

The Impact of the Trump Administration on Federal Healthcare Policy

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Overview

- Antitrust Policies
- The “One Big Beautiful Bill”
- Price Transparency
- Marketplace Eligibility & Enrollment
- Expiration of Enhanced Premium Tax Credits
- Reproductive and Gender Affirming Care

Antitrust Policies



New Antitrust Regulators: People Are Policy



Gail Slater

Assistant Attorney General,
DOJ Antitrust Division

- Seasoned antitrust lawyer, business leader, and policy advisor on tech and media issues
- Former advisor to Vice President Vance, was advisor to President Trump in 2018-19
- Served in high-ranking roles at Fox Corp., streaming company Roku, and an internet trade association
- Spent 10 years at the FTC as a staff attorney and later as an advisor to a Democratic commissioner

New Antitrust Regulators: People Are Policy



Andrew N. Ferguson
FTC Chairman

- FTC Commissioner since April 2, 2024
 - Before joining the FTC, served as Solicitor General of Virginia. He previously served as Chief Counsel to Senator Mitch McConnell and as a Republican counsel on the US Senate Judiciary Committee
- In a recent letter to President Trump, Ferguson summarized his agenda, vowing, among other things, to:
 - Provide more certainty to businesses
 - Focus antitrust enforcement efforts on Big Tech monopolies, “especially those companies engaged in unlawful censorship”

New Antitrust Regulators: People Are Policy



DOJ's Slater Outlines 'America First Antitrust' Priorities

By Matthew Perlman

Law360 (April 28, 2025, 9:57 PM EDT) -- The head of the U.S. Department of Justice's Antitrust Division said Monday that robust antitrust enforcement meshes with conservative principles, and the agency's priorities will be on pocketbook issues and protecting individual liberty online.

THE WALL STREET JOURNAL.

By The Editorial Board

April 14, 2025 5:42 pm ET

Is Lina Khan Back at the FTC?

Trump's Chairman Andrew Ferguson sounds like Biden's, warning businesses not to raise prices.

THE WALL STREET JOURNAL.

Say Goodbye to the Antitrust Consumer Welfare Standard

The Trump administration seems set to follow Lina Khan's shambolic 'big is bad, little is good' philosophy.

By Robert H. Bork Jr.

April 1, 2025 5:48 pm ET

FTC Prioritizing Health Care

- *The American people voted for transparent, competitive, and fair healthcare markets and President Trump is taking action. The FTC is doing its part . . . The FTC will continue to vigorously pursue firms using practices that harm competition.*
 - FTC Renews Challenge of More Than 200 Improper Patent Listings (May 21, 2025) (quoting Chairman Andrew Ferguson)

DOJ Prioritizing Health Care

- *“In no sector of our economy is competition more important to Americans’ well-being than healthcare. This settlement protects quality and price competition for hundreds of thousands of vulnerable patients and wage competition for thousands of nurses.”*
 - Assistant Attorney General Abigail Slater

Enforcement in Labor Context

Labor continues to be a meaningful area of enforcement

- FTC released antitrust guidelines for activities affecting workers
- FTC Labor Task Force targeting unreasonable noncompete agreements, no-poach, non-solicitation, and no-hire agreements, and unlawful use of diversity, equity, and inclusion metrics
- FTC focus on noncompete provisions
 - “Warning Letters to Healthcare Employers”
- NDAs in employment agreements (need explicit exemption to report violations)
- Criminal prosecution of wage-fix, no-hire, no-poach agreements
 - First wage-fixing conviction (April 2025)

Template Letter to Health Care Employers

“Many healthcare employers and staffing companies may include unreasonable noncompete agreements in employment contracts for vital roles like nurses, physicians, and other medical professionals. These restrictions can unreasonably limit healthcare professionals’ employment options and thereby limit patients’ choices over who provides their medical care—including, critically, in rural areas where medical services are already stretched thin.”

