



**TO: CWDA Board of Directors**

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**DATE: December 12, 2024**

**RE: POST-ELECTION ANALYSIS**

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## **EXECUTIVE SUMMARY**

The incoming Republican administration and Congressional majority will employ executive powers and legislative tools to dismantle Biden-era policies, implement new priorities, and reshape the federal government's regulatory and fiscal landscape. This memo includes an overview of the policy levers available to President-elect Trump and Congress and the outlook for health and human services programs and vulnerable populations.

### FEDERAL POLICY LEVERS

Regulatory Tools & Presidential Powers: President-elect Trump will immediately seek to advance his agenda using the Executive Branch tools at his disposal, such as regulatory freezes, Executive Orders (EOs), changes to the federal workforce and agency rulemaking, to both overturn/dismantle Biden-era administrative actions as well as set his priorities in motion. However, legal challenges, operational realities and constitutional checks on unilateral spending cuts could interfere with these efforts.

Legislative Tools: Republican lawmakers will likely use the Congressional Review Act to overturn Biden-era rules finalized after August 2024, though few major human services regulations fall within that category. Along with efforts to fund the government through regular order, Congressional leadership will use the early days of session to extend Trump-era tax cuts and implement border priorities through budget reconciliation, a privileged process that requires just 51 votes in the Senate. Timing and priorities for reconciliation are under ongoing negotiation.

### OUTLOOK FOR HEALTH AND HUMAN SERVICES PROGRAMS AND VULNERABLE POPULATIONS

Immigration: President-elect Trump plans to immediately scale back humanitarian protections and intensify interior deportations, despite logistical challenges. Immigrants here legally may preemptively disenroll from or avoid key safety net

programs due to concerns that participation could negatively impact future adjustment in status or lead to sensitive data being shared with federal authorities.

**Social Safety Net:** The largest threat to the social safety net will come from the reconciliation process, which could fast-track cuts to SNAP and Medicaid to pay for tax and border priorities. Pending and future Medicaid waivers may also see impacts. Cuts to the Temporary Assistance for Needy Families (TANF) program and discretionary assistance programs may be harder for the administration to accomplish.

**Child Welfare:** LGBTQ+ foster youth protections enacted during the Biden administration may be rolled back, and we will likely see a renewed emphasis on partnerships with faith-based providers. The incoming administration may be willing to revisit provisions in the Family First Prevention Services Act provisions to expand prevention services and funding flexibility.

**Disaster Aid:** Should the President-elect withhold Stafford Act declarations for California wildfires and other disasters, the state may need alternative funding strategies and be forced to cut services as a result.

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## **FEDERAL POLICY LEVERS**

### **REGULATORY TOOLS & PRESIDENTIAL POWERS**

President-elect Trump will immediately seek to advance his agenda using the Executive Branch tools at his disposal to both overturn/dismantle Biden-era administrative actions as well as set his own priorities into motion:

#### ***Regulatory Freeze***

Work on pending rules will stop until the incoming administration has had a chance to review them and ensure all regulatory actions align with its priorities.

Consequently, a proposed Administration for Children and Families (ACF) rule limiting TANF (CalWORKS) block grant expenditures is unlikely to be finalized.

#### ***Executive Orders***

President-elect Trump is likely to rescind most if not all of President Biden's 143 Executive Orders (EOs) during his first days in office, especially those pertaining to climate policy, immigration, Artificial Intelligence, regulatory procedures, and racial equity. He will then issue a series of EOs that signal his overall policy goals and direct federal agencies to begin acting. However, those agencies will often still need to initiate the formal regulatory process, undertake extensive reviews of policies and procedures, and sometimes even secure funding from Congress.

### ***Shrinking the Federal Workforce***

President-elect Trump has indicated that he will reinstate an Executive Order implementing “Schedule F,” a policy aimed at recategorizing certain civil service employees so political appointees have greater discretion to fire them and hire their replacements. However, mass firing of civil servants could see legal challenges and create operational chaos and vacancies that threaten other components of the President-elect’s agenda.

