

Weekly Checkup



Biden's Competition Executive Order Talks Much More Than It Walks

JACKSON HAMMOND | JULY 16, 2021

Last Friday, President Biden signed an executive order (EO) entitled “[Promoting Competition in the American Economy](#).” My colleagues have [produced](#) great [run-downs](#) on the [various aspects](#) of the EO that readers should check out, and my summary of the health directives can be found [here](#). The short version on the health side is this: Generics and biosimilars are good, hospital consolidation is bad, hearing aids can now be sold over the counter, and insurance options on the national health exchanges are going to be standardized. **On the whole, however, the EO promises much more than it will likely accomplish for health policy.**

To be sure, there are two elements that could be significant. As I mentioned in my summary of the health directives, that standardization piece itself might be the most consequential of the health orders: further federal government input on what has to be covered in a health plan + [Democratic plans to offer free care through the exchanges](#) = a gateway to a public option. **The directive to have Medicare and Medicaid prepare to cover biosimilars and create payment models to promote the use of generics and biosimilars will likely also be significant.** Much like the standardization directive, it's not really clear what this directive will look like in practice. Given the coverage structure in Medicare Part D, Medicare prescription drug plans are already incentivized to push generics on patients, since the plans have to cover 75 percent of the cost (I won't get into the recent “donut hole” elimination here, but suffice to say that Medicare incentivizes generics after the initial coverage limit is reached as well). While the exact policies remain unclear, President Biden should be applauded for looking to save taxpayers some money.

Beyond the insurance standardization and the payment models, President Biden's EO talks more than it walks. The EO reaffirms the president's support for “aggressive” legislation on drug pricing and the public option. It tells us that he will continue to follow current law and regulatory policy – educating providers and patients on biosimilars as authorized by the Advancing Education on Biosimilars Act of 2021, continuing to implement the CREATES Act of 2019, and helping states and tribes develop section 804 importation programs to procure drugs from Canada. If that last one sounds like a big deal, it's old news at this point. The initial law authorizing section 804 programs passed in 2003, and the Trump Administration [implemented the necessary regulations](#) in 2020. Previous [Weekly Checkups](#) have covered why this policy isn't likely to do a lot for drug prices in the United States, so it's hard to call this line anything other than a nod to drug-pricing reform advocates on the left.

“But isn't this a competition EO?” you ask. It is! And this is where President Biden goes from talking to whispering quietly. **The EO urges the Federal Trade Commission and the Department of Justice to step up antitrust enforcement on hospital consolidation and pay-for-delay schemes (where a brand-name manufacturer essentially pays a generic manufacturer to not make a competitor).** The key word here is “urges.” These are independent agencies that the president can't really order around. Now, my colleague [Dan Bosch's piece](#) discusses how Biden's EO further blurs the lines on agency independence, and I agree – leaning on independent agencies to produce specific policy goals makes it harder for these agencies to remain (or

appear) independent. But when one of the directives tells the Food and Drug Administration (FDA) to “write a? letter to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office enumerating and describing any relevant [drug patent] concerns of the FDA,” it’s hard to imagine a lot of swift action coming down the bureaucratic pipeline.

President Biden’s health directives say a whole lot while not actually doing much. There are no brownie points for “continuing” to follow statute, and the independent agencies Biden “encourages” to act are just that: independent. **It’s going to take a lot more than encouraging bureaucrats to put Biden’s sweeping antitrust agenda into action.**

