



Press Release

Zombie Rebate Rule Could Create Troubling Precedent

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A recent executive order directs the Secretary of Health and Human Services (HHS) to complete a rulemaking that the agency previously announced as withdrawn. Reviving a rulemaking considered withdrawn would damage regulatory certainty and undermine confidence in the regulatory process, contends AAF's Director of Regulatory Policy Dan Bosch. This case also has the potential to set a precedent that allows future administrations to revive "dead" rules for political advantage, he notes.

An excerpt:

As HHS revives the rebate rule at the direction of the president, it faces two options. It can rely on a proposed rule and comment period prior to the rule's announced withdrawal to expediently issue a final rule, or it can re-propose the rule for public comment. Out of convenience, it is likely HHS will choose the first option.

If HHS does so, it will have negative consequences on regulatory certainty. It will also set a dangerous precedent that undermines the purpose of the regulatory process—to ensure transparency, predictability, and accountability as the government creates regulations.

[Read the analysis.](#)