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PRESIDENT SIGNS EXECUTIVE ORDER TO IMPROVE HEALTHCARE PRICE AND QUALITY TRANSPARENCY

The President signed an Executive Order (or "Order") on June 24, 2019, directing the U.S. Departments of Health and Human Services (HHS), Treasury, and Labor (collectively, the "Tri-Agencies") and other federal departments (together, the "Various Agencies") to develop rules designed to assist patients in making informed decisions about their healthcare.

WHAT AND WHEN…

This Order continues the President's agenda to reform the healthcare industry. The Order requires a number of federal agencies to issue guidance, rules and tools designed to increase transparency in the healthcare market and certain other changes. These include (all timing is measured from the date of the Order):

Within 60 days

- HHS must propose regulations that require hospitals to publically post charge information, including negotiated rates, on common or shoppable services[1] in a consumer-friendly way. While price transparency is the primary goal, the Order contained other directives that will potentially impact how patients interact with healthcare.

Within 90 days

- The Tri-Agencies must issue a notice of proposed rulemaking seeking comment on how healthcare providers, insurance carriers, and self-insured group health plans can support transparency.

Within 120 days

- Treasury will issue guidance permitting qualified high deductible health plans (HDHPs) to pay for medical care for chronic conditions without cost sharing. This means the HDHP will be able to provide these benefits before the individual has met the annual deductible without affecting the ability to make or receive health savings account (HSA) contributions.

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[1]Shoppable services are common services that are offered in the market by multiple providers, such as imaging services.

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Within 180 days

- HHS – with support from the Attorney General and Federal Trade Commission – will issue a report addressing how the federal government and private sector negatively affect transparency and recommendations to improve this. HHS will develop ideas to address surprise medical billing, including the creation of a federal benchmark of exorbitant out-of-network fees owed to providers by insurance companies and plans.
- The Various Agencies will work together to improve data collection for research by consolidating data from federally sponsored health systems (such as Veterans Affairs and the Marketplace) and improving access to de-identified claims data.
- Treasury will propose regulations to treat expenses related to certain types of arrangements, which may include direct primary care and healthcare sharing ministries, as eligible medical expenses. This would enable the expenses to be reimbursable from an HSA, health reimbursement arrangement, or health flexible spending account (hFSA).

  Please note: The Order did not indicate that expenses related to direct primary care and healthcare sharing ministries must be included as eligible medical expenses in the proposed regulations. The Order also did not address these arrangements as potential disqualifying other coverage for HSA compatibility purposes.

  Treasury will also issue guidance increasing the maximum amount of hFSA funds that can be carried over to the following plan year.
- The Tri-Agencies will work together to propose rules on expanding patient access to expected out-of-pocket costs to cut down on surprise or balance billing.

BUT RELAX FOR NOW…

No immediate action by employers is necessary as a result of this Executive Order. The initial guidance and proposed regulations are months away, and it will be much longer before final regulations appear. In the meantime, there should be no immediate impact on the healthcare market.

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