

Publications

Post-Election 2020: Healthcare Priorities Under a Biden Administration

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The dust has settled and the 2020 election has concluded with former Vice President Biden poised to become president. At the same time, Democratic control of the House of Representatives has narrowed to the smallest margin in twenty years and one of the lowest margins for a first term president. Control of the Senate is still up in the air with runoffs on January 5, 2021 in the two Georgia Senate races.

In this memorandum, we look at the health care agenda of President-elect Joe Biden and the Democratic Party. Initially, a Biden Administration will focus most of its efforts on a robust response to the COVID-19 pandemic. It will also focus on taking administrative action to reverse some of the health policies implemented during the Trump Administration — such as the Association Health Plan regulation, short-term, limited-duration regulations and regulations under section 1557 of the Affordable Care Act (“ACA”).

Over the longer term, Mr. Biden’s healthcare platform involves protection and expansion of the ACA, including increased premium and cost-sharing subsidies in ACA Exchange plans, and providing for some form of a “public option” that would allow some portion of Americans to enroll in a Medicare-type insurance program. But these proposals will require legislative action, and the likelihood of passage will depend on the outcome of the Georgia Senate races. Indeed, the most far-reaching proposals — adding a public option and expanding eligibility for Medicare to age 60 — would be difficult to accomplish in most any scenario.

We summarize the likely elements of a healthcare policy agenda under a Biden Administration; whether and how those goals may be accomplished; and what they mean for plan sponsors, health insurance carriers and other service providers.

Healthcare Legislative Policy Proposals

During the 2020 campaign, the Democrats released the following policy documents:

- The Biden Plan for Healthcare (the “Biden Plan”). The Biden Plan is one of a series of policy documents released by the Biden campaign. The document lays out four tenets:

1. “Give every American access to affordable health insurance;”

2. “Provide the peace of mind of affordable, quality health care and a less complex health care system;”
 3. “Stand up to abuse of power by prescription drug corporations;” and
 4. “Ensure health care is a right for all, not a privilege for just a few.”
- [2020 Democratic Party Platform](#) (the “Democratic Platform”). The Democratic Platform lays out the official policy positions of the Democratic Party for 2020. It was approved by the delegates at the Democratic convention.
 - [The Biden-Sanders Unity Task Force Recommendations](#) (the “UTF”). Shortly after securing the nomination, Vice President Biden and his chief rival Senator Bernie Sanders established a “Unity Task Force” to develop a set of policy recommendations. The UTF was submitted to the Democratic National Committee for consideration in the development of the Democratic Platform.
 - [Joe and Kamala’s Plan to Beat COVID-19](#). The Plan to Beat COVID-19 offers seven steps or goals to reverse course or strengthen the federal response to the ongoing pandemic.

At a high level, the Biden Plan, Democratic Platform, and UTF are largely consistent on most key health policy issues. For example, all of the proposals take the following positions:

- Offering a public option;
- Eliminating surprise billing; and
- Tackling high prescription drug costs.

That said, there are some key differences between the various proposals. For example, the Biden Plan is silent on the issue of lowering the eligibility age for Medicare, while the Democratic Platform and the UTF both call for lowering it to age 60. Likewise, the Biden Plan does not mention expanding Medicare to cover dental, vision, and hearing benefits, while the Democratic Platform and the UTF both do.

Below, we summarize the key Biden positions, whether and how the administration could achieve its goals, and what the proposed changes might mean for plan sponsors, health insurers, and other plan service providers.

Public Option

- President-elect Biden intends to expand the ACA by making a public healthcare plan available through the ACA Exchanges. According to the Democratic Platform, a public option available through the ACA would:
 - Have no deductibles;
 - Be administered by the Centers for Medicare & Medicaid Services (“CMS”), as opposed to private insurance companies; and
 - Contain cost controls for treatments obtained via CMS negotiations with providers and drug companies.
- The Biden Plan would offer premium-free coverage under the public option for those 4.9 million individuals who would have been eligible for the Medicaid expansion in the 14 states that have not expanded Medicaid eligibility, as permitted under the ACA. States that have already expanded Medicaid would have the choice of moving the expansion population to the premium-free public option as long as the states continue to pay their current share of the cost.
- Individuals making below 138% of the federal poverty level would be automatically enrolled in the public option when they interact with certain institutions (such as public schools) or other programs for low-income populations (such as SNAP – Supplemental Nutrition Assistance Program).