



# Policy Priorities for the Biden-Harris Administration

## Part One: Undoing the Harm

*First in a three-part policy series focused on actions the new administration must take to promote health equity.*

DECEMBER 2020

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# Executive Summary

This document is the first in a three-part series designed to offer key recommendations to the Biden-Harris administration regarding how to advance health equity and make our nation's health system more responsive to the health needs of all people, regardless of income, race, immigration status, gender identity, ability and age. There is so much work to be done to expand access to affordable comprehensive coverage; to promote high-quality accessible care; and to address social determinants of health and other key factors that influence health outcomes. A major part of that work is speedily unwinding the unprecedented harm caused by the Trump administration – which was clearly targeted at people already hurt most by our health system today, especially Black and brown communities, immigrants and LGBTQ+ people.

The harm of longstanding barriers to good health has been amplified by the COVID-19 pandemic. Specifically, the disproportionate impact of COVID-19 on Black, indigenous and other people of color (BIPOC) – including older Black and brown people – illustrates the predictable results of past and present social and economic policy choices that have perpetuated structural racism and created and maintained racial inequity in health, work, wealth and education. While the inequities in American society are deeply ingrained and will not be eradicated overnight, a new administration can and must make a start.

The recommendations outlined in this document have been formulated in collaboration with Community Catalyst's state, local and national partners, with particular adherence to our commitment to amplifying the work of Black-led and community-led organizations. Forthcoming documents in this series will focus on proactive policy, both administrative and legislative.

Below we provide a roadmap to unwinding the previous administration's harmful executive branch policies designed to exclude people from health access. There are clear sequential steps that the incoming administration must take from day one through the first three months to communicate its intent and commitment to equity. **Taking these administrative steps will deliver a clear message to the country that health equity, rooted in racial justice, is a priority and foundational to building a more just society.** The incoming administration must prioritize the following:

- **On day one, the administration must extend the COVID-19 public health emergency, protect the Affordable Care Act and open the doors for health coverage.** On the first day in office, the president must direct Health and Human Services (HHS) to extend the public health emergency (PHE), take steps to change its stance in the *California v. Texas* case, and open up the ACA Marketplaces for those affected by COVID-19. These actions convey the importance of health coverage during a pandemic and a commitment to addressing longstanding barriers to health care.
- **Roll back the harmful policies of the Trump administration that target people of color, LGBTQ+ people, immigrants, women, older adults and people with disabilities.** These policies range from the harmful public charge rule, to the gutting of anti-discrimination protections, and to

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the Title X rule that has decimated federally-funded family planning programs that had served more than four million low-income people, many of them people of color. The goals of unwinding the harm must be about strengthening the ACA and building back a more robust system than was originally designed. Beyond the ACA, the Trump administration deliberately sought to minimize the role of administrative action in guiding and supporting state policy implementation and to restrict access to the safety net more broadly; these efforts were meant to reduce the federal government's role in protecting excluded populations, instead using government as a tool to protect and benefit a few.

- **Shore up Medicaid by positioning the program for administrative success.** The past four years have seriously harmed the Medicaid program and its ability to reach and serve those who need it. New agency leadership must take swift action to clearly condemn approaches that deny people access to Medicaid. This includes revoking harmful waivers that allow for work requirements and other restrictions, alongside moving states into compliance with existing law surrounding eligibility and enrollment. Importantly, the administration must rescind recent guidance regarding the Families First Coronavirus Response Act (FFCRA) that allows states to cut benefits during our current health crisis.
- **Rescind rules and regulations that obstruct access to ACA coverage.** Reversing the Trump administrative agenda that hampered consumer access to affordable health coverage, particularly during the pandemic, is vital to recovery. This includes restoring navigator funding, restoring regulations that limit the use of junk plans and rescinding guidance that limits access to affordable coverage. These steps will reassure consumers across the country that this administration is laser-focused on improving their health and economic success.

