Trump Institutes Regulatory Freeze

The Trump administration instituted a regulatory freeze on January 20, 2017 that requires federal agencies not issue any new regulations or guidance documents, pull back any regulations or guidance under review by the Office of the Federal Register, and temporarily postpone regulations and guidance that have been published but have yet to take effect.

The Congressional Research Service in a legal memo notes that it isn’t clear whether an agency like CMS would need to go through the notice-and-comment process before delaying the effective date of a rule that has been finalized but not yet implemented.

The White House’s January 20th memo asks the heads of executive departments and agencies to take a number of steps to freeze regulations and guidance so that the new president’s appointees or designees have the chance to review them. Regulations and guidance subject to statutory or judicial deadlines should be excluded from the regulatory freeze, the memo says.

One of those steps includes not sending any new regulation to the Office of the Federal Register until a department or agency head appointed by the president reviews and approves the regulation. The exception to this is if a regulation or guidance touches on “emergency situations or other urgent circumstances relating to health, safety, financial or nation security matters.”

Regulations that have been sent to the Office of the Federal Register but not published should be immediately withdrawn and reviewed by the administration.

Final rules that had been published by the Office of the Federal Register but have yet to take effect should be temporarily postponed.