

# BREAKING NEWS

## For Immediate Release:

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Employee Benefits  
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## PRESIDENT TRUMP SIGNS EXECUTIVE ORDER TO EXPAND ACCESS TO AND REDUCE THE COST OF HEALTHCARE IN THE UNITED STATES

President Trump has signed an Executive Order that could expand Americans' healthcare choices and alternatives in the overall insurance market.

### Executive Summary:

- On October 12, 2017 President Donald Trump signed an Executive Order directing three cabinet agencies (listed below) to consider developing rules that would provide individuals with greater access to reduced-cost health coverage, but that could also potentially affect some of the protections that currently exist in the Affordable Care Act and reduce the richness of certain health plans .
- The Order expands access to Associate Health Plans (AHPs), which could allow certain employers to form associations across state lines to hopefully reduce the cost of coverage by spreading the risk among multiple employers.
- The Order directs the Departments of the Treasury, Labor, and Health and Human Services to consider expanding coverage through low cost, short-term limited duration insurance (STLDI), the coverage of which is not as robust as most health plans.
- Lastly, the Order directs the Departments of the Treasury, Labor, and Health and human Services to consider changes to Health Reimbursement Arrangements (HRAs), so that employers can utilize them more effectively in providing health coverage to employees.

### Introduction

On October 12, 2017, President Donald Trump signed an Executive Order aimed at increasing health coverage options and reducing the cost of healthcare. The Executive Order follows numerous proposed bills designed to repeal and replace the Affordable Care Act, which were unable to garner the appropriate number of votes to be passed through Congress. .

Specifically, the Executive Order directs the Departments of the Treasury, Labor, and Health and Human Services (the Departments) to draft regulations which would: 1) expand health plan access to

small employers through Association Health Plans (AHPs), 2) increase the availability and length of short-term, limited-duration insurance (STLDI), and 3) expand the availability and use of Health Reimbursement Arrangements (HRAs). The Departments have 60 days from the date of the order to propose regulations relating to AHPs and STLDI, and 120 days for regulations relating to HRAs.

The intent of the Executive Order is to expand the insurance market across State lines, and to provide high quality health care at affordable prices. The Executive Order intends to accomplish these goals through the following ways.

### ***Expanding Access to Healthcare through Association Health Plans***

Large group employer health plans typically negotiate more cost-effective solutions when purchasing health insurance, due to an employer's ability to spread risk across a larger population of its insured employees. The Executive Order would allow small group employers to gain some of the same benefits that large group employers have in the market, by allowing them to join an Association Health Plan with other employers. The intent would be that this would provide an opportunity for small group employers to purchase coverage in the large group market or the self-insured market, to hopefully spread the risks of insuring a small employee group population, and pass that risk onto multiple small employer groups connected through an association. The Executive Order explains that this would hopefully help in mitigating many of the risks that otherwise result from insuring employees in the small group market.

### ***Expanding Availability of Short-Term, Limited-Duration Insurance***

The Executive Order calls for regulations that would extend the period of time that an individual could be insured by a Short-Term, Limited Duration plan. As a reminder, Short-Term, Limited Duration plans were created for individuals to have "gap" insurance coverage during the time that an individual was seeking new insurance coverage after having previously lost coverage due to life events. Short-Term, Limited-Duration coverage is not considered ACA compliant, and because of this, regulations were previously issued only allowing for an individual to be covered under such plan for a maximum of three (3) months. If an individual were covered under such plan for longer than three months, this coverage would be in violation of the ACA rules.

Regulations consistent with the Executive Order would increase the amount of time an individual could be enrolled in STLDI, and would also permit individuals to renew STLDI for a longer duration of time.

### ***Expanding Permitted Uses of Health Reimbursement Arrangements***

The Executive Order requests regulations be issued that would encourage employers to offer Health Reimbursement Arrangements, so that employees will have greater flexibility and options as it relates to their health care decisions.

Finally, the Executive Order states that the overall intent during the Trump Administration is to create more competition in the healthcare market, and have less consolidation throughout the health care system. It states that this will be accomplished through the following three ways: 1) expanding the availability of access through Association Health Plans, Short-Term, Limited Duration plans, and Health Reimbursement Arrangements, 2) lowering barriers to entry, limiting consolidation, and preventing abuses of market power in the health care market; and 3) improving access to, and the quality of information from health care industry providers (including pricing and outcomes), so that individuals may make more informed decisions about their health care, without creating significant reporting burdens on plans, providers, or payers.

## **Conclusion**

From an employer perspective, until further regulatory guidance is released, the final regulations implementing the ACA protections and rules remain in effect, and are subject to enforcement by the Departments. Once the proposed regulations are created by the Departments, the public will have an opportunity to comment on the proposed regulations. Therefore, the process in addressing the Executive Order will take some time.