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# Recommendations to Unwind the Harm

## Administrative Recommendations

### DAY ONE

**The Biden-Harris administration should set the tone for the country by prioritizing equitable health access and a commitment to racial justice.** This includes extending the public health emergency (PHE) order through 2021, taking steps to formally remove itself from the *California v. Texas* case that threatens the Affordable Care Act (ACA) and opening up the ACA Marketplaces for those affected by COVID-19. Additionally, the Biden-Harris administration must instruct all agencies to reverse the administrative harm intended to dismantle the ACA. These actions convey the importance of our opportunity to address longstanding barriers to health care and lay down a welcome mat, encouraging health coverage for those affected by the pandemic. As COVID-19 continues to rage, even as the promise of vaccination is on the horizon, the tools afforded by the public health emergency (PHE) and the ACA provide states the ability to direct support to those who need it, specifically health care workers and essential workers, disproportionately Black people, women, immigrants and other people of color. These actions communicate a commitment to recovery for all people, ensuring that needed provisions, such as the Maintenance Of Effort (MOE) for Medicaid, remain intact for the year as state budgets and families recover.

### WITHIN THE FIRST 100 DAYS

**The administration must roll back the harmful administrative legacy of the Trump administration and lay the foundation for equitable, high-quality health care and better health by strengthening Medicaid, the ACA and other social welfare programs.** Within a short time window, the new administration should advance policies to both respond to the pandemic and realign the agenda toward universal coverage and elimination of health inequities.

#### Areas of Focus for Unwinding the Harm of the Trump Administration

##### *Medicaid*

- Revise guidance on 1115 waivers to ensure that work requirements cannot be used by states and withdraw approvals from all existing waivers that permit work requirements. This includes retracting the 2018 “Healthy Adult Opportunity” guidance that defined work and community engagements and encouraged state take-up.
- Rescind the guidance related to a block grant approach to Medicaid. Rewrite the guidance to include stricter standards for 1115 waiver applications to uphold the core purpose of Medicaid — to provide health care coverage to eligible people who cannot, through other means, afford the cost of necessary health care.
- Rescind the recent reinterpretation of the Families First Coronavirus Response Act (FFCRA) provisions aimed at protecting individuals enrolled in Medicaid during the COVID-19 Public

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Health Emergency period. This reinterpretation has made it possible for states to cut benefits during our current health crisis.

- Suspend Estimated Payment Error Rate Measurement (PERM) reporting through the duration of the PHE.
- Withdraw the Medicaid Fiscal Accountability Rule (MFAR).
- Rescind the Medicaid Access Rule.
- Withdraw changes to the Medicaid Managed Care rule.

### *Affordable Care Act*

- Restore Navigator program funding through the ACA's user fees and return to funding significant outreach and advertising efforts about the marketplace and enrollment.
- Rescind the Trump administration's version of section 1557 rules and uphold strong nondiscrimination protections and enforcement.
- Rescind the 1332 guidance issued in 2018 and make clear to states that waivers that incorporate public program elements (including rate-setting as Colorado had originally proposed for their reinsurance program) are permitted. Consider enhancements to the Obama administration's 2015 guidance, including allowing states greater flexibility in meeting the deficit neutrality guardrail.
- Rescind regulations that encourage consumers to buy junk plans, including short-term, limited-duration plans and association health plans and restore Obama-era regulations.
- Reverse the Trump administration's policies implemented in the yearly notice of benefit and payment parameter rules, including medical loss ratio and rate review requirements, eliminating standardized plans and federal oversight of network adequacy and the changes to insurance payment formulas.

