



Policy Brief

February 5, 2021



What to Expect from President Biden's Policy Priorities

In the first few weeks of his presidency, President Biden released a [myriad](#) of Executive Orders, bills and initiatives, many centered on the COVID-19 response, health care and reducing disparities. We anticipate President Biden's overarching health care priorities will be 1) address the COVID-19 pandemic, 2) lower costs, 3) increase access and 4) reduce health disparities. Below are some of the recent developments in these priority areas and what we can expect in the future. Click [here](#) for a summary of all recent presidential actions, or [here](#) for only those related to the COVID-19 pandemic.

Addressing COVID-19

As of February 4, 2021, President Biden has released more than a dozen Executive Orders and other presidential actions to [address](#) the pandemic, many signed during his first day in office. The new president reversed several actions made by the previous administration, including [re-establishing](#) the National Security Council's Directorate for Global Health Security and Biodefense, [directing](#) FEMA to reimburse States' use of the National Guard in fighting COVID-19 and [rejoining](#) the World Health Organization. President Biden has issued additional measures, such as mandating masks in federal [buildings](#) and interstate [transportation](#), investing in COVID-19 [therapeutics](#) and directing federal agencies to establish and [reinforce](#) COVID-19 worker safety guidance. The President has placed heavy emphasis on equitable vaccine distribution, [vowing](#) to have 100 million vaccines delivered by his 100th day in office and [invoking](#) the Defense Production Act to make a large enough supply.

What to Expect: President Biden will continue to place combatting the COVID-19 pandemic as a top priority.

Lowering Costs

President Biden has long advocated for lowering the cost of care throughout his campaign, which is critical as COVID-19 increases Medicare costs and the Medicare trust fund is set to be [depleted](#) by 2024. The President has nominated California Attorney General Xavier Becerra as his HHS Secretary; Becerra has [scrutinized](#) hospitals on price transparency and mergers in health care and will likely continue in his new role. He will also likely support the surprise billing legislation [passed](#) at the end of last year and continue to promote shifting to value-based care under the Affordable Care Act (ACA).

What to Expect: The Biden Administration will likely continue to address the rising cost of health care through the regulatory means that were sought during the Trump Administration. The bipartisan support for efforts like price transparency, site-neutral payments, surprise billing and shifting to value-based care increases the chance of seeing action in these areas.

Increasing Access

President Biden has released several orders aiming to expand access to care, both generally and in response to the COVID-19 pandemic. President Biden has [released](#) an ACA 2.0 plan and has ordered agencies to reexamine policies that undermine protections for people with pre-existing conditions and reduce health care coverage and affordability. He has also [opened](#) a special enrollment period on the Health Insurance Exchanges during the pandemic, which will increase access to newly expanded telehealth and COVID-19 therapeutics.

What to Expect: President Biden will likely increase access to health care by strengthening the ACA and promoting Medicaid by removing barriers such as [work](#) requirements.

Reducing Disparities and Protecting Vulnerable Groups

President Biden has also released orders addressing racial equity and ensuring equitable vaccine [distribution](#). His orders strengthen safety net programs, [increasing](#) SNAP benefits by 15% and [reevaluating](#) the previous Administration's housing policies. The White House has moved to protect vulnerable groups by ending [federal funding](#) of private prisons (which are often incentivized to provide [substandard care](#) to inmates), [reaffirming](#) U.S. commitments to tribal sovereignty and [denouncing](#) discrimination and xenophobia.

What to Expect: We can expect racial equity to continue to be a cornerstone of policies released under the Biden Administration.



Inequity in COVID-19 Vaccine Distribution

Over the past weeks, providers have administered as many COVID-19 vaccines as possible, but not all patient populations have equal access. So far, [data show](#) that minority groups are receiving less vaccine doses relative to their population than their counterparts. If left unchecked, this could lead to future health care issues in communities that are the most susceptible to the disease. To address disproportionately high infection rates, the health care community should understand these [key contributing factors](#).

