

# Benefits Insights

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## The Biden Administration and Health Care

Between the COVID-19 pandemic and an ongoing political debate over the Affordable Care Act (ACA), health care was a core element of Joe Biden's campaign for the U.S. presidency.

It remains to be seen exactly how President-elect Joe Biden and Vice President-elect Kamala Harris will impact the health care industry. However, employers should begin to consider how this administration's platform might affect health care and employee benefits. This article explores the Biden administration's proposed COVID-19 response, general health care platform and top agenda items.

### Health Care Priorities of the Administration

While the Biden administration will inherit the coronavirus pandemic, it also faces other health care-related challenges. In addition to addressing COVID-19, the Biden administration's core focus is to expand the ACA incrementally.

To this end, Biden's health care platform will likely require both executive action and legislation. The administration will initially inherit a Democratic majority in the U.S. House of Representatives, but the Republican party is projected to maintain a majority in the U.S. Senate. Should Biden face a Republican majority in the Senate, that would impact the administration's ability to address health care through legislation.

### COVID-19 Response and Impact on Health Care

Biden wants to increase the federal government's role in the pandemic and lead a response focused on increased access to treatment, testing, personal protective equipment (PPE) and, in some cases, mandates and mitigation strategies.

The top priorities within the Biden-Harris COVID-19 response are to:

- **Increase testing**—Expand the number of testing locations and options to include home and instant tests, and eliminate out-of-pocket costs.
- **Address PPE shortages**—Use a federal response to address PPE shortages, and use the Defense Protection Act (DPA) to increase the availability of masks and other PPE for communities.
- **Distribute vaccines and treatments**—Distribute vaccines and COVID-19 treatments in a fair and accessible manner and eliminate out-of-pocket costs.
- **Establish additional protections for high-risk and older Americans**—Establish a task force designed to help equitably distribute COVID-19 resources and ensure the needs of the elderly and high-risk are addressed.
- **Work with local authorities on public health measures**—Work with local authorities, including governors and mayors, to establish and expand mask mandates, school guidelines and other safety measures as necessary.
- **Offer federal relief**—Provide federal aid that will prioritize support for small businesses and schools to operate safely, as well as aid for families.



As the Biden administration addresses the COVID-19 pandemic domestically, it hopes to reestablish the United States' relationship with the World Health Organization (WHO) to integrate the administration's response with global efforts.

Some COVID-19 pandemic response efforts such as federal mandates will face opposition. However, increased support via federal aid and initiatives from the federal government to increase testing, treatment and PPE access are efforts with broader support. Expect Biden to act on the coronavirus pandemic in the infancy of his administration.

### Biden's Health Care Agenda

While the coronavirus pandemic remains a top priority for both the Biden administration and many Americans, the administration also hopes to address and expand health care access. Most of their agenda either fits into or supplements an expansion of the ACA. However, due to potential congressional gridlock, employers should be aware that efforts to expand the ACA, Medicare and Medicaid may run into some roadblocks. Nonetheless, the following topics will be priorities for the Biden administration's health care agenda.

#### ACA

Currently, the ACA faces challenges in the U.S. Supreme Court. In the event that it is struck down, the Biden administration would be expected to work toward a replacement. However, in the event that the ACA is upheld, the Biden administration is expected to move forward with expanding the ACA. These incremental expansions include offering a public option and expanding Medicaid and Medicare.

#### Public Option

One of Biden's core proposals is to offer a public option to compete with private markets. The public option would sit on Marketplace exchanges alongside private plans and be available to the public—even if employers offer coverage. Biden hopes that this option can offer lower prices through price negotiation, cover co-payments for primary care, and improve coordination between patients' health care providers to improve care.

While Biden hopes this option would offer relief for health care consumers, it would also be intended to offer relief for

small businesses, which might no longer need to offer coverage. However, this public option would undoubtedly pose challenges to private insurers, which would be competing against a federally subsidized alternative.