### *Other Programs*

- Terminate the Trump administration's public charge rule.
- Withdraw the federal poverty level measure proposal from Office of Management and Budget (OMB).
- Repeal all regulatory reform actions that limit ability to promulgate new regulations or sub-regulatory guidance (this includes the 2019 Executive Order (EO) and "Good Guidance" & agency rules).
- Rescind the Executive Order "Combating Race and Sex Stereotyping."
- Restore access to reproductive health services, including by once again funding comprehensive family planning services at Title X providers.
- Rescind and undo actions taken pursuant to Executive Order 13798 Promoting Free Speech and Religious Liberty, which set the stage for expanding the use of religion to discriminate against people seeking reproductive health care, including the rules that allow employers to deny birth control coverage to their employees, and the creation of the HHS Conscience and Religious Freedom Division which emboldens discrimination and refusals of care.
- Reverse the Trump administration's harmful changes to: the 2015 Affirmatively Furthering Fair Housing (AFFH) rule; the 2013 Disparate Impact rule; the 2016 rule to provide Equal Access in Accordance with an Individual's Gender Identity; and the anti-immigrant proposal to prohibit "mixed status" families from living in public and other HUD- or USDA-subsidized housing.
- Withdraw the rule regarding the frequency of disability reviews (CDR) for those reliant on Social Security & Disability Income (SSDI).

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# Administrative Action

**GOAL: The administration must unwind the harmful policies of the Trump administration that target people of color, LGBTQ+ people, immigrants, women, older adults, people with disabilities and other excluded and harmed populations.**

## DAY ONE

*Set the country up for success, equity and security.*

- 1. Extend the Public Health Emergency.** The pandemic threatens to further widen existing health inequities; Black, indigenous and other people of color (BIPOC) already experience higher rates of chronic illness, making them more susceptible to the virus and increased risk of more severe COVID-19 symptoms. Further, Black and brown people are more likely to be essential workers, live in congregate settings and lack the financial resources to pay out-of-pocket for health. For all these reasons, the Public Health Emergency must be extended to secure continued access to services and supports for all people struggling with the pandemic. The COVID-19 public health emergency declaration was extended to January 20, 2021. Regulatory measures, including continuous coverage and prohibiting eligibility restrictions under the Families First [MOE](#), that were enacted to assist providers and states are anticipated to be rolled back at the end of this period. The Secretary of the Department of Health and Human Services (HHS) may, under section 319 of the Public Health Service (PHS) Act declare a public health emergency. The HHS Secretary must extend the public health emergency through 2021 to provide security and reassurance to states and consumers. Further, HHS must develop and release guidance to state Medicaid directors regarding thoughtful post-PHE planning regarding unwinding the disenrollment freeze. This will ensure continuous coverage of Medicaid-eligible individuals during the pandemic and provide a slow and measured step down in coverage disenrollment.
- 2. Commit to Protecting the ACA:** Even in the middle of a pandemic that has caused more than 300,000 deaths and millions of people to lose their health coverage – including a disproportionate number of Black, Latinx and Indigenous people – the Trump administration has continued its reckless campaign to overturn the ACA by joining *California v. Texas* – the Health Care Repeal lawsuit, which the Supreme Court heard on November 10. The ACA protects consumers from insurance bans or rate hikes related to pre-existing conditions and provides coverage for people currently seeking medical care. Meanwhile, millions of people are losing their employer-sponsored insurance as a result of the economic downturn and are relying on the Medicaid expansion provisions of the ACA and the premium reductions for Marketplace insurance plans provided by the ACA to continue to afford their coverage. Repealing the ACA would disproportionately harm Black and brown people, who are more likely to rely on Medicaid and the Marketplace. The Biden-Harris administration should take steps to formally remove itself from the *California v. Texas* case and instruct all agencies to unwind the administrative harm intended to dismantle the ACA.

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- 3. Implement New Special Enrollment Periods (SEP):** Both the Obama and Trump administrations made it harder to obtain an SEP with requirements that applicants provide documentation, limit some SEPs to those with prior coverage, and limit plan choices for those changing plans or adding family members with an SEP. On day one, the Biden administration should create a COVID-19 special enrollment period. As unemployment numbers continue to rise, uninsured rates track closely behind. Uninsured people need an opportunity to get covered now without a verification process. As asserted [by our partners](#), this SEP should begin immediately and run through mid-April.