Overrepresentation of Cases and Casualties

While the current data show an overrepresentation of Black and Hispanic COVID-19 cases, each state records their data differently, often lacking comprehensive datasets for ethnic and racial minorities.

- Black and African-American populations are [overrepresented](#) in COVID-19 cases in 42 of the 43 states reporting racial disparity data, including the District of Columbia.
- Overrepresentation of Black and African-American deaths occur in 33 of 36 states.
- Hispanic populations are overrepresented in COVID-19 cases in 43 of 44 states reporting sufficient data.
- Overrepresentation of Hispanic COVID-19 deaths occur in 5 of 32 states.

Underrepresentation of COVID-19 Vaccinations

Currently, 17 states are reporting [race and ethnicity data](#) related to COVID-19 vaccinations.

- Black and African-Americans are underrepresented in 16 of 17 states.
- For example, in Mississippi, Black and African-Americans represent 37% of the population, 38% of cases, 42% of deaths but only 17% of vaccinations.

Some Communities Face Greater Access Challenges

The Biden Administration's [Executive Order 13995](#), Ensuring an Equitable Pandemic Response and Recovery, is tasked with addressing the disproportionate impact that COVID-19 has had on communities of color and underserved populations. These communities often face greater challenges to access; vaccine appointments often require reliable transportation, flexible work schedules and internet access, which can be difficult for underserved populations. There is also a

[historically-rooted mistrust](#) of the medical system and vaccine hesitancy within many Black and African-American communities, further widening the gap.

What Can We Do?

Vaccine [allocation](#) is in its infancy. There's still time to promote an equitable distribution of vaccines, making sure that underserved and high-risk groups have the necessary resources to get vaccinated. As part of its national strategy, the Biden Administration is ramping up vaccination [measures](#) with the launch of the Federal Retail Pharmacy Program, a public-private partnership with national and independent pharmacy partners who will begin to administer doses. Establishing [meaningful connections](#) with trusted community partners, such as religious institutions, can help lower hesitancy rates among vulnerable groups. Without action, these populations will continue to be underserved in vaccine allocation, increasing the need for additional health care interventions, and potentially leading to more unnecessary suffering and deaths.



Back in the Spotlight: Medicaid Work Requirements

On January 28th, President Biden issued an [Executive Order](#) aimed at strengthening the Medicaid program. The order directs the Department of Health and Human Services (HHS) to closely examine waivers that could reduce coverage or otherwise undermine Medicaid, as well as policies that may present “unnecessary barriers” to enrollees. Work requirements, one of the most controversial uses of Medicaid waivers, will be one of these policies reexamined. Although not implemented, the AHPA states of Georgia, Ohio, Kentucky and Michigan all had Medicaid work requirement waivers [approved](#) under the Trump Administration. Read more on the debate surrounding work requirements and what we can expect in the coming months.

First, a quick refresher: What's the issue with work requirements in Medicaid?

Some states have tried to use Medicaid to encourage enrollees' participation in the workforce by adding a work requirement to their program. Although supporters of work requirements believe their addition can help move enrollees to self-sufficiency while preserving Medicaid budgets, public health experts worry that work requirements only result in savings because of their

misalignment with Medicaid's purpose—to provide access to health care for people with lower incomes.

Studies of work requirements' use in other social service programs find that they result in a [loss of services](#), particularly without supplemental employment support. At AHPA, we recommend that work requirements not be included in these programs unless coupled with workforce development initiatives and medical screenings. To date, [no states](#) have been able to successfully implement work requirements in their Medicaid program.

What should AHPA members watch for in the upcoming months?

Work requirements are one of the most prominent policy issues that could be affected by the January 28th Executive Order, but the path to completely blocking them might be [harder than it looks](#). Before President Biden's order, the previous Administrator of the Centers for Medicare and Medicaid Services (CMS) outlined a new procedure for withdrawing waiver approval. The new policy includes a nine-month waiting period for states, which could help waivers with work requirements stick around a bit longer. In addition, the Supreme Court still has to issue a ruling on its own work requirements case, slated to be heard during its March [argument session](#).