#### Medicare

Throughout his campaign, Biden has continually stated that he intends to lower the Medicare eligibility age from 65 to 60. If Medicare eligibility were to be granted to those ages 60 to 64, it could increase participation in the program by around 20 million.

#### Medicaid

Biden intends to expand coverage to Medicaid at the state level as some governments and state legislatures have taken actions against the ACA's expansion of Medicaid eligibility. Biden's plan would seek an expansion aiming to provide access to almost 5 million additional individuals who would be eligible for Medicaid. His plan would also ensure that the proposed public option covers the full scope of Medicaid benefits.

States that have already expanded Medicaid would have the choice of moving the expansion population to the public option as long as the states continue to pay the cost of covering those individuals. Biden's plan would be intended to ensure that people making below a designated percentage of the federal poverty level are covered. To help expand Medicaid participation, he hopes to create programs that allow automatic enrollment for eligible participants.

#### Tax Credits

Biden hopes to ease the burden on families enrolling in health care by expanding tax credit eligibility for families who enroll in coverage through the Marketplace. Current requirements to receive tax subsidies include a household income no higher than 400% of the federal poverty level (FPL). Biden's plan proposes eliminating the current 400% income cap on eligibility, offering more families access to these tax credits.

Biden also hopes to put a cap on what families pay for health coverage. He proposes to lower the income cap that a family puts toward health care premiums from 9.86% to 8.5%. In Biden's proposed plan, if a family has employer coverage but

can get a better deal with the 8.5% cap on their premiums, they would be eligible to switch to a plan on the Marketplace.

### *Drug Pricing*

Biden hopes to lower prescription drug costs for consumers. The administration's platform is to:

- **Allow Medicare drug pricing negotiation**—Biden advocates for requiring drug corporations to negotiate with Medicare over drug prices. Also, Biden hopes to allow private plans participating in the Marketplace to access a similar negotiated rate. Much of this negotiation power may come through federally managed or sponsored programs such as the ACA, a new public option within the ACA, Medicare and Medicaid.
- **Limit drug price increases and monitor new drugs**—Biden hopes to limit drug companies' abilities to increase prices, which will face some opposition. Biden hopes to establish a board overseeing pricing that would recommend a reasonable price for new drugs, based on the average price in other countries or, if the drug is entering the U.S. market first, based on an evaluation of independent board members. This negotiated price would be the rate that Medicare and the public option pay.
- **Import drugs to save costs**—Biden wants to create cost-savings on drugs by opening up some imports from foreign markets, using the U.S. Department of Health and Human Services (DHS) certification process to ensure safety. While opening up imports from Canada has drawn some bipartisan interest, Biden's platform would seek to expand to additional markets.

Both the Biden and Trump campaigns acknowledged the need to address prescription drug prices, and Biden may have support across the political aisle for some measures. However, many of Biden's prescription drug proposals will face strong opposition in Congress and the private sector.

### *Surprise Billing and Pricing Transparency*

Surprise billing occurs when a health care consumer receives care that is unknowingly not covered under a health care plan. For example, this can happen if a patient goes to an in-network hospital but doesn't realize that a specialist at that hospital is not part of their health plan. Biden's plan to address this would be to bar health care providers from charging patients out-of-network rates when the patient doesn't have control over which provider they see.

Generally, ending surprise billing is an initiative with bipartisan support, as efforts to limit surprise billing were also part of the Trump campaign.

### *Mental Health Care Access*

Biden hopes to expand funding for mental health care through the ACA and reinforce its importance. Biden hopes to bring parity between mental health and other health, and ensure the Mental Health Parity and Addiction Equity Act (MHPAEA) is upheld at the federal and state levels.

### *Changes to Health Care*

Health care was a core topic of Joe Biden's presidential campaign. As previous administrations have done, this one should bring forth change as it addresses health care issues such as the COVID-19 pandemic and the future of the ACA.

Sullivan Benefits will keep you updated on any noteworthy health care and employee benefits changes. Contact us for additional health care and employee benefits resources.