## WITHIN THE FIRST 100 DAYS

### *Medicaid*

*Roll back all the harmful guidance aimed at restricting Medicaid access.*

- 1. Work Requirements:** [Section 1115 of the Social Security Act](#) gives the Secretary of Health and Human Services authority to approve experimental, pilot or demonstration projects. Under this authority, the Secretary may waive certain provisions of the Medicaid law to give states additional flexibility to design and improve their programs. Under the [Trump Administration](#), the Centers for Medicare and Medicaid Services (CMS) issued guidance allowing for state Medicaid waiver proposals that would impose work requirements in Medicaid as a condition of eligibility, limiting consumer access to needed coverage and care. **Recommendation:** Revise guidance on 1115 waivers to ensure that work requirements cannot be used by states. Emphasize that states can gain more federal dollars and raise state revenue by promoting Medicaid expansion without work requirements attached. This includes retracting the 2018 “Healthy Adult Opportunity” guidance that defined work and community engagements and encouraged state take-up and rescinding approval for waivers containing work requirements.
- 2. Block Grants:** On January 29, 2020, CMS Administrator Seema Verma released the “Healthy Adult Opportunity” initiative as a way to encourage state applications for Medicaid block grants through 1115 waivers. [Section 1115 of the Social Security Act](#) empowers the “HHS Secretary to approve state social welfare experiments involving programs authorized under the Act that, “in the judgment of the Secretary, [are] likely to assist in promoting the objectives of” the program that is the subject of the experiment.” **Recommendation:** Rescind the guidance related to a block grant approach to Medicaid. Rewrite the guidance to include stricter standards for 1115 waiver applications to uphold the core purpose of Medicaid – to provide health care coverage to eligible people who cannot, through other means, afford the cost of necessary health care.
- 3. Federal Medical Assistance Percentage (FMAP):** Following the passage of the Families First Coronavirus Response Act (FFCRA), the Centers for Medicare and Medicaid Services (CMS) issued guidance in [April](#) and [June](#) of 2020 stating that in order to capture the temporary boost in FMAP, a state must maintain the “eligibility, and benefits, of all individuals who are enrolled or determined to be eligible for Medicaid as of March 18, 2020, through the end of the month in which the public health emergency ends.” Any move of a beneficiary across Medicaid categories

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must result in the same or better coverage. In reinterpreting the maintenance of effort (MOE) provisions of the FFCRA, the interim final rule reverses this earlier guidance, requiring states to maintain enrollment only for “validly enrolled beneficiaries,” while allowing states to shift individuals to more limited categories of coverage. In addition, the rule allows states to reduce or eliminate optional Medicaid benefits. This reinterpretation has made it possible for states to cut benefits during the public health crisis. Specifically, the interim final rule now allows states to cut [optional](#) Medicaid benefits like adult dental and prescription drugs, which was prohibited under earlier guidance. **Recommendation:** Rescind CMS’s recent re-interpretation ([CMS-9912-IFC](#)) of the Families First Coronavirus Response Act (FFCRA). By doing so, CMS’s original interpretation of FFCRA would be reinstated along with provisions aimed at protecting individuals enrolled in Medicaid during the COVID-19 Public Health Emergency (PHE) period.

