

LEGAL UPDATE

Executive Order Issued to Strengthen the ACA

On Jan. 28, 2021, President Joe Biden issued an [executive order](#) that is intended to strengthen the Affordable Care Act (ACA) and Medicaid.

Exchange Special Enrollment Period

This executive order directs the Department of Health and Human Services (HHS) to consider establishing a special enrollment period through Federally Facilitated Exchanges due to the coronavirus (COVID-19) pandemic.

Review of Existing Guidance

The order also directs HHS, the Treasury and the Department of Labor (DOL) to review all existing regulations and guidance, and other agency actions to determine whether they are inconsistent with the policy of the executive order, and consider whether to suspend, revisit or rescind those actions.

Specifically, the executive order requires these agencies to review:

- Policies or practices that may undermine protections for people with preexisting conditions, including COVID-19 complications;
- Demonstrations and waivers that may reduce or undermine coverage under Medicaid or the ACA;
- Policies or practices that may undermine the Exchanges or the health insurance markets;
- Policies or practices that may present unnecessary barriers to Medicaid or ACA coverage, including for midyear enrollment; and
- Policies or practices that may reduce the affordability of or financial assistance for coverage.

The executive order also revokes two prior executive orders issued by the Trump administration. The first, issued Jan. 20, 2017, was intended to minimize burdens of the ACA until it can be repealed and replaced. The second, issued Oct. 12, 2017, relaxed regulations on association health plans.

Provided to you by **New England Employee Benefits Co., Inc.**

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. ©2021 Zywave, Inc. All rights reserved.

Executive Orders

- An executive order is a broad policy directive that directs federal agencies to consider new regulations or guidance to implement the order's policies.
- The order itself does not make any changes to existing regulations.
- As a result, the executive order's specific impact will remain largely unclear until agencies can issue further guidance.

This executive order directs federal agencies to review and revise existing policies to determine whether they undermine the ACA.

