

Regulatory Outlook: Fall 2023 Unified Agenda

The Biden Administration recently released its [Fall 2023 Unified Agenda](#), which outlines regulatory plans for federal agencies over the coming year. The Unified Agenda reflects the Biden Administration’s continued priority on policies addressing health. In our regulatory outlook, we highlight rulemaking on coverage and payment, public health and safety, and cross-cutting topics, including mental and behavioral health, drug pricing, and health IT, among others.

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Overview

- **What it is.** The Fall 2023 edition of the semiannual unified agenda contains regulatory actions that federal agencies plan to undertake in the next 12 months. The Unified Agenda includes annual regulatory updates (e.g., Medicare payment policies); regulations implementing newly enacted laws, such as the Inflation Reduction Act of 2022; and regulations implementing Executive Orders and other priorities, such as regulatory proposals in the President's Budget. Most of the entries were included in the Spring 2023 edition and may have been updated with new timetables.

Each entry is organized by federal agency and its stage in the [rulemaking process](#) – prerule stage (e.g., Advanced Notices of Proposed Rulemaking), proposed rule stage (e.g., Notice of Proposed Rulemaking), final rule stage, long-term actions, and completed actions.

We include entries from most agencies at the Department of Health and Human Services (HHS); Department of Labor's (DOL) Employee Benefits Security Administration (EBSA) and Occupational Safety and Health Administration (OSHA); Department of Treasury's Internal Revenue Service (IRS); Department of Agriculture's (USDA) Food and Nutrition Service (FNS); several agencies at the Department of Housing and Urban Development (HUD); several agencies at the Department of Justice (DOJ); the Federal Trade Commission (FTC); and the Office of Management and Budget (OMB).

- **Why it is important for you.** As a roadmap of the Biden Administration's regulatory priorities, the Unified Agenda enables stakeholders to anticipate and prepare for rulemaking. Stakeholders can participate by requesting an [EO 12866](#) meeting with OMB and/or submitting public comments. Projected dates for regulatory actions may shift, but they are helpful guides for advocacy planning.
- **Next steps.** Impact Health will flag regulatory actions as they move through the process, specifically when they reach OMB for review and when regulatory review is completed. We include these updates in our Weekly sent on Mondays. For each policy area, we note the lead Impact Health team member that can answer any questions or provide additional assistance.

Regulatory Activity by Issue Area

A. Coverage and Payment

1. Medicaid

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Through an array of regulatory activities, the Administration will continue to strengthen access to health care for Medicaid beneficiaries across three dimensions of a person-centered framework: (1) enrollment in coverage; (2) maintenance of coverage; and (3) access to services and supports. The Administration will also make two regulatory actions implementing provisions of the Consolidated Appropriations Acts of 2021 and 2023.

- **Enrollment In and Maintenance Of Coverage:** CMS plans to issue the second of two [final rules](#) to simplify the processes for eligible individuals to enroll and retain eligibility in Medicaid, CHIP, and the Basic Health Program. This second final rule expected in February 2024 will implement changes to align enrollment and renewal requirements for most individuals in Medicaid and promote maintenance of coverage.
- **Access to Services and Supports:** CMS is also expected to issue two final rules in April 2024 to improve access to care and quality outcomes for Medicaid and CHIP beneficiaries enrolled in [fee-for-service systems](#) or [managed care delivery systems](#). In the proposed rule, CMS sought feedback on an effective date of 60 days following publication of the final rules and separate compliance dates for various provisions.
- **Disproportionate Share Hospital (DSH):** Section 203 of the Consolidated Appropriations Act, 2021 (CAA), changed the methodology for calculating the hospital-specific DSH limit to include only costs and payments associated with Medicaid-eligible individuals where Medicaid is the primary payer, except for hospitals in the 97th percentile of all hospitals either with respect to the number of inpatient days or percentage of total inpatient days that were made up of patients who, for such days, were entitled to Medicare Part A benefits and to supplemental security income (SSI) benefits. In February 2024, CMS expects to [finalize](#) updating the regulatory requirements of the DSH program in response to the CAA as well as make additional technical changes to the DSH program.

- **Program Integrity:** In May 2024, the Office of the Inspector General (OIG) will release a [proposed rule](#) to change OIG’s exclusion policy in the Medicaid Services Investment and accountability Act that authorizes exclusion of manufacturers that misclassify drugs or provide false information.

2. Medicare

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In addition to fulfilling statutory requirements related to Medicare payment and care delivery, the Administration will continue to focus on accountability for quality and cost, ensuring access to care, and improving health equity.

- **Medicare Payment System Updates:** CMS will propose fiscal year (FY) 2025 updates for Medicare payment in the [Inpatient Prospective Payment System](#), the [Hospice Wage Index](#), the [Inpatient Psychiatric Facility payment system](#), the [Inpatient Rehabilitative Facility payment system](#), and the [Skilled Nursing Facility payment system](#) around April 2024 and finalize proposed updates around August 2024.