4. **Medicaid Fiscal Accountability Rule (MFAR):** The Centers for Medicare and Medicaid Services, as part of the administration’s program integrity strategy, proposed changes to how states report payments to Medicaid providers and on what providers can be paid by Medicaid programs. The rule makes changes to how states finance the non-federal share of Medicaid and includes new requirements and reviews of state financing mechanisms. The MFAR proposed rule would [financially undercut states](#) when resources are strained during the pandemic. **Recommendation:** The Trump administration temporarily suspended efforts to move this rule forward but the rule should be permanently withdrawn by a new administration.
5. **Estimated Payment Error Rate Measurement (PERM) rate:** The PERM rates measure “improper payments” in Medicaid and the Children’s Health Insurance Plan (CHIP) reflective of procedural errors that are not consumer-driven. However, the Trump administration has used this reporting data to [improperly justify](#) their efforts to tighten standards on eligibility verification and restrict consumer access. Their efforts to weaponize PERM are outlined [here by the Center on Budget Policy Priorities \(CBPP\)](#). **Recommendation:** Suspend PERM reporting through the pandemic and the end of the PHE. There is precedent for the PERM suspension; CMS could use the process it established during 2014-2017 when the PERM eligibility component was suspended.
6. **Medicaid Equal Access Standards:** The Trump Administration proposed a rescission of the 2015 rule titled “Medicaid Program; Methods for Assuring Access to Covered Medicaid Services,” ([42 CFR 447](#)), which established a process to ensure equitable access to Medicaid services, including dental. **Recommendation:** CMS should rescind the proposed rule at CMS-2406-P2 and further evaluate whether the existing approach to determining equal access is sufficient. Such efforts should be considered in conjunction with other regulatory approaches to state Medicaid and CHIP oversight such as the Managed Care Rule.
7. **Medicaid Managed Care Rule:** In November 2018, the Trump Administration proposed a regulation that rolled back many of the consumer protections put into place by the Obama administration in the Medicaid managed care delivery system. Specifically, the rule removed time/distance standards for network adequacy and also lessened some of the standards around making written materials

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accessible to individuals with limited English proficiency and visual impairments. Our comments are [here](#). **Recommendation:** Rescind CMS’s recent final rule (CMS-2408-F) and reestablish time and distance standards that determine whether networks of Medicaid providers are adequate.

### *Affordable Care Act*

*Rescind harmful policies pursued by the Trump administration and jumpstart new pathways to coverage.*

- 1. Enrollment Assistance:** The Trump administration reduced funding for Navigators by over 80 percent since 2016 and cut outreach funding by 90 percent. These cuts to the Navigator program have left some states without statewide coverage, a few without any Navigator, and two with for-profit entities operating as Navigators with federal funding. **Recommendation:** Restore Navigator program funding through the ACA’s user fees and fund significant outreach and advertising efforts about the marketplace and enrollment. Any new funding announcements should roll back Trump-era requirements to promote awareness of non-ACA products.
- 2. Section 1557:** The Affordable Care Act, Section 1557 builds on civil rights protections for patients against discrimination based on race, color, national origin, sex, age and disability. The Trump administration worked to undermine these statutory protections by (1) eliminating the regulatory protections against discrimination based on gender identity and sex stereotyping; (2) blocking patients from obtaining critical health care information by no longer requiring non-English “taglines” telling patients that information is available in languages other than English; (3) increasing the stigma and shame surrounding reproductive care (including abortion); (4) eliminating the requirement that covered entities post or mail a notice of nondiscrimination protections; and (5) eliminating the regulation prohibiting discriminatory benefit design and marketing. Eliminating these [regulatory provisions](#) will make it harder for people who experience discrimination to enforce their rights through administrative and judicial complaints. **Recommendation:** Rescind the Trump administration’s version of section 1557 rules and uphold strong nondiscrimination protections and enforcement.
- 3. 1332 Waiver Guidance:** The Trump Administration’s 2018 [guidance](#) gave states greater flexibility to meet the guardrails stipulated in law – that as many residents must be enrolled in coverage that is at least as affordable and comprehensive as they’d have under the ACA. Under the Trump-era interpretation, states can obtain an approved waiver if the same number of residents have *access* to affordable comprehensive coverage, regardless of the number of residents enrolled or the coverage in which they are enrolled. The Trump guidance also rolled back an analysis of the waiver’s impact on certain vulnerable populations and includes “principles” with a preference for private coverage over public coverage. **Recommendation:** Rescind the 2018 guidance and make clear to states that waivers that incorporate public program elements (including rate-setting, as Colorado had originally proposed for their reinsurance program) are permitted. Rescind the illegal Georgia 1332 waiver. Consider enhancements to the Obama 2015 guidance, including allowing states greater flexibility in meeting the deficit neutrality guardrail.

