

Executive Order on Strengthening Medicaid and the Affordable Care Act

January 28, 2021 • [Presidential Actions](#)

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. In the 10 years since its enactment, the Affordable Care Act (ACA) has reduced the number of uninsured Americans by more than 20 million, extended critical consumer protections to more than 100 million people, and strengthened and improved the Nation's healthcare system. At the same time, millions of people who are potentially eligible for coverage under the ACA or other laws remain uninsured, and obtaining insurance benefits is more difficult than necessary. For these reasons, it is the policy of my Administration to protect and strengthen Medicaid and the ACA and to make high-quality healthcare accessible and affordable for every American.

Sec. 2. Special Enrollment Period. The coronavirus disease 2019 (COVID-19) pandemic has triggered a historic public health and economic crisis. In January of 2020, as the COVID-19 pandemic was spreading, the Secretary of Health and Human Services declared a public health emergency. In March of 2020, the President declared a national emergency. Although almost a year has passed, the emergency continues — over 5 million Americans have contracted the disease in January 2021, and thousands are dying every week. Over 30 million Americans remain uninsured, preventing many from obtaining necessary health services and treatment. Black, Latino, and Native American persons are more likely to be uninsured, and communities of color have been especially hard hit by both the COVID-19 pandemic and the economic downturn. In light of the exceptional circumstances caused by the ongoing COVID-19 pandemic, the Secretary of Health and Human Services shall consider establishing a Special Enrollment Period for uninsured and under-insured Americans to seek coverage through the Federally Facilitated Marketplace, pursuant to existing authorities, including sections 18031 and 18041 of title 42, United States Code, and section 155.420(d)(9) of title 45, Code of Federal Regulations, and consistent with applicable law.

Sec. 3. Immediate Review of Agency Actions. (a) The Secretary of the Treasury, the Secretary of Labor, the Secretary of Health and Human Services, and the heads of all other executive departments and agencies with authorities and responsibilities related to Medicaid and the ACA (collectively, heads of agencies) shall, as soon as practicable, review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) to determine whether such agency actions are inconsistent with the policy set forth in section 1 of this order. As part of this review, the heads of agencies shall examine the following:

(i) policies or practices that may undermine protections for people with pre-existing conditions, including complications related to COVID-19, under the ACA;

(ii) demonstrations and waivers, as well as demonstration and waiver policies, that may reduce coverage under or otherwise undermine Medicaid or the ACA;

(iii) policies or practices that may undermine the Health Insurance Marketplace or the individual, small group, or large group markets for health insurance in the United States;

(iv) policies or practices that may present unnecessary barriers to individuals and families attempting to access Medicaid or ACA coverage, including for mid-year enrollment; and

(v) policies or practices that may reduce the affordability of coverage or financial assistance for coverage, including for dependents.

(b) Heads of agencies shall, as soon as practicable and as appropriate and consistent with applicable law, consider whether to suspend, revise, or rescind — and, as applicable, publish for notice and comment proposed rules suspending, revising, or rescinding — those agency actions identified as inconsistent with the policy set forth in section 1 of this order.

(c) Heads of agencies shall, as soon as practicable and as appropriate and consistent with applicable law, consider whether to take any additional agency actions to more fully enforce the policy set forth in section 1 of this order.

Sec. 4. Revocation of Certain Presidential Actions and Review of Associated Agency Actions. (a) Executive Order 13765 of January 20, 2017 (Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal), and Executive Order 13813 of October 12, 2017 (Promoting Healthcare Choice and Competition Across the United States), are revoked.

(b) As part of the review required under section 3 of this order, heads of agencies shall identify existing agency actions related to or arising from Executive Orders 13765 and 13813. Heads of agencies shall, as soon as practicable, consider whether to suspend, revise, or rescind — and, as applicable, publish for notice and comment proposed rules suspending, revising, or rescinding — any such agency actions, as appropriate and consistent with applicable law and the policy set forth in section 1 of this order.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,

January 28, 2021.