Updates to COVID-19 Regulations

AHPA continues to follow new COVID-19 regulations, guidance and other government actions. The updates below are the latest guidance and other developments since January 25th to help mitigate the impacts of COVID-19. For earlier COVID-19 regulations and guidance, [visit the previous Policy Brief](#).

HHS Announces Special Enrollment Period

- HHS has [announced](#) a Special Enrollment Period (SEP) for the Health Insurance Exchanges in response to the COVID-19 public health emergency. The SEP will allow prospective new enrollees to apply for coverage from February 15, 2021 through May 15, 2021.

PREP Act Declaration Amended to Increase Vaccine-Administration Workforce

- HHS has [released](#) an amendment to the Public Readiness and Emergency Preparedness Act (PREP Act), adding more categories for persons qualified to deliver COVID-19 vaccines.

White House Launches Federal Retail Pharmacy Program

- The Biden-Harris Administration has [announced](#) Phase One of the federal pharmacy program, which will launch next week to allow for more widespread inoculation.

California and Biden-Harris Administration to Partner on Community Vaccinations

- Governor Newsom has [announced](#) that the state of California will partner with FEMA on a pilot project establishing community vaccination sites in Oakland and Los Angeles.

Latest Leadership Nominees for the Biden Administration

Although at a slower pace than previous administrations, the Biden Administration has begun selecting its top individuals to lead federal health-related agencies, provided the Senate confirms. Here's what we know so far:

Leadership Position	Nominee	Status
<i>Director</i> Centers for Disease Control and Prevention	Dr. Rochelle Walensky	<i>Finalized</i>
<i>Surgeon General</i>	Dr. Vivek Murthy	<i>Confirmation Still Needed</i>
<i>Secretary</i> Health and Human Services	Xavier Becerra	<i>Confirmation Still Needed</i>
<i>Administrator</i> Centers for Medicare and Medicaid Services	<i>TBD</i>	<i>TBD</i>
<i>Director</i> Center for Medicare and Medicaid Innovation	<i>TBD</i>	<i>TBD</i>



A Look at the Federal Register

Delay of Effective Date: Secure Electronic Prior Authorization for Medicare Part D Program.

CMS and HHS have delayed the effective date for the provision until March 30, 2021. In accordance with January 20, 2021 “Regulatory Freeze Pending Review” memorandum.

Delay of Effective Date: Organ Procurement Organizations Conditions for Coverage:

CMS and HHS have delayed the effective date for the *Revisions to the Outcome Measure Requirements for Organ Procurement Organizations* provision until March 30, 2021. **An additional 30-day comment period has been granted ending March 4, 2021.**

Delay of Effective Date: Removal of Safe Harbor Protection for Prescription Pharmaceutical Rebates and Creation of Protections for Point-of-Sale Reductions in Price and Pharmacy Benefit Manager Service Fees

OIG and HHS have delayed the effective date for the provision until March 22, 2021, in accordance with January 20, 2021 “Regulatory Freeze Pending Review” memorandum.



AHPA Resources

- Issue Brief: [Racism as a Public Health Issue](#)
Loma Linda Institute for Health Policy and Leadership

IN OTHER NEWS

[How Rich Hospitals Profit from Patients in Car Crashes](#) – The New York Times

[Publix COVID-19 Vaccine Lies Out of Reach for Poor, Black Floridians](#) – The Sun Sentinel

[In Its First 100 Days, The Biden Administration Must Restore the Soul of Medicaid](#) – Health Affairs

Podcast: [Oxygen Industry Scrambles to Keep U.S. Patients with COVID-19 Breathing](#) – NPR
(Listening Time: 3 minutes)

[Frontrunner Emerges for Biden's Medicare and Medicaid Chief](#) – Politico