

More Data. More Choices. Better Care? New Executive Order Relies on Market Principles to Improve American Healthcare

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On June 24, 2019, President Trump signed an [executive order](#) that purports to create a more transparent health care market for both patients and providers. The order attempts to decrease the prevalence of opaque pricing, while increasing the amount of health care data available to health care users and stakeholders alike.

The executive order lays out a series of deadlines by which regulations, proposals and recommendations must be completed that intend to generate: (i) more informed patient choices, (ii) enhanced health care analytics, and (iii) greater financial options for individual payment.

The Steps for More Informed Patient Choices

- [Posting Hospital Charges](#). Within 60 days, the U.S. Department of Health and Human Services (“HHS”) is required to propose a regulation that obligates hospitals to post standard charge information in a patient friendly format.
- [Predictive Pricing](#). Within 90 days, HHS and other interested government agencies must solicit comment on a proposal to require certain health care providers, insurers, and plans to provide patients with projections of their out-of-pocket costs for services before they receive care.
- [Removing Impediments](#). Within 180 days, a report will be issued describing how

the federal government and private sector are currently impeding health care price and quality, and providing recommendations regarding how to best eliminate these impediments.

The Steps for Enhancing Health Care Analytics

- A Roadmap to Better Metrics. Within 180 days, HHS and other interested government agencies will prepare a roadmap to align and improve data reporting and quality metrics across federal health care programs such as Medicare, Medicaid, and the Veterans Affairs Health System.
- Better Access to De-Identified Data. Within 180 days, HHS, in consultation with other agencies, will increase access to de-identified claims data from taxpayer-funded health care programs and group health plans for researchers and entrepreneurs to identify inefficiencies ripe for improvement.

The Steps for Expanding Payment Options

- More High Deductible Plans. Within 120 days, the Secretary of the Treasury will issue guidance to expand the number of high-deductible health plans that can be used alongside a health savings account.
- Expanded Medical Deductions. Within 180 days, a regulation will be proposed to treat expenses related to certain health care arrangements as tax deductible medical expenses.
- Greater Carryover for Flexible Spending. Within 180 days, the Secretary of the Treasury will issue guidance to increase the amount of funds that can carry over without penalty at the end of the year for flexible spending arrangements.

Until the regulations, roadmaps, and guidance mandated by the executive order come into greater focus, the impact of the order is fuzzy at best. However, various industry stakeholders are already taking aim at transparency proposals that could open up private rate negotiations to public scrutiny. As the American Hospital Association noted in a statement, “publicly posting privately negotiated rates could, in fact, undermine the competitive forces of private market dynamics, and result in increased prices.” Similar concerns have been expressed on the payor side, while providers lament the prospect of enhanced administrative burden taking time away from the provision of clinical care. Whether the executive order ultimately improves the health care system inefficiencies it seeks to address remains to be seen, but one can expect increased scrutiny and industry reaction as implementation of the executive order advances.

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