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4. **Junk Insurance Products:** In a series of [new regulations in 2018](#), the Trump administration significantly changed the rules of the road for junk insurance plans including short-term, limited duration plans (STLD) and association health plans. These plans run the risk of attracting consumers because of their cheaper price tag, but ultimately put consumers in danger of potentially catastrophic medical debt because of their excluded benefits, deceptive marketing and discriminatory practices. Moreover, as these plans attract younger and healthier individuals, they cause premiums to rise in the ACA Marketplaces. **Recommendation:** For association health plans, the Department of Labor should reverse the Trump administration’s 2018 rule and restore previous regulations governing these plans. Similarly, for STLD plans, the administration should reverse the Trump administration’s 2018 rule and restore the previous regulations, including the 3-month duration limit. Additionally, the administration should limit the ability to renew or “stack” STLD plans and ban the sale of these plans during open enrollment.
5. **Notice of Benefit and Payment Parameters Rule (NBPP) Changes:** Over the last four years, the Trump administration has used the yearly notice of benefit and payment parameter rule to undercut access to and the affordability of ACA coverage. We recommend that the administration reverse the following regulatory changes as follows:
- a. **Rate Review:** In 2019, the Trump administration increased the threshold for review of “unreasonable” premium increases from 10 percent to 15 percent. Maintaining strong, consistent regulatory review over double-digit rate increases is vital to ensuring that Marketplace consumers have access to affordable health care. We recommend the threshold be returned to 10 percent.
  - b. **Essential Health Benefit Benchmark Selection:** For the nearly 135 million consumers with a pre-existing condition, access to comprehensive health insurance is critical. For these consumers – and the millions more who may develop a medical condition or need treatment in the future – the ACA’s essential health benefits (EHB) are critical. In 2019, the Trump administration offered states new options for selecting an EHB benchmark plan and authorized benefit substitutions within and between different statutorily required EHB categories. This new flexibility allows states to design benchmark plans that offer less generous coverage. We recommend reversing these rules and restoring the previous regulations for the EHB benchmark selection process.
  - c. **Standardized Plans:** In 2019 the Trump administration eliminated the ACA’s standardized plans, known as simple choice plans. Having standardized options assists consumers in making informed choices. When plans share a common benefits structure, including tiering and cost sharing, consumers can make apples-to-apples comparisons of plans and benefits. We also believe there is great value for consumers in simplified options, particularly when those options match high-value designs. We recommend the administration restore the use of standardized plans and lean on the experiences of the state-based marketplaces, many of which have several years of experience designing and selling a standardized plan option.

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- d. **Network Adequacy Oversight:** Health insurance plans with limited networks of providers are not new and are not confined to the ACA Marketplaces. Although narrow networks can reduce the cost of health insurance while providing some level of care, for many individuals, especially those with chronic conditions, they are often inadequate. Beyond the breadth of a network, inadequate or outdated provider directories can lead to consumers unwittingly receiving out-of-network care resulting in exorbitant bills. Although most states have adopted some sort of regulatory framework for network adequacy, oversight is uneven across and within states and state network adequacy requirements often only apply to certain types of network designs, such as HMOs but not PPOs. In 2019 the Trump administration gutted federal protections to identify and improve the most egregious of inadequate insurer networks. We believe it is sensible to defer to state oversight in some cases, but necessary to maintain strong minimum federal network adequacy standards and, therefore, recommend reinstating this federal oversight.
- e. **Premium Adjustment Percentage:** In 2020, the Trump administration changed the premium adjustment percentage formula, which according to the administration's own estimates would result in a decline of approximately 100,000 marketplace enrollees in 2020, most of whom will go uninsured, as well as premium increases of over \$180 million from 2020-23. The Trump administration justified this change to "reduce federal premium tax credit expenditures" which is contrary to the legislative intent of the financial assistance structure of the ACA. The primary purpose of providing Advanced Premium Tax Credits to marketplace enrollees is so that the federal government, rather than low-income individuals and families, bears the burden of any premium increases in the individual market. We recommend that administration restore the previous premium adjustment percentage formula.

