



National Compliance Update

USI EMPLOYEE BENEFITS

May 15, 2025

Executive Order Targets Prescription Drug Pricing

On May 12, 2025, President Trump issued an Executive Order ("EO") directing federal agencies to take steps to reduce the prices Americans pay for prescription drugs and align them with those paid by other countries.

USI Note. An earlier EO (EO 14273) directed federal agencies to propose regulations and make recommendations to improve access to prescription drugs at lower costs. Among other things, it directs the Department of Labor to propose regulations by October 12, 2025, under ERISA §408(b)(2) to improve transparency into the direct and indirect compensation received by Pharmacy Benefit Managers ("PBMs").¹

Specifically, the EO sets forth the following initiatives:

- Address Foreign Nations Freeloading on American-Financed Innovation. The U.S. Trade Representative and Secretary of Commerce are directed to take action to ensure foreign countries are not engaged in practices that purposefully and unfairly undercut market prices and drive price hikes in the United States.
- Enable Direct-to-Consumer Sales to American Patients at the Most-Favored-Nation Price. The Department of Health and Human Services ("HHS") is directed to facilitate direct-to-consumer purchasing programs for prescription drug manufacturers to sell their products to American patients at the "Most Favored Nation" ("MFN") price.
- Establish Most-Favored-Nation Pricing.
 - Within 30 days (by June 11, 2025) HHS, along with other agencies, shall communicate MFN price targets to pharmaceutical manufacturers to bring prices for American patients in line with comparably developed nations.
 - If significant progress toward MFN pricing is not delivered to the extent consistent with applicable law, then, among other things:
 - HHS shall propose rulemaking to impose MFN pricing; and

¹ See USI's Compliance Update, [New Executive Order Addresses Lowering Prescription Drug Prices](#) (April 24, 2025).

- Relevant agencies may consider other aggressive measures to reduce the cost of prescription drug coverage and end anticompetitive practices.²

CONSIDERATIONS FOR EMPLOYERS

The EO directs the applicable agencies to take action with respect to the President's policy goals. This will come in the form of regulations and other formal guidance.

Much remains uncertain at this time as to the practical effect this EO will have on the commercial insurance market. For example, it is not clear whether MFN pricing will be available only to Americans with government provided coverage (e.g., Medicare, Medicaid) or if employers will be able to access this pricing on behalf of their group health plan members.

In addition, once guidance is issued, it is likely that the pharmaceutical industry and other stakeholders may seek to challenge any such regulation through litigation.

USI's EB Compliance Team will continue to monitor developments and share updates when available.

RESOURCES

- For the EO, visit <https://www.whitehouse.gov/presidential-actions/2025/05/delivering-most-favored-nation-prescription-drug-pricing-to-american-patients/>
- For a Fact Sheet, visit <https://www.whitehouse.gov/fact-sheets/2025/05/fact-sheet-president-donald-j-trump-announces-actions-to-put-american-patients-first-by-lowering-drug-prices-and-stopping-foreign-free-riding-on-american-pharmaceutical-innovation/>

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² This includes, but is not limited to, (1) reconsideration of prescription drug importation under the Federal Food, Drug, and Cosmetic Act ("FDCA"); and (2) enforcement action against any anti-competitive practice through anti-trust litigation.