

EO Asks Which Regulations to Keep, Eliminate to Boost Economy During COVID-19

- *Agencies will be asked to compile a list of regulations to be made permanent or eliminate to assist the COVID-19 economic recovery.*
- *HHS to consider using enforcement discretion against entities that have made a “good faith effort” to follow regulations.*
- *CMS Administrator Verma previously indicated some health regulations— particularly telehealth expansion — could be extended post-emergency.*

The **Trump administration issued an executive order (EO)** — “Regulatory Relief to Support Economic Recovery” — yesterday **directing agencies to target regulations “that may inhibit economic recovery” from the COVID-19 pandemic.** President Trump called for tackling the economic ramifications of the COVID-19 pandemic “with the same vigor and resourcefulness” as the fight against the virus. Agencies will be asked to propose a list of regulatory waivers and flexibility that could assist economy recovery if made permanent, as well as “unnecessary” regulations that could be eliminated for fear they would impede recovery. Agencies, specifically **the Department of Health and Human Services (HHS), are also asked to consider using enforcement discretion** against those who have made a good faith effort to follow regulatory requirements, and agencies are directed to accelerate pre-enforcement ruling processes as part of an effort to assist entities with compliance. Furthermore, with respect to agency guidance on stemming COVID-19 transmission, failure to adhere to guidance shall not alone be basis for an enforcement action. The Office of Management and Budget (OMB) is expected to issue a detailed implementation memo for this executive order in the next few weeks, and agencies must direct their reports on which regulations to cut or keep to the OMB, the Assistant to the President for Domestic Policy, and the Assistant to the President for Economic Policy.

Centers for Medicare & Medicaid Services (CMS) Administrator Seema Verma suggested last month that some health regulations enacted during the public health emergency could be extended, pointing to new flexibilities for telehealth as a possible example. The Association of American Medical Colleges recently asked CMS and Congress to make the expanded use of telehealth — and supporting reimbursement levels— in Medicare permanent, or extend the temporary regulations for at least a year to allow for permanent changes through normal notice and comment rulemaking. The EO could encourage other health advocacy groups to come forward with similar requests, however Administrator Verma indicated the agency will take program integrity into account when considering any regulatory changes.