CMS will also propose updates for Medicare payment in calendar year (CY)-based payment systems (the [Outpatient Prospective Payment System](#), the [Medicare Physician Fee Schedule](#), the [End Stage Renal Disease payment system](#), and the [Home Health payment system](#)) around June 2024 and finalize proposed updates around November 2024.

- **CMS Innovation Center:** Before the end of 2023, CMS plans to issue a [proposed rule](#) for a new Medicare payment model called the Increasing Organ Transplant Access (IOTA) Model, which will be focused on accountability for quality and cost, access, and health equity. The rule will propose general provisions for all models as well. The Innovation Center also expects to release a [proposed rule](#) in April 2024 for a new episode-based payment model focused on accountability for quality and cost, health equity, and specialty integration. Development of this model was informed by a request for information issued in July of 2023.
- **Medicare Advantage Policies:** In June 2024, CMS is expected to release a [proposed rule](#) to codify long-established Medicare Advantage and Part D payment policies that are outside the scope of the annual Advance Notice/Rate Announcement.
- **Organ Procurement:** CMS will [propose a rule](#) in February 2024 to change the standards used to evaluate and recertify organ procurement organizations and add clarifications.

3. Commercial Insurance

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The Administration will continue to use regulatory levers to protect and expand access to quality health insurance in the commercial market. The agenda includes rules that build on the Affordable Care Act (ACA) and reverse Trump-era measures weakening consumer protections, as well as rules implementing surprise billing protections and requirements. Notably, the Unified Agenda does not include a proposed rule that would establish new requirements for private health plans to send patients an “Advanced Explanation of Benefits, as required by the No Surprises Act.

- **ACA Marketplace:** In November 2023, CMS released the [proposed](#) annual [notice of benefit and payment parameters for 2025](#). The payment rule makes changes to regulations governing the Exchange and state-based marketplaces. The Unified Agenda does not specify the timing for the final rule, but it will likely be released in spring 2024. IRS plans to issue a [final rule](#) on reporting requirements for issuers of catastrophic health care coverage in the Marketplace, though its timing is unclear. The Fall 2023 Unified Agenda does not update the November 2023 timetable. As of this writing, the final rule is not at OMB for review.
- **Alternative Coverage:** In April 2024, CMS and EBSA plan to issue a [final](#) rule on short-term limited duration insurance ([proposed rule](#)). EBSA also plans to pursue [rulemaking](#) in April 2024 that would withdraw, or withdraw and replace, Trump-era regulations that expanded the availability of association health plans. Both short-term limited duration insurance and association health plans do not provide protections for preexisting conditions.
- **Reproductive Health Coverage:** In August 2024, CMS and EBSA plan to issue a [final rule](#) that would expand access to contraceptive services. The [proposed rule](#) would allow the establishment of an “individual contraceptive arrangement” for individuals enrolled in private health plans that do not cover contraceptive services because of a religious objection.
- **DACA Recipients:** As part of the [Administration’s efforts](#) to provide DACA recipients the opportunities and the support they need, CMS issued a [proposed rule](#) to revise the definition of “lawfully present” in order to expand eligibility for health insurance coverage through the Exchange (including premium tax credits), Medicaid, and Basic Health Program to DACA recipients. The Unified Agenda states the [final rule](#) is scheduled for November 2023, but it is not at OMB for review as of this writing.
- **Group Health Plan Reporting:** As part of a strategic project with the IRS and the Pension Benefit Guaranty Corporation, EBSA plans to issue a [proposed rule](#) in September 2024 to make

information in the Form 550 Annual Return/Report of Employee Benefit Plan more data mineable and to enhance the ability of EBSA and IRS to conduct compliance activities.

- **No Surprises Act:** The Biden Administration will issue a slate of regulatory measures implementing the No Surprises Act. On the Federal independent dispute resolution (IDR) process, CMS, EBSA, and IRS plan are expected to finalize a [proposed rule](#) on IDR operations, but the Unified Agenda does not provide a timetable. The comment period closes January 2, 2024. In August 2024, CMS, EBSA, and IRS plan to issue a [proposed rule](#) that would codify protections against provider discrimination, which are currently implemented through sub-regulatory guidance. In September 2024, CMS and EBSA plan to issue a [final rule](#) that would establish reporting requirements for insurers and air ambulance providers regarding air ambulance services ([proposed rule](#)). Notably, the Unified Agenda does not include a [proposed rule](#) that would establish new requirements for private health plans to send patients an “Advanced Explanation of Benefits, as required by the No Surprises Act.. In September 2022, CMS had issued a [request for information](#) to inform rulemaking. The Spring 2023 Unified Agenda had slated the [proposed rule](#) for March 2024.

B. Cross-Cutting Topics

1. Mental and Behavioral Health

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The Administration will use regulatory levers to help increase access to behavioral health care, specifically through advancing mental health parity and decreasing barriers to medications for opioid use disorder.

