

HEALTH CARE REFORM: WHITE HOUSE ISSUES NEW EXECUTIVE ORDER ON ACA

On October 12, 2017, President Trump signed an Executive Order with the stated purpose of promoting health care choice and competition. The order seeks to achieve these goals by expanding access to Association Health Plans (AHPs), bolstering short-term insurance coverage, and easing restrictions on the use of Health Reimbursement Arrangements (HRAs). The order does not repeal any portion of the Affordable Care Act (ACA) but it does reiterate the Administration's view that the law has "failed to provide meaningful choice or competition."

WHAT DOES THE EXECUTIVE ORDER DO?

The order directs the Departments of Health and Human Services (HHS), Labor (DOL) and Treasury to consider making changes to current regulatory guidance in three areas:

1. It directs the DOL to consider within 60 days proposing regulations or revising guidance "to expand access to health coverage by allowing more employers to form AHPs."
2. It directs all three agencies to consider within 60 days proposing regulations or revising guidance to expand the availability and length of short-term coverage, including making it renewable by the consumer.
3. It directs all three agencies to consider within 120 days proposing regulations or revising guidance "to increase the usability of HRAs, to expand employers' ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with nongroup coverage."

The order also directs HHS, in consultation with the DOL, Treasury and the Federal Trade Commission, to report to the President within 180 days and every two years thereafter on steps that can be taken to expand competition and choice in the health care markets.

WHAT HAPPENS NEXT?

The order does not change any law or regulation. It only directs the agencies to consider drafting rules but it does not direct them to adopt any specific rules. Any proposed rules will need to go through a formal rulemaking process that includes a public comment period, which can take several months. In the meantime, all statutory and regulatory provisions of the ACA remain in full force. Employers should continue to administer their plans in full compliance with existing law. Keenan continues to monitor ongoing developments and will keep you updated.

Please contact your Keenan Account Manager for questions regarding this *Briefing* or if you require any additional information.

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