HEALTHCARE EXECUTIVE ORDER KEY MESSAGES

The EO's primary intent is to help Obamacare's victims

- Middle-class people without workplace coverage have seen premiums soar, plan and doctor options dwindle, and taxes increase. They generally do not qualify for Obamacare's subsidies.
  - One-third of counties have only a single insurer selling on the exchanges in 2017. As insurers continue to withdraw, the percentage of counties with a single insurer will likely approach 50% next year.
  - Average individual market premiums more than doubled between 2013 and 2017.
    - ➔ Average premiums went up 25% from 2016 to 2017 and are set to increase at least that much in January.

- About 35 million workers are employed by small businesses (those with fewer than 50 workers). Most small employers can no longer afford to offer health benefits. The only option for many of these workers is the failing Obamacare exchange in their state.
  - For firms that employ 3-24 workers, the percentage of workers covered by employer health benefits has fallen from 44% in 2010 to 32% in 2017.
  - For firms that employ 25-49 workers, the percentage of workers covered by employer health benefits has fallen from 59% in 2010 to 45% in 2017.

Goals of the EO

- Provide Americans, particularly middle-income Americans, with more affordable healthcare choices.

- Allow Americans to exercise greater control over their healthcare decisions.

- Make it easier for small employers to join together in an Association Health Plan (AHP) in order to offer their workers more affordable, flexible coverage.

- Increase choice and competition and reduce consolidation throughout the healthcare system and push back against healthcare monopolies.
  - Obamacare exacerbated a growing trend toward consolidation among healthcare providers, particularly large hospitals systems buying up physician practices. Nearly half of hospital markets are anti-competitive, with many areas of the country dominated by one or two large hospital systems. Evidence suggests that increased market concentration leads to significantly higher prices for consumers.

Association Health Plans

- The goal: Allow more businesses, particularly small businesses, to join together in order to offer their employees affordable health insurance.

- A broader consumer-friendly interpretation of the federal law governing insurance (ERISA) could potentially allow employers in the same line of business *anywhere in the country* to join together to offer healthcare coverage to their employees.

- An expansion of employers' abilities to form AHPs could potentially allow small businesses to gain many advantages that large businesses now enjoy.

- For example, if new regulations were to allow more employers to form fully insured large group plans or self-insure, the employers in these new or existing associations may be able to avoid several Obamacare mandates currently driving up premiums on the exchange.

- <u>AHPs cannot exclude any employee from participating in the plan and cannot price an individual's premium based on their health condition. AHPs must offer coverage to dependent children up to the age of 26, cannot have annual or lifetime limits, cannot have cost sharing for preventive services, and cannot have pre-existing conditions exclusions.</u>

Short-term limited duration insurance (STLDI)

- The goal: Provide millions of additional Americans with a much more affordable coverage option.

- STDLI is not subject to Obamacare's oppressive and expensive regulations.

- STLDI typically costs approximately one-third the amount of the cheapest Obamacare plan.

- STLDI offers good value to many consumers, typically featuring broad provider networks and high coverage limits.

- The Obama administration tried to regulate this type of plan out of existence. An October 2016 rule limited STLDI to periods of fewer than 3 months (down from one year) and prevented insurers from renewing coverage beyond a total of 3 months.

- Undoing the Obama administration STLDI rule will revitalize a market subject to state regulation and not Washington regulation. Restoring this market will allow issuers to develop innovative coverage solutions that provide value to consumers and best meet their unique needs and circumstances.

- The main beneficiaries of an expansion of STLDI are:
  - People between jobs who are seeking a cheaper alternative to COBRA
  - People in counties with only a single insurer offering exchange plans
  - People in rural areas with limited coverage networks
  - People who missed Obamacare's open enrollment period but still desire insurance

Health reimbursement arrangements (HRAs)

- The goal: Expand employers' ability to utilize HRAs to allow their employees to exercise greater choice and control over how to finance their healthcare needs, including through portable, more secure insurance coverage that they choose themselves.

- HRAs are employer-funded accounts that reimburse employees for healthcare expenses, including deductibles and copayments. The IRS does not count funds contributed to an HRA as taxable income. The Obama Administration severely restricted the use of HRAs; for example, by restricting their use for premiums. They were previously popular among small businesses that wanted to reimburse their employees' expenses rather than offer group plans.

- Most people receive health insurance through the workplace with employers controlling which plans are available. Among employers offering health benefits in 2017, 81% of them offered only a single option to their employees.

Questions and Answers

How does this EO affect people purchasing coverage through an exchange?

Nearly nine-in-ten people with an exchange plan receive premium tax credits and will largely be unaffected by this EO. People who receive tax credits are insulated from bearing the cost of the higher premium since the credit limits the amount of income they pay for a benchmark plan.

Will this EO allow insurance to be sold across state lines?

If the Department of Labor is able to modernize its current interpretation of the Employee Retirement Income Security Act (ERISA), then a much broader range of employers could potentially be able to band together to sponsor AHPs. For example, employers in the same line of business *anywhere in the country* may be able to join together to offer healthcare coverage to their employees and any employers within a single state or a multi-state metropolitan area may be able to join together to offer healthcare coverage to their employees.

Will the Administration be enforcing the individual and employer mandates?

The administration believes Congress should repeal the individual and employer mandates—respective penalties, enforced by the IRS, on people who fail to purchase Washington-approved coverage and employers with at least 50 workers that fail to offer Washington-approved coverage. While HHS has the ability to define a hardship exemption for the purpose of the individual mandate, the tax penalties are contained in the Internal Revenue Code and only Congress can change the law.

Will this affect AHPs that already exist?
Depending on the outcome of the agencies' rulemaking, existing AHPs could potentially grow in size.

Will this affect pension benefits (or other benefits plan governed by ERISA)?
No.

Will this affect HRAs that people already have?
Depending on the outcome of the agencies' rulemaking, people may have more options for how to use their HRAs.

Will this affect the insurance I get through my employer?
Depending on the outcome of the agencies' rulemaking, employers may have expanded ability to offer insurance to their workers through AHPs or have the ability to offer money through an HRA that employees can use to purchase health services. Otherwise, this will have no effect on group health insurance offered by an employer.

Will this affect the short-term limited duration insurance that I already have?
Depending on the outcome of the agencies' rulemaking, people may have more choices within the market.

What are the next steps?

This EO does not direct the agencies to adopt any particular rules but asks the agencies to consider expanding access to AHPs, STLDI, and HRAs to the extent consistent with law and comments received from the public. Any proposed regulations would comply with the public notice and comment process required by the Administrative Procedure Act, which requires publication in the Federal Register and a public comment period. This standard process will provide the opportunity for broad participation by the American people in this important initiative and will help the Administration gather all the information it needs to determine the best regulatory approach for these areas.