

# BENEFITS

## Insights



## The Impact of Biden's Competition Executive Order on the Health Care Industry

The American economy is finally recovering after more than a year of stagnation due to the COVID-19 pandemic. President Joe Biden's administration wants to continue this momentum and further stimulate the economy. To help in that effort, President Biden recently signed an [executive order](#) aimed at increasing competition among businesses.

According to the White House, the order was designed to "promote competition in the American economy, which will lower prices for families, increase wages for workers, and promote innovation and even faster economic growth."

The Biden administration notes that corporate consolidation has been accelerating for many years, leaving the majority of industries in the hands of only a few entities. The administration points to this trend as the main reason for slow wage growth and rising consumer prices. This latest executive order intends to reverse these effects.

All in all, the executive order includes 72 initiatives by more than a dozen federal agencies to help address competition inequality. This article briefly outlines how the order affects the health care industry.

### Health Care Impact

The executive order addresses competition in health care in four main areas:

1. **Prescription drugs**
2. **Hearing aids**
3. **Hospitals**
4. **Health insurance**

### *Prescription Drugs*

Right now, large drug manufacturers enjoy incredible profits year over year. The White House alleges that this is due to lack of competition and "pay for delay" tactics, where name-brand drug manufacturers pay generic manufacturers to stay out of the market. Such strategies result in Americans paying 2.5 times more for the same medications as peer countries.

The executive order directs the Food and Drug Administration to work with states and tribes to safely import prescription drugs from Canada, where drugs are less expensive. It also directs the Health and Human Services (HHS) Administration to increase support for generic and biosimilar drugs. Additionally, the order encourages the FTC to ban "pay for delay" and similar agreements.

### *Hearing Aids*

Currently, the White House points out, only 14% of Americans with hearing loss use hearing aids. The administration says it's due to high prices, costing more than \$5,000 per pair (typically not covered by insurance). Additionally, hearing aids can only be obtained after a medical analysis by a doctor or specialist—an unnecessary requirement, according to the Biden administration.

The executive order directs the HHS to consider issuing proposed rules within 120 days for allowing hearing aids to be sold over the counter.

### *Hospitals*

Hospitals have been consolidating through mergers for years, resulting in higher prices and fewer rural locations.

The White House notes that consolidated hospitals charge far higher prices than hospitals in markets with more competition.

The executive order directs the FTC to review and revise its merger guidelines to ensure hospital mergers do not harm patients. Additionally, the order directs the HHS to support existing hospital price transparency rules and finish implementing bipartisan federal legislation to address surprise hospital billing.

### *Health Insurance*

Consolidation is also an issue in the health insurance sector, according to the Biden administration. Fewer insurance companies mean fewer options for consumers. Even when there are more options, comparing plans continues to be a struggle for many individuals.

The executive order directs the HHS to standardize plan options in the National Health Insurance Marketplace so people can comparison shop more easily.

### **Summary**

The executive order broadly addresses competition inequalities across market sectors, with a significant focus on health care. These proposed initiatives have the potential to help individuals and small businesses alike. However, it remains to be seen how all of these initiatives will play out, as executive orders are essentially a directive to federal agencies to revise their regulations.

In other words, some of the proposals may never come to fruition, and those that do may take months to implement. At the very least, this executive order and its initiatives indicate the position of the Biden administration—signaling that it may pursue these agenda items through alternative means, if necessary.

Employers should continue to monitor exactly how the executive order plays out.

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