of the federal poverty level;
- Shortening the annual open enrollment period for all individual market coverage so it runs from Nov. 1 through Dec. 15 preceding the coverage year (instead of through Jan. 15 of the coverage year);
- Eliminating Marketplace eligibility for Deferred Action for Childhood Arrivals recipients;
- Requiring Marketplaces to determine an individual ineligible for the advance premium tax credit (APTC) if they failed to file their federal income tax return and reconcile APTC for one year (instead of two consecutive tax years);
- Allowing insurers to require payment of past-due premiums before effectuating new coverage; and
- Requiring consumers who are automatically renewed in Marketplace coverage with no premium (i.e., consumers who are eligible for APTC that fully cover their premiums) to pay \$5 per month until they confirm their eligibility information.

Although these proposed changes would not affect employers directly, they may make it more difficult for employees to enroll in Marketplace coverage. Employers that offer individual coverage health reimbursement arrangements (IHRAs) may find this problematic, while employers subject to the ACA's employer shared responsibility penalties ("pay-or-play" penalties) may reduce their penalty risk if fewer employees enroll in Marketplace coverage.

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