VIDEO: EXTENDING OPEN ENROLLMENT

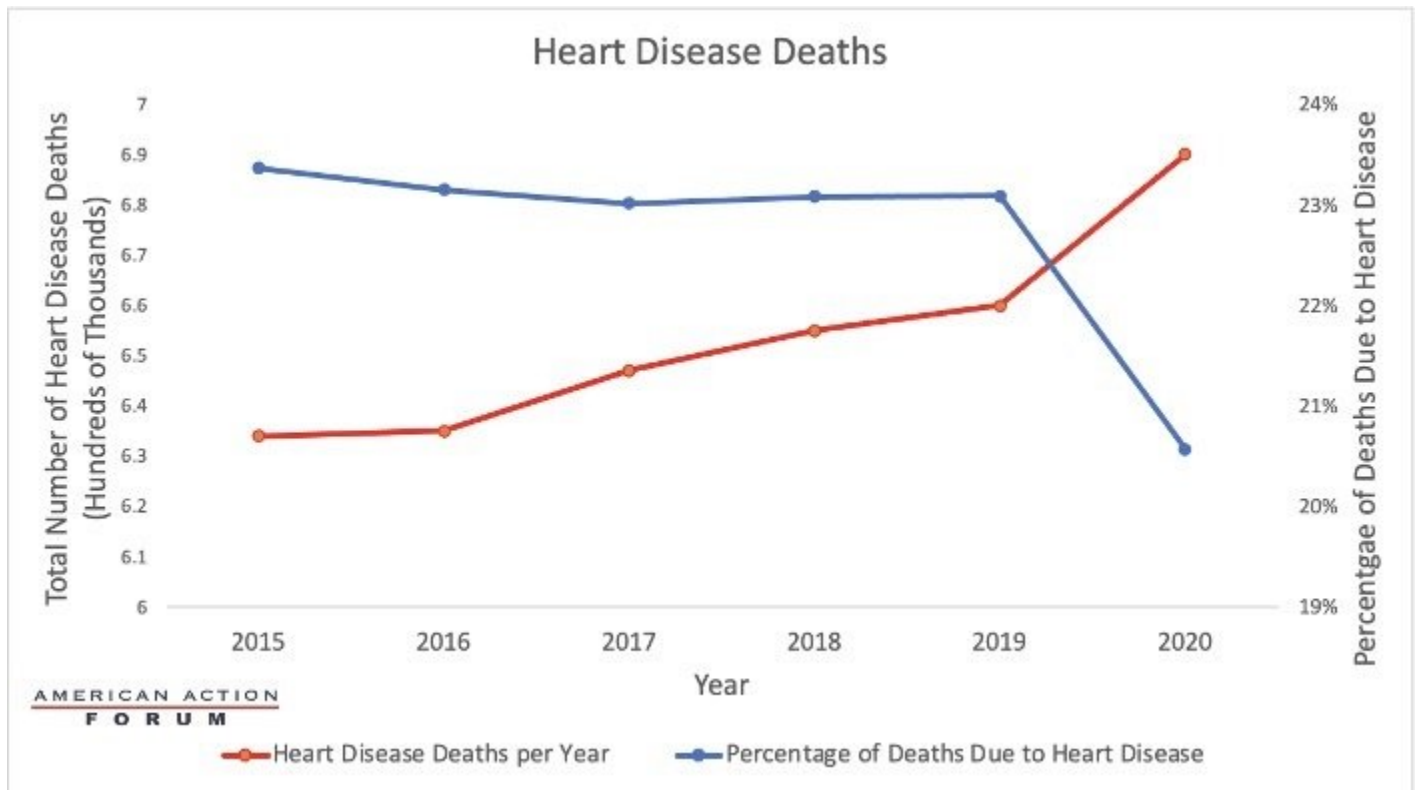
AAF’s Director of Health Care Policy Christopher Holt explains why President Biden’s push to extend open enrollment to everyone below a certain income threshold could undermine the insurance market.

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CHART REVIEW: HEART DISEASE IN THE UNITED STATES

Jake Griffin, Health Care Policy Intern

Heart disease has been the leading cause of death for both men and women in the United States for nearly the [past century](#). Several behavioral factors have led to this sustained trend, including obesity, unhealthy diets, and physical inactivity. Besides mortality, heart disease also produces a major financial burden, costing the United States [\\$219 billion](#) each year in health care services, medicines, and lost productivity due to death. As the chart below shows, the total number of heart disease-related deaths increased between 2015-2020. Additionally, the percentage of deaths overall due to heart disease decreased during this same period. The largest increase in heart disease deaths and decrease in percentage of deaths due to heart disease occurred 2019-2020. This trend can likely be attributed to the ongoing pandemic. The Centers for Disease Control and Prevention (CDC) has [stated](#) that having heart conditions can make you more likely to get severely ill from COVID-19, which accounts for the increase in heart disease deaths. With [more deaths overall](#) in 2020 due to COVID-19, it is not surprising that heart disease’s contribution to the total death toll decreased from previous years. To combat the ongoing struggle with heart disease, solutions will likely need to address the behavioral factors that contribute to its extensive prevalence.



Sources: [CDC](#) and [Journal of the American Medical Association](#)

TRACKING COVID-19 CASES AND VACCINATIONS

Jake Griffin, Health Care Policy Intern

To track the progress in vaccinations, the Weekly Checkup will compile the most relevant statistics for the week, with the seven-day period ending on the Wednesday of each week.

Week Ending:	New COVID-19 Cases: 7-day average	Newly Fully Vaccinated: 7-Day Average	Daily Deaths: 7-Day Average
14-Jul-21	33,292	147,852	211
7-Jul-21	15,541	234,875	167
30-Jun-21	13,264	315,401	220

23-Jun-21	11,677	401,951	252
16-Jun-21	12,325	620,647	296
9-Jun-21	15,386	724,762	356
2-Jun-21	14,991	520,303	388
26-May-21	22,267	816,413	458
19-May-21	27,917	1,058,949	524
12-May-21	34,808	1,271,214	566
5-May-21	45,353	1,465,780	596
28-Apr-21	52,145	1,501,408	625
21-Apr-21	60,982	1,522,009	639
14-Apr-21	68,498	1,772,617	643
7-Apr-21	64,046	1,599,829	626
31-Mar-21	63,827	1,385,478	732
24-Mar-21	56,760	973,590	731
17-Mar-21	53,178	1,034,981	876
10-Mar-21	53,994	964,602	1,147
3-Mar-21	60,973	922,357	1,407
24-Feb-21	64,217	851,178	1,780
17-Feb-21	73,713	749,976	1,943
10-Feb-21	99,857	707,857	2,378
3-Feb-21	128,974	487,650	2,728

27-Jan-21	158,996	338,571	3,168
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Sources: Centers for Disease Control and Prevention [Trends in COVID-19 Cases and Deaths in the US](#), and [Trends in COVID-19 Vaccinations in the US](#).

Note: The U.S. population is 332,524,147.

WORTH A LOOK

[Washington Post](#): His voice silenced for years, a man can now communicate using only the electrical impulses from his brain

[New York Times](#): Cleveland Clinic and Mount Sinai Won't Administer Aduhelm to Patients