



# COLORADO HEALTH POLICY COALITION

President-elect Joe Biden  
Vice President-elect Kamala Harris

CC: Colorado Congressional Delegation

Representative Diana DeGette  
Representative Doug Lamborn  
Representative Ed Perlmutter  
Representative Jason Crow  
Representative Joe Neguse  
Representative Ken Buck  
Representative Lauren Boebert  
Senator Michael Bennet  
Senator John Hickenlooper

RE: Colorado policy priorities for the incoming Biden-Harris Administration

Congratulations on your recent election. The Colorado Health Policy Coalition looks forward to working with your administration and our congressional delegation to defeat the novel coronavirus (COVID-19), mitigate its impact on Coloradans and roll back many of the harmful policies implemented under the previous administration.

Through the Colorado Health Policy Coalition, our state's health care stakeholders stand united to advance health equity in Colorado, which exists when everyone can achieve optimal health. Structural discrimination and economic hardship impact health outcomes in ways that are unjust and that compromise the strength of our communities.

Our organizations stand united in urging your administration to take action immediately upon your inauguration to advance policies to both respond to the pandemic and realign the agenda toward universal coverage and elimination of health inequities.

WITHIN YOUR FIRST 100 DAYS

## ***Urgent Action Required***

- Extend the Public Health Emergency (PHE) for COVID-19 through the end of 2021 to keep millions of Americans enrolled in health coverage, maintain regulatory flexibility, continue emergency funding to states and cover services for uninsured people experiencing COVID-19 complications.<sup>1</sup>
- Submit a brief to the Supreme Court reversing the federal government's position in the California v. Texas case, which threatens to unravel the Affordable Care Act (ACA).

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<sup>1</sup><https://www.kff.org/report-section/potential-health-policy-administrative-actions-under-president-biden-issue-brief/>

## **Medicaid**

- Ensure eligible people can enroll in and maintain Medicaid coverage. Revise CMS guidance on increasing eligibility verification requirements and state Medicaid claiming.
- Rescind proposed regulations that would change Medicaid eligibility determination rules in ways that could create procedural barriers leading to eligible people losing coverage.
- Revise published regulations, including:
  - final Medicaid managed care rule that relaxes network adequacy, quality oversight, and beneficiary protections;
  - interim final Medicaid COVID-19 maintenance of effort rule that allows states to make certain changes to eligibility and benefits while receiving temporary enhanced federal matching funds during the COVID-19 public health emergency
  - final regulations removing sexual orientation and gender identity as prohibited bases of discrimination in state Medicaid programs, Medicaid managed care, and PACE programs
- Enhance the federal Medicaid matching fund (FMAP) bump during the public health emergency from 6.2% to 12% to help states avoid making harmful budget cuts to critical safety net programs.
- Provide 60 days prior notice to the end of the Public Health Emergency to state Medicaid Departments. Maintain CMS current guidance that allows six (6) months after the PHE to conclude Medicaid eligibility processing.
- Eliminate the 5-year ban for lawfully present immigrants to allow them to enroll in Medicaid and the Children's Health Insurance Plan (CHIP).
- Rescind or amend rules implemented by the previous administration that reduce access, increase the likelihood of discrimination or harm immigrants.
- Revise Section 1115 state demonstration waiver policy to focus on increasing and expanding coverage.<sup>2</sup> Reverse federal support for 1) implementing work requirements for Medicaid recipients and 2) taking a block grant approach to funding Medicaid.<sup>3</sup>
- Establish a new, robust effort to measure and promote health equity to remove systemic barriers to health for people of color and low income populations. Produce a Health Equity Plan of Action by September 2021.

## **Affordable Care Act**

- Instruct all federal agencies to reverse the administrative harm intended to dismantle the ACA.

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<sup>2</sup><https://www.kff.org/report-section/potential-health-policy-administrative-actions-under-president-biden-issue-brief/>

<sup>3</sup> Many of the recommendations in this letter have also been requested by other states, and leading national health organizations. For specific details on how to implement many of our recommendations: <https://www.communitycatalyst.org/resources/publications/document/Undoing-The-Harm.pdf> and <https://www.kff.org/report-section/potential-health-policy-administrative-actions-under-president-biden-issue-brief/>