### *Other Priorities to Improve Health*

*Withdraw administrative actions intended to sow harm and limit access to support services for people of color. Invoke administrative authority to elevate the important role of data to address inequity.*

1. **Public Charge:** The public charge rule was established in 1999, but the Trump administration altered it by imposing more restrictions to make it harder for working-class immigrants to gain permanent immigration status (or green cards). The old rule only affected very few immigrants who used cash assistance and institutional long-term care provided through Temporary Assistance for Needy Families (TANF) and Medicaid. Under the [Trump administration's public charge rule](#), immigration officials may deny green cards to low-income immigrants who have a history of using public services and assistance including Medicaid, SNAP benefits (food stamps) and housing vouchers. The Trump administration's public charge rule went [into effect on February 24, 2020](#). Due to fear and confusion – even before the rule took effect – many immigrant families [have disenrolled from programs](#), forgone benefits for which they are eligible, or skipped medical appointments. Across the country, the [chilling effect is real](#); it is widespread and [spilling over](#) to families not directly affected by the rule. According to Manatt Health, [as many as 26 million people and their families](#) could be dissuaded from using public benefits under the new public charge rule.

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**Recommendation:** Terminate the Trump administration’s public charge rule, begin the rulemaking process to largely revert back to longstanding policy (1999 guidance), and to implement the 1999 guidance while the rulemaking process is completed.

2. **Federal Poverty Line (FPL) Measure:** In the spring of 2019, the Office of Management and Budget (OMB) requested comment on a proposal to alter the calculation of the federal poverty level by utilizing a lower inflation measure. The effect would be that fewer people would be considered ‘living in poverty.’ The poverty line is meant to equal the level of income that a family needs to afford the basics and it is already [far below](#) what is needed to raise a family. Changing the poverty threshold also impacts eligibility for health care, nutrition and other assistance programs. Every year, the Department of Health and Human Services puts out poverty guidelines based directly on the Census Bureau’s poverty thresholds. The result is that the proposed change would lower the income-eligibility cutoffs for all of these programs – and individual and families would become ineligible. **Recommendation:** Withdraw the proposal from OMB. Any changes to the federal poverty level should be more reflective of families’ basic needs. It is clear that any accurate calculation would increase eligibility for safety net supports for individuals and families, not limit their access.
3. **“Good Guidance”:** In 2019, the administration released an [Executive Order \(EO\)](#) that instructs agencies to rescind guidances that are no longer in effect and treat guidances as non-binding except when included in contracts. In 2020, building off that EO, HHS proposed a [“Promoting the Rule of Law through Improved Agency Guidance Documents,”](#) rule that would enable the administration to repeal important guidance without any notice or explanation. Another proposed rule, The [SUNSET \(Securing Updated and Necessary Statutory Evaluations Timely\) rule](#) would automatically end any health care regulation not reviewed and reissued within certain periods of time. These rules create new requirements and time-consuming processes to reinstate, retain or implement new guidance. This effort is aimed at limiting the role of sub-regulatory guidance – a vital tool to supporting states in implementing large-scale programs like Medicaid and CHIP. **Recommendation:** Repeal all regulatory reform actions that limit ability to promulgate new regulations or sub-regulatory guidance (this includes the 2019 EO and “Good Guidance” & agency rules).
4. **Executive Order Combating Race and Sex Stereotyping:** In September of 2020, President Trump issued an Executive Order (EO), [“Combating Race and Sex Stereotyping.”](#) The EO prohibiting some government contractors from conducting diversity and inclusion trainings. This has created confusion about what is considered ‘divisive concepts’ for contractors and undercuts efforts to expand education and knowledge about the role of racism in our programs, systems and policies. **Recommendation:** Rescind the Executive Order 13891.
5. **Reproductive Health:** More than 90 organizations committed to reproductive rights developed a [Blueprint for Sexual and Reproductive Health, Rights, and Justice](#) in advance of the 2020 election. Key steps are outlined for the incoming administration to restore and improve access to comprehensive reproductive health care, uphold sexual and reproductive rights, including abortion care, in the U.S. and around the world. As health advocates committed to racial justice and health

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equity, we endorse these recommendations and encourage the administration to take swift action. **Recommendation:** The administration must take the following steps in the first days in office to ensure reproductive access. These include but are not limited to: revoking the January 23, 2017 Presidential Memorandum; rescinding Executive Order 13535 Patient Protection; lifting the FDA’s in-person dispensing requirement for mifepristone for the duration of the public health emergency; initiate the process of rescinding Compliance with Statutory Program Integrity Requirements, otherwise known as the “Domestic Gag Rule,” which has decimated the evidence-based and historically bipartisan Title X family planning program; and directing all executive departments and agencies to rescind other harmful policies and regulations, and take proactive steps to protect care.

