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New Executive Order Addresses Healthcare Issues

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On June 24, 2019, President Trump issued an Executive Order ("EO") directing the relevant federal agencies to issue regulations or other guidance to make available more meaningful information related to the price and quality of healthcare.

This summary highlights aspects of the EO that may be relevant to employer-sponsored group health plans and their covered participants.

- By October 22, 2019, the Treasury shall issue guidance to expand the ability of patients to select a qualified high-deductible health plan ("QHDHP") that can be used alongside a health savings account ("HSA"), and that cover low-cost preventive care, before the deductible, for medical care that helps maintain health status for individuals with chronic conditions. This may provide first dollar coverage of more items and services for individuals with a QHDHP, particularly as it relates to individuals with chronic conditions (e.g., diabetes).

- By December 21, 2019, the Treasury shall propose:
  - Regulations to treat expenses related to certain types of arrangements, potentially including direct primary care arrangements and healthcare sharing ministries, as eligible medical expenses under section 213(d). This has the potential to make the monthly fees associated with certain programs reimbursable through a health FSA, HRA, or HSA.
  - Guidance to increase the Health FSA carry over without penalty. This could increase the dollar amount available for a health FSA carryover (currently capped at $500).

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- By August 23, 2019, the Department of Health and Human Services ("HHS") shall issue regulations requiring hospitals to publicly post standard charge information, including charges and information based on negotiated rates and for common or shoppable items and services, in an easy-to-understand, consumer-friendly, and machine-readable format. Currently we have varying state laws and federal rules that took effect in January under the ACA that required hospitals to post online their "list prices," but hospitals set them themselves and they have little relation to actual costs or what insurers actually pay.

- By December 21, 2019, HHS shall submit a report to the President on additional steps the Administration may take to address issues on surprise medical billing.

- By September 22, 2019, direct the relevant agencies to solicit comments on a proposal to require healthcare providers, health insurance issuers, and self-insured group health plans to provide or facilitate access to information about expected out-of-pocket costs for items or services to patients before they receive care.

Next Steps

The EO provides the relevant agencies with their marching orders to develop new regulations and other guidance on these issues. In the next 3-6 months, it is likely we will see new proposed rules that may directly impact employer health plans. We will continue to keep you apprised.

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