Common Types of Health Care Contract Clauses That Raise Competition Issues

- All-or-nothing clauses requiring an insurer that wants to contract with a particular provider in a system (such as a must-have hospital) to contract with all providers in that system.
- Anti-tiering/anti-steering clauses that prevent an insurer from putting a given provider in a non-preferred provider network tier or from using other incentives or tools to steer patients to competing providers.
- Exclusive contracting clauses prohibiting an insurer from including competing providers in their provider network.
- Most favored nation clauses requiring a provider to offer an insurer the lowest rates of all the insurers with which it has contracted.

4 Antitrust Questions to Ask Yourself

1. Any agreements or information sharing with competitors:
 - a) M&A, teaming agreements, JVs, group purchasing, standard setting, joint sales
 - b) Third-party intermediaries: algorithms, trade association, advertisers
 - c) Employee no-hire or no-poach arrangements
2. Any agreements with suppliers/distributors/customers that include: resale price maintenance, exclusivity, territorial/customer restrictions, tying, anti-steering?
3. Any current antitrust compliance program
 - a) Can mitigate criminal antitrust charges or sentencing
4. Recently evaluated employment agreements for non-compete and non-solicit provisions?

The “One Big Beautiful Bill”



The “One Big Beautiful Bill”

- Includes sweeping changes to who is eligible for health insurance.
- The legislation includes over \$1 trillion in spending cuts to health care through 2034, with the majority of those cuts aimed at Medicaid.
- About 40% of Medicare beneficiaries receive low-income subsidies. The law reduces the amount of the premium support these beneficiaries receive.

The “One Big Beautiful Bill”

- The most significant change is the federal work requirement which takes effect January 1, 2027.
- Most people who receive Medicaid will need to spend at least 80 hours a month working, volunteering, or in school.
- In order to maintain their coverage, Medicaid recipients will have to verify every month that they have met this requirement.

The “One Big Beautiful Bill”

- Health Insurance Marketplace enrollees will need to update information around their income, immigration status, and other details every year, or risk losing coverage.
- ACA plans are no longer automatically renewed. Individuals will have to manually reenroll every year during open enrollment. Last year, 10 million people were automatically reenrolled.

The “One Big Beautiful Bill”

- The legislation set aside \$50 billion to help rural hospitals deal with the fallout from the legislation—things like newly uninsured patients, increased costs, and increased premiums.
- The law permanently reinstates the safe harbor that allows high-deductible health plans (HDHPs) to cover telehealth and other remote care services before enrollees meet their deductibles.

Price Transparency



Price Transparency

- Executive Order on healthcare price transparency: requiring hospitals & insurers to disclose actual prices, comparability, including drug prices.
- The White House has directed agencies to enforce and update regulatory/enforcement policies. Implementation underway

Marketplace Eligibility & Enrollment



Marketplace Eligibility & Enrollment

- Proposals include eliminating certain Special Enrollment Periods (SEPs), increasing verification requirements, excluding DACA recipients, altering essential health benefits (removing gender-affirming care), etc.
- Rule is proposed; lawsuit risk; many parts might not take effect until plan year 2026 if finalized.

Expiration of Enhanced Premium



Expiration of Enhanced Premium

- The ACA premium tax credits expanded under prior administrations are set to lapse at end of 2025.
- Without the tax credits, premiums are predicted to increase for 2026 by an average of 75%.
- Will Congress take action?

Reproductive & Gender Affirming Care



Reproductive & Gender Affirming Care

- Executive Order enforcing Hyde Amendment; restricting gender-affirming care for minors; rescinding prior guidance on disclosures.
- Some policies are being implemented; others are subject to litigation, court injunctions.

Key Impacts & Challenges

- Coverage Loss Risks
- Cost & Premium Increase
- Access & Equity
- Regulatory & Legal Uncertainty
- State Budget & Health System Impacts

Outlook

- Whether Congress acts to extend or revise tax credits / subsidies for ACA marketplace enrollees.
- Approval, finalization, or blocking of HHS proposed rules
- How will states respond?
- Effects on uninsured rates
- Legal outcomes: courts may strike down or limit several of the proposed changes.

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