While the federal government employs roughly 2.3 million civilian workers across the country; about 85 percent of those employees live outside the Washington metro area (nearly 250,000 reside in California). The majority are also employed by the Departments of Defense (DOD) and Department of Veterans Affairs (VA). As in 2017, President-elect Trump may also initiate a federal hiring freeze.

### ***Federal Spending Cuts***

President-elect Donald Trump has promised sweeping cuts to federal spending as part of his broader economic strategy. Central to these efforts is the newly proposed “Department of Government Efficiency” (DOGE) an advisory commission co-led by Trump loyalists Elon Musk and Vivek Ramaswamy that aims to identify and eliminate waste, fraud, and redundancy across federal programs. Elon Musk said DOGE would find ways to cut at least \$2 trillion from the \$6.75 trillion federal budget. However, DOGE is an advisory body that must work with Congress and the Office of Management and Budget (OMB) to ultimately use existing legislative and regulatory avenues to execute its recommendations.

While many of the ambitious recommendations likely to stem from the commission will require Congressional action or long-term rulemaking, one early strategy reportedly includes repealing the Impoundment Control Act of 1974, which places limits on the ability of the president to withhold appropriated funds without Congressional approval. That said, Congress is exceedingly unlikely to enact legislation diminishing its power of the purse. Should Trump attempt to challenge the law in court, it is unclear how successful he would be—though these actions could certainly delay critical funding from reaching programs in a timely fashion.

### ***Agency Rulemakings***

President-elect Trump has promised that for every rule his administration promulgates, they will eliminate ten existing regulations. However, the realities of the administrative state will almost certainly interfere with the realization of this goal. Any rules not subject to the Congressional Review Act (CRA) (see below for more detail) will require new cost benefit analyses, notice and public comment periods, and final deregulatory action. This process typically takes roughly one to two years, and even longer for complex rulemakings. As in the first Trump administration, any new

rulemakings will also likely face frequent legal challenges—though officials charged with implementing Trump’s regulatory policies may be better prepared to avoid legal challenges this time around.

Furthermore, the process for installing Cabinet heads and other senior leaders across federal agencies—many of whom are crucial for directing and implementing the president’s regulatory vision—may be time-consuming, particularly for controversial nominees. The Trump transition team was delayed in signing transition agreements and is estimated to be at least a month behind in that work.

## LEGISLATIVE TOOLS

While Republicans will enjoy control of both chambers of Congress and the presidency, the narrow margins of their majorities in the House and Senate will serve as barriers to carrying out the Trump administration agenda via legislation. Instead, lawmakers will need to rely on procedural tools that bypass the 60 votes needed to avoid a Senate filibuster. Leadership will also be limited to moving legislation that enjoys the support of nearly every lawmaker in their party, a tall order in the House of Representatives, in particular. With three Republican vacancies that must be filled via special elections in the spring, House Speaker Mike Johnson (R-LA) will be unable to lose a single vote from his 217 members early in the session.

There are two major legislative tools that we expect to dominate the early 119<sup>th</sup> Congressional session:

### ***Congressional Review Act***

The Congressional Review Act (CRA) allows Congress to repeal rules from the previous Congressional session as long as they were finalized within the 60 days prior to its final adjournment. Senate CRA votes are privileged, meaning they only need a simple majority. Though we do not yet know when the 118<sup>th</sup> Congressional session will conclude, we expect the lookback to include any Biden administration rules finalized beginning in August. The CRA is a powerful tool, but it requires significant floor time and only allows consideration of a single regulation at a time.