- 6. Supplemental Nutrition Assistance Program (SNAP):** According to [census data](#) from mid-October, nearly 24 million adults, including seven to 11 million children, “sometimes or more than often” did not have enough to eat over the previous week. Black, Latinx, Native American, and Asian and Pacific Islander households have faced [disproportionate rates of food insecurity](#) due to longstanding structural racism. The cruel and relentless efforts by the Trump administration to limit food access to families through sweeping changes to SNAP both before and during the pandemic have left millions of households uncertain of their access to daily meals. Specifically, the Trump Administration proposed two rules that made harmful changes to SNAP: 1) a proposal to strengthen and streamline SNAP work requirements and 2) a proposal to remove broad-based categorical eligibility for SNAP. With respect to streamlining work requirements, the Trump administration applied new restrictions to granting waivers to states seeking to protect adults from a work requirement – affecting almost [700,000 people](#). In addition, the administration proposed a rule to alter the “categorical eligibility” SNAP rule, cutting nutrition assistance for households with savings and other assets. **Recommendation:** Withdraw the harmful proposed changes to the Supplemental Nutrition Assistance Program (SNAP). The incoming administration must rescind changes to the policy of granting states waivers that include a work requirement for adults. In addition, they must halt the “categorical eligibility” SNAP rule proposed last year.
- 7. Housing Security:** It is well-established that health and housing are inextricably linked; [evidence shows](#) that unstable and unaffordable housing worsens health disparities while also increasing health care costs. Over the past four years, the Trump administration, has actively worked to undermine equitable housing access, disproportionately [harming people of color](#). In the fall of 2020, the administration issued a final rule, without comment, easing a jurisdiction’s ability to meet its fair housing obligations and reducing its accountability. The administration also sought to make changes to the 2013 Disparate Impact rule, erecting barriers making it impossible for people experiencing various forms of discrimination to challenge the policies and practices of businesses, governments and housing providers. Further, the administration cruelly targeted LGBTQ+ people by limiting access to shelters through weakening the Equal Access rule and through guidance, enabling shelters to deny transgender people access to HUD-funded shelters. Finally, the administration sought to prohibit “mixed status” families from living in public and other HUD- or USDA-subsidized housing through proposed rulemaking. We strongly endorse [the recommendations](#) of the National

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Low-Income Housing Coalition (NLIHC). **Recommendation:** Reverse the Trump administration’s harmful changes to: the 2015 Affirmatively Furthering Fair Housing (AFFH) rule; the 2013 Disparate Impact rule; the 2016 rule to provide Equal Access in Accordance with an Individual’s Gender Identity; and anti-immigrant proposal to prohibit “mixed status” families from living in public and other HUD- or USDA-subsidized housing.

8. **Social Security Disability Insurance (SSDI):** The Trump administration [proposed a rule](#) to conduct more frequent eligibility reviews for individuals receiving Social Security Disability Insurance (SSDI). Under the proposed rule, SSA would create a new category of Medical Improvement Likely (MIL) and review most people every two years instead. Given that SSDI is intended to help individuals with disabilities maintain a standard of living and is also one of the ways many individuals with disabilities qualify for Medicare, arbitrarily conducting more frequent eligibility assessments will only serve as a barrier to health coverage and continuity of care. Further, these consumers have already been determined by SSA to have at least one severe and medical impairment expected to last at least 12 months or to be fatal. **Recommendation:** Withdraw the rule to protect individuals reliant on SSDI.