- Fix the “family glitch,” the ACA rule that bases eligibility for a family’s premium subsidies on whether available employer-sponsored insurance is affordable for the employee only, even if it’s not actually affordable for the whole family.<sup>4</sup>
- Cap required individual premium contribution amounts at 8.5% of income and eliminate the subsidy cliff.<sup>5</sup>
- Rescind regulations that expanded the types of employers that may be exempt from the ACA’s contraceptive coverage requirement.<sup>6</sup>
- Reverse guidance for Section 1332 state waivers that 1) threatens coverage and affordability, particularly for key vulnerable populations, including people with low incomes or pre-existing conditions; and 2) unravels ACA consumer protections.
- Create new flexibilities for Section 1332 state waivers that allow states to expand coverage in creative ways and extend the time period for these waivers to accomplish budget neutrality.
- Rescind the previous administration’s version of section 1557 rules and uphold strong nondiscrimination protections and enforcement.
- Revise 2018 rules for Essential Health Benefits (EHB) to eliminate the ability for insurers to substitute benefits within and across EHB categories.
- Rescind regulations that encourage consumers to buy plans that do not comply with the Affordable Care Act, including short-term, limited duration plans and association health plans.
- Reverse the previous 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.
- Expand access to Advanced Premium Tax Credits (APTCs) to include DACA recipients
- Develop new guidelines allowing the use of 1332 waiver funds to be used to expand access to APTCs regardless of immigration status.

### **Other Programs**

- Terminate the public charge rule, and launch a public health education campaign to let the public know it is safe to enroll in critical safety net programs like Medicaid.
- Withdraw the federal poverty level (FPL) measure proposal from Office of Management and Budget and create a new FPL measure that accounts for the costs of additional children.

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<sup>4</sup> <https://www.healthinsurance.org/obamacare/no-family-left-behind-by-obamacare/>

<sup>5</sup> <https://www.kff.org/health-reform/issue-brief/affordability-in-the-aca-marketplace-under-a-proposal-like-joe-bidens-health-plan/>

<sup>6</sup> <https://www.kff.org/health-reform/issue-brief/new-regulations-broadening-employer-exemptions-to-contraceptive-coverage-impact-on-women/>

- Restore U.S. membership to the World Health Organization.
- 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, by restoring the Title X program, a cornerstone of the publicly funded family planning network.<sup>7</sup>
- 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.
- Ensure sufficient funding for the federal and state implementation of the new National Suicide Hotline Designation Act, which created “988” as the universal three digit dialing code for mental health crises.
- Create a cross-agency federal team to respond to behavioral health crises.
- Withdraw the rule regarding the frequency of disability reviews (CDR) for those reliant on Social Security & Disability Income (SSDI).
- Strengthen our nation’s mental health and addiction parity law and work to achieve the full promise of parity by 2025.
  - Work with Congress to enact a requirement that issuers or plans submit comparative analyses upon request from federal oversight agencies, through the Mental Health Parity Compliance Act (S. 1737 / H.R. 3165).
  - Support the creation of a Consumer Parity Portal that gives patients a single place to get information about their rights, the results of audits and the ability to submit and track consumer parity complaints via the Behavioral Health Coverage Transparency Act (S. 1576 / H.R. 2874).
  - Help pass the Parity Enforcement Act (H.R. 2848), which would amend the Employee Retirement Income Security Act (ERISA) to provide the Department of Labor the authority to investigate and levy monetary penalties against health

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<sup>7</sup> Restoring the Title X program requires the elimination of the “domestic gag rule” and undoing efforts to narrow the program’s provider network. More detail is provided here: <https://www.guttmacher.org/article/2019/03/title-x-under-attack-our-comprehensive-guide#>

insurers and plan sponsors that offer health plans to employers that violate the parity law.

- Protect all rural and vulnerable communities' access to essential health care services, especially those that are uninsured.
- Make permanent important telehealth flexibilities, including expanding practitioners who can provide telehealth, allowing Rural Health Clinics and Federally Qualified Health Centers and other safety net clinics to serve as distant sites, lifting geographic and originating site restrictions, among others.

We thank you, in advance, for taking decisive action in your first 100 days to prioritize equitable health for all Americans.

Your Colorado Health Policy Coalition

American Academy of Pediatrics, Colorado Chapter  
Caring for Colorado Foundation  
Center for Health Progress  
Colorado Academy of Family Physicians  
Colorado Association for School-Based Health Care  
Chronic Care Collaborative  
Clinica Colorado  
Colorado Behavioral Healthcare Council  
Colorado Center on Law and Policy  
Colorado Children's Healthcare Access Program  
Colorado Children's Campaign  
Colorado Coalition for the Homeless  
Colorado Consumer Health Initiative  
Colorado Fiscal Institute  
Colorado Gerontological Society  
Community Health Partnership  
Colorado Hospital Association  
Colorado Immigrant Rights Coalition  
Colorado Nonprofit Association  
Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)  
Colorado Ovarian Cancer Alliance  
Colorado Safety Net Collaborative  
Delta Dental of Colorado Foundation  
Epilepsy Foundation of Colorado  
Northeast Health Partners  
Parkinson Association of the Rockies  
Young Invincibles