

## President Trump's Executive Order to Put Patients First

On June 24, 2019 President Trump issued an *Executive Order on Improving Price and Quality Transparency in American Healthcare to Put Patients First* to help individuals be better informed about quality and price when making healthcare decisions. The President's Executive Order ("EO") directs federal agencies to propose and/or issue guidance or regulations to address a variety of deficiencies under the current healthcare system. The following summarizes key issues and the timeframe<sup>1</sup> (shown in parentheses) we should expect regulations or other guidance to be issued:

- Propose regulations to require hospitals to publicly post standard charge information, including negotiated (discounted) rates with carriers and benefit plans for "shopable" items and services. The costs must be presented in an easy-to-understand, consumer friendly and machine-readable format. This will better allow patients to shop and compare prices for services such as elective surgery. Although hospitals were recently required to post their "chargemaster" data, the information is basically worthless to the general public as there is no required standard format, the data is difficult to decipher (thousands of codes, medical terminology and abbreviations), and these charges do not represent actual costs and/or out-of-pocket expenses under a patient's health insurance arrangement. (60 days)
- Begin to solicit comments from the public about requiring healthcare providers, health insurance issuers and group health plans to provide information about expected out-of-pocket costs for care and services. While copayment amounts may be somewhat easier to predict, patients subject to deductible and coinsurance charges rarely have knowledge of anticipated costs before services are performed. (90 days)
- Issue guidance to expand the ability of qualified high deductible health plans (with health savings accounts) to cover certain low-cost preventive care before satisfying the deductible for chronic medical

conditions. Expanding coverage for certain chronic condition services under a qualified high deductible health plan encourages individuals to seek care and maintain the healthcare regimen (i.e. fill necessary prescriptions) to control their chronic condition. (120 days)

- Issue guidance to increase the amount that may be carried over to the following plan year under a healthcare flexible spending account. The current limit is \$500 for plans that permit participants to rollover balances at the end of the plan year in lieu of the "use-it-or-lose-it" requirement. (180 days)
- Propose regulations to include healthcare sharing ministries and direct primary care as tax-favored medical expenses eligible under health and account-based plans. (180 days)
- Submit a report to the President about additional steps that may be taken to alleviate surprise medical billing. On May 9, the Administration issued strategy principles on how to take the "surprise" out of surprise medical bills. (180 days)

While the intent of the EO and subsequent issuance of guidance and regulations is to help improve the patient experience, actual enactment of such initiatives may be a long time down the road. As with many proposed changes to the healthcare landscape status quo, legal challenges are likely to ensue as certain stakeholders will undoubtedly be concerned, disenfranchised and/or disrupted by changes that may potentially lie ahead.

<sup>1</sup>The timeframe is measured from the date the Executive Order was issued, June 24, 2019.