Protect Our Care's Agenda for Executive Action to Reverse Trump's Health Care Sabotage

PROTECT
OUR CARE

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Joe Biden will be a health care president. During his campaign, Biden put forth a sweeping plan to expand coverage and lower costs by creating a public option, lower drug prices through Medicare negotiation, and guarantee that no one pays more than 8.5 percent of their income on health care. The Biden plan will ensure that 97 percent of Americans are covered, and it will lower costs for millions of families at a time they need it most. President-elect Biden also pledged an aggressive administrative agenda to reverse four years of President Trump's purposeful sabotage of America's health care. While major elements of the President-elect's plan will require Republicans in Congress ending their war on health care, the Biden administration is poised to take speedy action to deliver meaningful change for the American people.

For four years, President Trump and Republicans in Congress have waged a war on American health care. On top of their relentless efforts to repeal the Affordable Care Act (ACA), President Trump has pursued numerous regulatory changes that have raised health care costs and undermine coverage. As a result, even before the coronavirus pandemic, millions had lost their coverage under the Trump administration. President-elect Joe Biden can work quickly to improve Americans' health care by reversing Donald Trump's sabotage. This document focuses on key administrative actions—both regulations and executive orders—that President-elect Biden can prioritize to strengthen the ACA and Medicaid after years of mismanagement under President Trump.

Addressing the Trump administration's health care sabotage is particularly urgent as the coronavirus pandemic worsens. President Trump's failure to lead during this crisis has left more than 67 million Americans filing for unemployment and an estimated 14 million people losing their employer-sponsored coverage. At a time when millions of uninsured people are facing the possibility of coronavirus and devastating health care bills, the American people need the security of quality, affordable health insurance to ensure they get all of the necessary care they need during this crisis.

Open A Special Enrollment Period

The Trump administration refused to reopen the federal marketplaces to allow people to purchase health insurance during the global pandemic. President Trump's failure to create a Special Enrollment Period (SEP) ignored calls from health insurers and lawmakers who knew it would help slow the spread of the virus and save American lives. By failing to open a SEP, President Trump may have blocked millions from gaining coverage. Several states saw great success by opening their state-run marketplaces, and thousands of people were able to obtain

coverage as a result. In fact, California alone saw [289,000 people](#) enroll as a result of the state's SEP as well as additional marketing and outreach efforts. Unfortunately, however, 38 states with federally-run marketplaces were not able to open their exchanges without federal action.

As part of his response to the COVID-19 pandemic, Biden can immediately open a SEP to ensure that everyone—including those who lost employer coverage and those who were uninsured before the crisis—can get covered beyond the standard Open Enrollment period. It is absolutely critical that everyone is able to access health care for the duration of the national emergency, and opening a SEP is a common sense solution to ensure everyone impacted by this crisis can enroll.

Roll Back Junk Plans

The Trump administration put forth several measures to expand access to insurance plans that are not required to comply with the ACA's consumer protections. They [extended](#) the duration of short-term plans from three months to 12 months, with the option to renew coverage for up to three years. They also expanded the circumstances under which association health care plans can be formed. The Trump administration pushed their promotion of junk plans even further by encouraging states to direct federal subsidies toward these plans and by allowing employers to push their employees to purchase junk plans.

Junk plans can discriminate against people with pre-existing conditions, and they can deny coverage for prescription drugs, preventive care, and other essential health benefits, leaving patients on the hook for potentially catastrophic medical bills. Additionally, these plans serve to destabilize the ACA marketplace: [according](#) to the Center for American Progress "because these plans can cherry-pick the healthiest people, those remaining in the marketplace will be sicker and older on average, which in turn raises marketplace premiums." The Biden administration can reinstate the three-month limit for short-term plans, limit the circumstances when association health plans can be formed, and roll back all guidance incentivizing enrollment in these substandard plans.

Restore Marketplace Outreach & Advertising Funding

During the first year of his presidency, Trump cut the outreach advertising budget for Open Enrollment by [90 percent](#), from $100 million to just $10 million—a move that resulted in as many as [1.1 million](#) fewer people getting covered. The administration also [slashed](#) funding for non-profit health Navigator groups that help people shop for coverage, from $36 million to $10 million. CMS encouraged Navigator groups to use the remaining funds to push people to sign up for junk plans that skirt important consumer protections as described above. The Trump administration also cut the number of days people could sign up for coverage during open enrollment by half, from [90 days to 45 days](#).

Funding for advertising and outreach remains at these diminished levels, even as millions of people have lost employer-sponsored coverage during the coronavirus pandemic. The Biden administration can restore outreach and enrollment funding, extend the Open Enrollment period, and re-engage with partner organizations—like women's groups, medical organizations, and churches—to boost enrollment.