The Biden administration finalized several significant regulations before May 2024 in an attempt to shield them from falling within the CRA lookback period. Human services rules that may be subject to repeal include:

- [\*Supporting the Head Start Workforce and Consistent Quality Programming\*](#) (HHS)
- [\*SNAP \(CalFresh\) Standardization of State Heating and Cooling Standard Utility Allowances\*](#) (USDA)
- [\*Indian Child Welfare Act \(ICWA\) data elements for the Adoption and Foster Care Analysis and Reporting System\*](#) (HHS)

- [\*Employment and Training Services for Noncustodial Parents in the Child Support Program\*](#) (HHS)

### ***Budget Reconciliation***

Budget reconciliation (or simply “reconciliation”) is a special congressional procedure that Congress can use to enact major deficit-increasing and deficit-reducing legislation because it requires just a simple majority to pass the Senate. Notably, reconciliation may not be used to directly affect the Social Security program, including its benefits or its taxes. Most recently, it has been the vehicle by which the Affordable Care Act (ACA), the 2017 Tax Cuts and Jobs Act (TCJA), the American Rescue Plan Act, and the Inflation Reduction Act were all enacted. Republican lawmakers are already beginning to develop priorities for one or two reconciliation packages in 2025 to extend soon-expiring tax cuts and other top party priorities around the border. However, intra-party disagreements remain around what to prioritize for inclusion in an initial reconciliation package.

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## **OUTLOOK FOR HEALTH AND HUMAN SERVICES PROGRAMS AND VULNERABLE POPULATIONS**

With these legislative and regulatory levers in mind, here is what we expect to see across key health and human services issues.

### **IMMIGRATION**

#### ***Increased Interior Enforcement & Reversal of Humanitarian Protections***

In his first 100 days, President-elect Trump plans to begin the process of deporting hundreds of thousands of people, fulfilling a key campaign promise. However, this process is resource intensive and legally fraught. It remains to be seen how quickly the administration can scale up those efforts, even if they declare a national emergency to deploy the military for assistance. In the meantime, immigration advocates expect the administration to engage in high-profile workplace raids, partly with the goal of media coverage that encourages individuals to self-deport.

President-elect Trump is expected to revoke or significantly scale back certain humanitarian protections that allow qualifying individuals to enter, stay in, and sometimes work in the U.S. due to unsafe conditions in their home countries and reduce Refugee Resettlement targets.

The future of the Deferred Action for Child Arrivals (DACA) also remains uncertain due to pending litigation, but President-elect Trump has previously indicated plans to eliminate the protections it offers for over half a million qualifying adults who were brought to the United States as children. The incoming Trump administration will also

decline to defend a Biden era rule, currently under injunction in 19 states, that allows DACA recipients to purchase health coverage through the Affordable Care Act.

### ***Access to Benefits***

In the short term, heightened immigration enforcement may deter undocumented immigrants from accessing state-funded health care and other services. However, along with federal privacy and civil rights laws, many safety net programs protect participants' sensitive information from being used for immigration enforcement purposes:

- Medicaid (Medi-Cal)
- Children's Health Insurance Program (CHIP),
- the health insurance marketplace,
- Supplemental Nutrition Assistance Program (SNAP or CalFresh),
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- National School Lunch Program
- Temporary Assistance for Needy Families (TANF or CalWORKs),
- Child Care and Development Fund (CCDF)
- Head Start and Early Head Start

California further has specific privacy protections that supplement and generally supersede the federal protections in certain programs. According to the National Immigration Law Center, federal laws protecting information about benefit recipients cannot be altered by an executive order. Despite these firewalls, which should be even stronger around state-funded initiatives, agencies may need to prepare for potential attempts by the next administration to bypass them through a change in statute or regulation.

In the longer term, the incoming Trump administration may revisit efforts to significantly expand the definition of Public Charge— a term used in U.S. immigration law to refer to a person in the country legally who is likely to become primarily dependent on government assistance, which can affect their eligibility for a green card, visa, or adjustment in status. The Trump Administration in 2019 updated public charge regulations to include previously excluded health, nutrition, and housing programs. That rule had chilling effects on program participation far beyond the targeted population, even after its eventual reversal under the Biden administration. The incoming administration may also issue regulations preventing mixed-status families from receiving pro-rated housing assistance based on the number of family members who are eligible.

Republican lawmakers may use a reconciliation package to further restrict access to the CTC among mixed-status households by preventing adults with Individual Taxpayer Identification Numbers (ITINs) from claiming the CTC on behalf of their U.S. citizen children.

