



UBA
Compliance Brief

What every HR leader should know
about compliance, *at a glance*



Executive Order on Strengthening Medicaid and the Affordable Care Act

New Federal Marketplace / Exchange Special Enrollment Period Beginning February 15, 2021

1-Minute Read

On January 28, 2021, President Biden signed an [Executive Order on Strengthening Medicaid and the Affordable Care Act \(ACA\)](#) (Executive Order). The Executive Order instructs the Department of Health and Human Services (HHS) to consider establishing a special open enrollment period (SEP) for individuals to enroll in or change their current coverage under federally facilitated health insurance marketplaces. The Centers for Medicare and Medicaid Services (CMS) has established that the special enrollment period will begin on February 15, 2021, and will continue through May 15, 2021. This SEP will be available to individuals in the 36 states with marketplaces using the Healthcare.gov platform. Individuals can check their eligibility for this SEP on Healthcare.gov.

The Executive Order instructs HHS, the Department of Labor (DOL), the Department of the Treasury (Treasury), and all other executive departments and agencies with authorities and responsibilities related to Medicaid and the ACA (Agencies) to review all existing regulations and other guidance or policies (agency actions) as soon as possible to examine:

- policies or practices that may undermine protections for people with pre-existing conditions, including complications related to COVID-19, under the ACA;
- demonstrations and waivers, as well as demonstration and waiver policies, that may reduce coverage under or otherwise undermine Medicaid or the ACA;
- 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;



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

The Executive Order instructs the Agencies to suspend, revise, or revoke, as soon as possible, agency actions that are inconsistent with the policy of the Biden Administration to protect and strengthen Medicaid and the ACA and to make high-quality healthcare accessible and affordable for every American. The Executive Order also instructs the Agencies to consider whether to issue additional agency actions to more fully enforce this policy.

Finally, the Executive Order revokes [Executive Order 13765 Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal](#) issued on January 20, 2017 (see our prior [Advisor](#)), and [Executive Order 13813 Promoting Healthcare Choice and Competition Across the United States issued on October 12, 2017](#) (see our prior [Advisor](#)). As part of the review of agency actions, the Executive Order instructs the Agencies to consider, as soon as possible, whether to suspend, revise, or rescind agency actions related to these executive orders.

1/28/2021

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