

Trump's First 100 Days: Health Care

Analysis of New Administration

12.09.2024

In his first term, President-elect Trump focused on repealing the Affordable Care Act (ACA). He has since shifted away from that approach and indicated plans to improve the ACA and reduce costs.

AT A GLANCE

- Enhanced marketplace subsidies originally implemented as part of the 2021 American Rescue Plan Act and extended by the 2022 Inflation Reduction Act are now set to expire at the end of 2025, resulting in steep premium increases in 2026 if action isn't taken.
- The health care industry continues to grapple with the U.S. Supreme Court's landmark ruling in *Loper Bright Enterprises v. Raimondo*, overturning the 40-year-old precedent of "Chevron deference."

Trump has tapped Robert F. Kennedy Jr. to lead the Department of Health and Human Services (HHS). An environmental attorney by training, Kennedy has fought vaccine mandates through his nonprofit, Children's Health Defense.

The outlook for the health care industry remains uncertain, as few details on health care policy were provided throughout the election season. However, we expect significant developments in health care policy as the Trump administration commences, particularly regarding the appointment of Kennedy to lead the HHS, deregulatory initiatives and the ongoing impact of the U.S. Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, as well as the ACA.

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SECRETARY OF HEALTH AND HUMAN SERVICES ROBERT F. KENNEDY JR.

If confirmed as the country's top public health official, overseeing 13 agencies, Kennedy has pledged to focus on transparency and addressing chronic diseases, signaling a shift away from a focus on infectious diseases. In addition to Kennedy, Trump has nominated Dr. Mehmet Oz to lead the Centers for Medicare and Medicaid Services, Dr. Dave Weldon for director of the U.S. Centers for Disease Control and Prevention, Dr. Marty Makary as commissioner of the U.S. Food and Drug Administration, and Dr. Janette Nesheiwat as U.S. surgeon general.

ONGOING IMPACT OF SCOTUS' *LOPER BRIGHT* DECISION AND DEREGULATION EFFORTS

The health care industry continues to grapple with the Supreme Court's landmark ruling in *Loper Bright Enterprises v. Raimondo*, overturning the 40-year-old precedent of "Chevron deference." This decision significantly alters how administrative law is interpreted and impacts both the incoming Trump administration and the legislative branch. Federal agencies now operate in a more tightly constrained legal environment, which may have little impact on efforts to repeal existing regulations; however, it will likely challenge the administration's ability to replace existing regulations with those that further its own agenda.

Lawmakers will need to draft legislation with greater specificity – a difficult task in a closely divided Congress. We anticipate the incoming Trump administration will focus significantly on deregulation, particularly in public health, and expect rollbacks on Biden-era policies such as the HIPAA Privacy Rule to Support Reproductive Health Care Privacy and the updated nondiscrimination rules issued under Section 1557 of the ACA. Both the HIPAA Reproductive Health rules and the 1557 rules currently face legal challenges, and the incoming administration may drop its defense of these rules as one possible mechanism for shaping health policy.

THE ACA

Although President-elect Trump tried unsuccessfully to repeal the ACA several times during his first term, he has since shifted away from that approach and indicated plans to improve the ACA and reduce costs. Attention will need to be paid to ACA marketplace subsidies. Enhanced subsidies originally implemented as part of the 2021 American Rescue Plan Act and extended by the 2022 Inflation Reduction Act are now set to expire at the end of 2025, which will result in steep premium increases in 2026.

This article is part of a broader analysis examining the anticipated challenges and opportunities created by an administration change. Attorneys from several different practice areas contributed to this series of articles across multiple legal areas.

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