



# HEALTH CARE BULLETIN

## HIGHLIGHTS

- The executive order is aimed at improving price and quality transparency in health care.
- Among other things, the executive order is intended to:
  - Expand access to HDHPs and FSAs; and
  - More broadly define eligible medical expenses under Code Section 213(d).

## IMPORTANT DATES

### June 27, 2019

President Trump signed an executive order aimed at improving price and quality transparency in health care.

### Late 2019

The order gives agencies between 90 and 180 days to draft regulations to implement the order's policies.

## EXECUTIVE ORDER ON HEALTH COSTS TO AFFECT EMPLOYER HEALTH PLANS

### OVERVIEW

On June 27, 2019, President Donald Trump signed an [executive order](#) aimed at improving price and quality transparency in health care. The order is intended to increase availability of health care price and quality information and protect patients from surprise medical bills.

The order directs federal agencies to issue guidance in a number of areas regarding health care costs. Part of the order is intended to expand access to high-deductible health plans (HDHPs) and flexible spending accounts (FSAs) and to more broadly define eligible medical expenses under Internal Revenue Code (Code) Section 213(d).

### ACTION STEPS

An executive order is a broad policy directive used to establish how laws will be enforced by the administration. The order does not make any changes to existing regulations, but directs federal agencies to issue new guidance to implement the order's policies. As a result, the executive order's specific impact will remain largely unclear until agencies can issue further guidance.

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## The Executive Order

The executive order is intended to enhance the ability of patients to choose the health care that is best for them by increasing access to information regarding price and quality of health care goods and services.

Specifically, the order is aimed at:

- ✓ Eliminating unnecessary barriers to price and quality transparency;
- ✓ Increasing the availability of meaningful price and quality information for patients;
- ✓ Enhancing patients' control over their own health care resources, including through tax-preferred medical accounts; and
- ✓ Protecting patients from surprise medical bills.

*The executive order is intended to enhance the ability of patients to choose the health care that is best for them by increasing access to information regarding price and quality of health care goods and services.*

## Impact on Employer Health Plans

The order includes directives that will affect certain health plans that are provided by employers.

Specifically, within 120 days, the order directs the Treasury to issue guidance to expand access to HDHPs that can be used alongside a health savings account (HSA), and that cover low-cost preventive care, before the deductible, for medical care that helps maintain health status for individuals with chronic conditions.

In addition, the order directs the Treasury to propose regulations within 180 days to:

- ✓ Treat expenses related to certain types of arrangements—potentially including direct primary care arrangements and health care sharing ministries—as eligible medical expenses; and
- ✓ Increase the amount of funds that can carry over without penalty at the end of the year for FSAs.

## Transparency in Pricing

The order directs HHS to propose a regulation within 60 days to require hospitals to **publicly post standard charge information** in an easy-to-understand, consumer-friendly and machine-readable format. This information is intended to meaningfully inform patients' decision making and allow patients to compare prices across hospitals. The regulation should require hospitals to:

- ✓ Post standard charge information for services, supplies or fees billed by the hospital or provided by employees of the hospital; and
- ✓ Regularly update the posted information and establish a monitoring mechanism for HHS to ensure compliance with the posting requirement, as needed.

Within 90 days, the order requires the Secretaries of HHS, the Treasury and DOL to issue an advance notice of proposed rulemaking to solicit comments on a proposal to require health care providers, health insurance issuers and self-insured group health plans to provide information about expected out-of-pocket costs for items or services to patients before they receive care.

In addition, the order requires HHS to issue a report within 180 days describing the manners in which the federal government or the private sector are impeding health care price and quality transparency for patients, and providing recommendations for eliminating these impediments in a way that promotes competition.

## Health Quality Roadmap

The order directs HHS, the Department of Defense and the Department of Veterans Affairs (VA) to develop a Health Quality Roadmap (Roadmap) within 180 days that aims to align and improve reporting on data and quality measures across Medicare, Medicaid, the Children's Health Insurance Program (CHIP), the Exchanges, the Military Health System and the VA Health System. The Roadmap must include a strategy for:

- ✓ Establishing, adopting and publishing common quality measurements;
- ✓ Aligning inpatient and outpatient measures; and
- ✓ Eliminating low-value or counterproductive measures.

## Increasing Data Access

Within 180 days, the order directs HHS to increase access to de-identified claims data from taxpayer-funded health care programs and group health plans for researchers, innovators, providers and entrepreneurs, in a manner that is consistent with applicable law and that ensures patient privacy and security. This is intended to facilitate the development of tools that empower patients to be better informed as they make decisions related to health care goods and services, and enable researchers and entrepreneurs to locate inefficiencies and opportunities for improvement (such as patterns of performance of medical procedures that are outside the recommended standards of care). As part of this process, HHS is required to make a list of priority datasets that, if de-identified, could advance the policies set forth by the order, and will report to President Trump on proposed plans for future release of these priority datasets, as well as any barriers to their release.

## Surprise Medical Billing

The order also requires HHS to submit a report to President Trump within 180 days on additional steps that the administration may take to address surprise medical billing.