Improve Online Resources

The Trump administration has engaged in censorship of critical information on the ACA. A May 2019 Sunlight Foundation report revealed that "various HHS offices have seemingly gone out of their way to systematically remove references to the ACA," which included removing an 85-page website containing information about the benefits of the Affordable Care Act.

Trump has also taken several steps to redirect consumers to private brokers instead of providing information on Healthcare.gov. In 2018, the Sunlight Foundation reported that key enrollment information on Healthcare.gov had been removed and replaced with links directing consumers to private insurance brokers. More recently, the Trump administration approved Georgia's 1332 waiver, which seeks to end the state's participation in HealthCare.gov with no state-based replacement and instead direct consumers to private brokers. It is important to note that private brokers often receive higher commission if they enroll patients in substandard junk plans. President-elect Biden can restore key information about the ACA across government websites and end any reliance on private brokers, ensuring consumers receive accurate information about coverage options under the ACA.

Eliminate Harmful Medicaid Changes

Between encouraging states to impose work reporting requirements and championing Medicaid block grants, the Trump administration has worked tirelessly to dismantle Medicaid. After Arkansas imposed the nation's first so-called work requirements program, more than 18,000 residents lost Medicaid coverage, and research has shown that the policy failed to increase employment in the state. The Trump administration has continued fighting to impose work reporting requirements in Medicaid, appealing federal court rulings that blocked such programs because they are illegal. Meanwhile, a recent GAO report found that the administrative costs to implement the failed work requirement programs in five states topped $400 million. It has become overwhelmingly clear that efforts to impose work requirements are driven by nothing more than a desire to curb Medicaid enrollment.

Ahead of the pandemic, the Trump administration finalized its block grant proposal which would allow states to apply for waivers that would convert their Medicaid programs for many adults into a form of block grant. Block grants are a blatant attempt to cut funding, which could lead to states limiting enrollment and reducing benefits. Importantly, under Trump's block grant proposal, federal funding would no longer necessarily increase in response to a public health emergency like coronavirus. This could lead to people losing coverage and access to care, undermining prevention and treatment of diseases nationwide. After becoming the first and only

state to apply for the block grant waiver, Oklahoma [withdrew](#) its application, likely as a result of the state budget strains caused by the pandemic.

The Biden administration can immediately rescind the block grant guidance and reject any future state proposals to impose work reporting requirements. Additionally, President-elect Biden can reverse some of the more obscure Medicaid policies championed by the Trump administration, such as the proposed Medicaid Fiscal Accountability Rule, which [gives](#) states less flexibility to determine how much they pay Medicaid providers or how they finance their Medicaid programs, making cuts to Medicaid programs more likely.

End Trump's Discriminatory Agenda

Since taking office, the Trump administration has taken multiple steps to make it harder for women, people of color, immigrants, and LGBTQ Americans to access health care. For example, in August 2019, the Trump administration began [enforcing](#) a rule that bars certain federally-funded clinics from referring women for abortions. As a result, the nation's largest recipient of Title X funds, Planned Parenthood, was forced to [exit](#) the program, losing [$60 million](#) in funding previously used to provide birth control and reproductive health care services for low-income women. President Trump [reversed](#) an Obama-era policy that required faith-based health providers receiving federal funding to inform clients about services they don't provide for religious reasons and to provide referrals to alternative providers if patients object to their practices. Trump's 1557 rule [allows](#) doctors, hospitals, and health care companies to refuse to provide services to LGBTQ people and patients who have had abortions.

Moreover, [experts point to](#) Trump's immigration policies, such as the [public charge rule](#), for having deterred many Latino families from getting coverage, resulting in steep coverage losses, especially for children. Biden can reverse all of these harmful actions, ensuring that equality is at the center of his health care agenda.

Reverse Other Marketplace Sabotage

The Trump administration has taken additional steps designed to raise costs and undermine coverage in the ACA marketplaces. Trump has made several [changes](#) to the ACA's benefit and payment parameters, for example, [reducing](#) subsidies available to those who purchase health care through the exchange, giving insurers more flexibility to increase premiums and scale back benefits, and raising the out-of-pocket maximum for people with employer-sponsored health care. Trump's CMS [introduced](#) a pilot program that allows individual market insurers to tie premiums to reaching "health goals," such as losing weight or lowering blood pressure—a blatant attempt to discriminate against people with pre-existing conditions. President-elect Biden can reverse Trump's payment notice policies and end harmful CMS initiatives designed to raise costs on enrollees.