## **SOCIAL SAFETY NET**

In the short term, the forthcoming budget reconciliation package(s) represents the most significant threat to entitlement programs such as the Supplemental Nutrition Assistance Program (SNAP/CalFresh) and Medicaid/Medi-Cal, which may be used as a potential offset for the enormous cost of extending the 2017 Tax Cuts and Jobs Act (TCJA) and new investments in border enforcement.

### ***Medicaid/Medi-Cal***

Republican lawmakers have publicly indicated interest in cutting Medicaid spending via options such as block-granting the program, providing states with a per-capita payment for different populations, reducing the enhanced 90 percent federal Affordable Care Act match for eligible single individuals, instituting work requirements via statute or state waivers and/or reducing the overall federal match below 50 percent.

The Trump administration's waiver priorities for Medicaid in the first term focused on tying health coverage to work requirements, in contrast with the Biden administration's emphasis on social determinants of health. California has five Medi-Cal waivers awaiting approval from Washington. The state's tax on managed care organizations will need renegotiation with the administration in 2026 but has additional changes pending.

### ***SNAP/CalFresh***

Republican lawmakers have also expressed interest in cutting SNAP to offset reconciliation costs, including limiting the ability of USDA to update the Thrifty Food Plan (TFP), which informs the formula underlying SNAP benefit amounts, unless it is cost neutral. That provision, included in the House and Senate Republican farm bill drafts, was estimated by CBO to yield \$30 billion in savings over 10 years. Republicans may also target SNAP provisions around categorical eligibility and further restrictions on childless adults.

Changes to SNAP will also be on the table as lawmakers resume negotiations to reauthorize the Farm Bill after working to pass a one-year extension. However, because a farm bill must pass with 60 votes in the Senate, it is less likely that major changes to eligibility and work requirements can be accomplished through that vehicle.

### ***TANF/CalWORKS***

Lawmakers have not spoken publicly about whether they intend to use TANF to fund reconciliation. Because TANF is a block grant, programmatic and eligibility changes would not impact overall federal spending and be unlikely to feature heavily in a reconciliation package. During his first term, then-President Trump did propose

eliminating the TANF contingency fund, which states can draw upon during periods of economic distress.

In the longer term, the Administration may take a closer look at the TANF reserve funds many states retain in their budgets. However, efforts to fundamentally overhaul TANF may be minimal given bipartisan support for the Fiscal Responsibility Act (FRA) pilots in five states –including California—currently underway to test alternative metrics for work outcomes.

### ***Discretionary Programs***

In his first term, then-President Trump proposed deep cuts across a variety of assistance programs funded on the discretionary side of the ledger. However, non-defense discretionary spending represents just 14 percent of the federal budget, limiting its impact on deficit reduction. Cuts to programs such as the Workforce Investment and Opportunity Act, the Community Services Block Grant, Child Care and Development Block Grant, Low-Income Home Energy Assistance Program, Older Americans Act, WIC and the Social Services Block Grant would require action by Congress via the regular appropriations process, which could prove politically difficult.

## **CHILD WELFARE**

The incoming administration will likely focus on reversing any Biden policy or program which highlights LGBTQ+ foster youth. Those efforts, however, would likely be via the regulatory or guidance route, including giving faith-based organizations the ability to choose which populations it would serve without losing federal financial support.

Later in the new Administration, there may be efforts to revisit the Family First Prevention Services Act (FFPSA). The first Trump administration proposed loosening up the Qualified Residential Treatment Program's (QRT) Institution for Mental Disease (IMD) exclusion. The first Trump administration was also open to expanding the list of prevention services that could be reimbursed under FFPSA.

## **DISASTER AID**

Presidents have executive authority to decide whether, when and where to direct emergency aid. If a president rejects providing federal aid, state officials may be able to work with Congress to secure supplemental funds for recovery, but that would require passage and enactment of legislation. Some agencies, including USDA and HHS, may be able to provide limited funding for disaster response without a Stafford Act declaration. The ultimate burden to make up the difference would fall on California, however, raising the possibility of cuts to other programs or funds to respond to disasters.