

EMPLOYEE BENEFITS

President Issues Executive Orders: Gender Affirming Care for Minors; Transparency in Healthcare Pricing Information; Expanding Access to In Vitro Fertilization

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Recently, President Trump (the President) issued several Executive Orders on issues that may impact employer group health plans. These Executive Orders do not provide direct guidance as to how group health plans must adopt these rules. Still, they could affect group health plans in the future depending on what actions federal governmental agencies take pursuant to these Executive Orders. Employers and plan sponsors of group health plans should monitor regulations that may be released in the future that are related to the three following Executive Orders.

Gender Affirming Care for Minors

On January 28, 2025, the President issued an Executive Order titled “Protecting Children from Chemical and Surgical Mutilation.” The Executive Order directs the Department of Health and Human Services (HHS) to withdraw its original guidance that set forth nondiscrimination protections for transgender individuals under Section 1557 of the Affordable Care Act. On February 20, 2025, pursuant to the above Executive Order, HHS withdrew its prior guidance titled “HHS Notice of Guidance on Gender Affirming Care, Civil Rights and Patient Privacy” which now eliminates certain protections for individuals of all ages from nondiscrimination as it relates to transgender care.¹

Second, this Executive Order seems to seek (to be determined through future regulations) to prohibit insurance providers, healthcare providers and group health plans that receive federal governmental funding (under Section 1557) from providing coverage for gender affirming care

to minors, which is defined under the Executive Order as care that may include “puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex; the use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual’s physical appearance with an identity that differs from his or her sex; and surgical procedures that attempt to transform an individual’s physical appearance to align with an identity that differs from his or her sex or that attempt to alter or remove an individual’s sexual organs to minimize or destroy their natural biological functions².”

¹ <https://www.hhs.gov/sites/default/files/ocr-rescission-february-20-2025-notice-guidance.pdf>

² <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-children-from-chemical-and-surgical-mutilation/>

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The Executive Order contains two directives:

- 1) “[W]ithin 90 days of the date of this order, the Secretary of Health and Human Services (HHS) shall publish a review of the existing literature on best practices for promoting the health of children who assert gender dysphoria, rapid-onset gender dysphoria, or other identity-based confusion.³”
- 2) “Within 60 days of the date of this order, the heads of agencies with responsibilities under this order shall submit a single, combined report to the Assistant to the President for Domestic Policy, detailing progress in implementing this order and a timeline for future action. The Assistant to the President for Domestic Policy shall regularly convene the heads of agencies with responsibilities under this order (or their designees) to coordinate and prepare for this submission.⁴”

These reports may lead to prohibitions against providing coverage for gender affirming care to minors (defined as any individual under the age of 19) for group health plans that receive federal funding (e.g., group health plans that receive retiree drug subsidies or are considered an Employer Group Waiver Plan (EGWP)).

Transparency in Healthcare Pricing Information

On June 24, 2019, during his first term as President, President Trump issued [Executive Order 13877 \(Improving Price and Quality Transparency in American Healthcare to Put Patients First\)](#)⁵. This previous Order focused on delivering meaningful price transparency information to consumers, patients and all other stakeholders within the healthcare industry. Regulations issued pursuant to this Executive Order require “hospitals to maintain a consumer-friendly display of pricing information for up to 300 shoppable services and a machine-readable file with negotiated rates for every single service the hospital provides; health plans to post their negotiated rates with providers as well as their out-of-network payments to providers and the actual prices they or their pharmacy benefit manager pay for prescription drugs; and health plans to maintain a consumer-facing internet tool through which individuals can access price information.⁶”

On February 25, 2025, the President signed an Executive Order titled [“Making America Healthy Again by Empowering Patients with Clear, Accurate, and Actionable Healthcare Pricing Information.”](#)

The federal government’s intent with this new Executive Order is to “continue to promote universal access to clear and accurate healthcare prices and will take all necessary steps to improve existing price transparency requirements; increase enforcement of price transparency requirements; and identify opportunities to further empower patients with meaningful price information, potentially including through the expansion of existing price transparency requirements.⁷”

This Executive Order tasks the Secretaries of Treasury, Labor and Health and Human Services (the Secretaries) to take “all necessary and appropriate action to rapidly implement and enforce the healthcare price transparency regulations issued pursuant to Executive Order 13877, including, within 90 days of the date of this order, action to: **(a)** require the disclosure of the actual prices of items and services, not estimates; **(b)** issue updated guidance or proposed regulatory action ensuring pricing information is standardized and easily comparable across hospitals and health plans; and **(c)** issue guidance or proposed regulatory action updating enforcement policies designed to ensure compliance with the transparent reporting of complete, accurate and meaningful data.⁸”

³ <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-children-from-chemical-and-surgical-mutilation/>

⁴ <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-children-from-chemical-and-surgical-mutilation/>

⁵ Executive Order 13877 was eventually adopted as regulations, which can be found here: <https://www.govinfo.gov/content/pkg/FR-2020-11-12/pdf/2020-24591.pdf>

⁶ <https://www.whitehouse.gov/presidential-actions/2025/02/making-america-healthy-again-by-empowering-patients-with-clear-accurate-and-actionable-healthcare-pricing-information/>

⁷ [Making America Healthy Again by Empowering Patients with Clear, Accurate, and Actionable Healthcare Pricing Information – The White House](#)

⁸ [Making America Healthy Again by Empowering Patients with Clear, Accurate, and Actionable Healthcare Pricing Information – The White House](#)



Expanding Access to In Vitro Fertilization

On February 18, 2025, the President issued an Executive Order titled “[Expanding Access to In Vitro Fertilization.](#)” This Order is focused on lowering the barriers to access to IVF treatment and reducing the financial burdens of seeking IVF services/treatment. The intent of the Executive Order is to “ensure reliable access to IVF treatment, including by easing unnecessary statutory or regulatory burdens to make IVF treatment drastically more affordable.”⁹ The Executive Order requires the Assistant to the President for Domestic Policy to “submit to the President a list of policy recommendations on protecting IVF access and aggressively reducing out-of-pocket and health plan costs for IVF treatment” within 90 days of the Executive Order. Although it remains to be seen how this might occur, the President’s desire to “aggressively reduc[e] . . . health plan costs for IVF treatment” could impact group health plans and their sponsors.

Conclusion

At this time, it may be premature to predict what additional and new obligations may arise for group health plans and plan sponsors because of these Executive Orders. If final rules are issued pursuant to these Executive Orders in the future, those rules will provide further guidance on the implications of these Orders. Employers should continue to monitor the development of these rules when, and if, they are adopted in the future.

⁹ <https://www.whitehouse.gov/presidential-actions/2025/02/expanding-access-to-in-vitro-fertilization/>



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