- **Mental Health Parity:** The Administration plans to issue a [final rule](#) to implement the mental health parity provisions included in the Consolidated Appropriations Act of 2021. In July 2023, the Administration released the [proposed rule](#) including new requirements for plans and issuers regarding the use and application of nonquantitative treatment limitations (NQTLs) – non-numerical limits on the scope or duration of benefits for treatments, such as preauthorization requirements. An expected date of release for the final rule is not available.
- **Medication-Assisted Treatment (MAT)/Medication for Opioid Use Disorder (MOUD):** The Administration is considering multiple rules regarding the delivery of treatment and medications for OUD. After a second temporary rule extension was issued in November 2023, SAMHSA and the DEA plan to issue guidance on whether the agencies will make some of the COVID-19 telemedicine flexibilities permanent. SAMHSA plans to issue a [final rule](#) that would make permanent some of the pandemic-era flexibilities for the prescription of controlled medications

including buprenorphine. The DEA indicates the agency may make changes to the temporary rules issued in November and return to proposed rulemaking on this issue ([DEA](#), [DEA](#)).

DEA is also expected to release a [final rule](#) to clarify the use of electronic prescriptions to dispense controlled substances. In January, the DEA plans to issue a [final rule](#) implementing provisions of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act of 2018. This rule would expand the number of eligible practitioners authorized to prescribe FDA-approved medications for treating OUD and adjust the governing provisions on the dispensing of controlled substances from a pharmacy to a practitioner. The agency, in partnership with the Department of Justice, is also expected to release a [final rule](#) by the end of the year to allow emergency medical services (EMS) registrants to transport controlled substances and provide additional guidance on the handling of those substances.

Additionally, the Administration plans to release several additional proposed rules impacting MOUD. The DEA is planning to issue two proposed rules on the role of pharmacies in dispensing controlled substances, including a [proposed rule](#) clarifying federal regulations of telepharmacy expected in May 2024 and a [proposed rule](#) establishing if pharmacists/pharmacy technicians are permitted to adjust prescriptions for schedule II-V controlled substances after the prescription is signed off on by a DEA registered provider. The latter is expected to be released before the end of the year.

- **Patient Confidentiality of Substance Use Disorder Records:** The CARES Act included changes to the statute safeguarding the confidentiality of substance use disorder (SUD) treatment records and authorized HHS to issue regulations to carry out these provisions. Per the CARES Act, the HHS Office of Civil Rights plans to issue a [final rule](#) that would: (1) align HIPAA Privacy, Breach Notification, and Enforcement Rules with specific provisions with 42 CFR part 2; (2) reinforce the safeguards within 42 CFR part 2 against the utilization and disclosure of patients' SUD records in civil, administrative, criminal, and legislative proceedings; and (3) mandate the inclusion of privacy practices related to 42 CFR part 2 records in the HIPAA Notice of Privacy Practices.

2. Drug Pricing

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The Administration remains committed to addressing high prescription drug costs and may release a new Center for Medicare and Medicaid Innovation (CMMI) model for drug pricing in Medicare or Medicaid.

- **CMMI Drug Pricing Model:** In February 2023, CMMI announced [three models](#) for addressing drug pricing incentives, including a Medicare high-value drug list model, a cell and gene therapy model in Medicaid, and an accelerating clinical evidence model in Medicare. CMS is expected to release a [proposed rule](#) in May 2024 for a mandatory alternative model, which may feature one of the models described earlier this year.
- **Medicaid Drug Rebate Program (MDRP):** In May 2023, CMS released a [proposed rule](#) that would establish new requirement under the MDRP, including a stacking of best prices and increased transparency requirements. CMS is expected to release the [final rule](#) in June 2024.
- **340B:** In December 2023, the Health Resources and Services Administration (HRSA) is expected to release the [final rule](#) to revise the 340B Drug Pricing Program Administrative Dispute Resolution (ADR) process. In the [proposed rule](#) released in November 2022, HRSA sought to recognize resource constraints of covered entities and make the process less burdensome.

3. Health IT and Digital Health

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The Administration plans to continue its work on improving the sharing of health information while promoting privacy and transparency.

- **Interoperability:** In June 2024, CMS plans to [finalize](#) the Administrative Simplification health care attachments [proposed rule](#) that enacts new standards for electronic claims and prior authorization. ONC had planned to follow the Health Data, Technology, and Interoperability: Certification Program Updates, Algorithm Transparency, and Information Sharing (HTI-1) [final rule](#) with a HTI-2 [proposed rule](#) focused on public health and interoperability in November 2023. It will likely be released in December 2023 or early 2024. The HTI-2 proposed rule will include feedback from a January 2022 [request for information](#) on electronic prior authorization in the Health IT Certification Program. Additionally, in May 2024, HHS will [propose](#) data exchange standards for certain categories of information required to be shared under applicable law for agencies operating Temporary Assistance for Needed Families, child support enforcement, child welfare services, and foster care and adoption programs.
- **Privacy:** The Administration will continue its efforts to improve the privacy and security of health data through the FTC, although there are not currently any specific rules planned. The FTC will also review and analyze public comments on potential updates to the [Children's Online Privacy Protection Rule](#) which may inform future rulemaking.

Additionally, the Office of Civil Rights (OCR) plans to [propose](#) modifications to the HIPAA Security rule to strengthen the cybersecurity of electronic protected health information (PHI), and [finalize](#) a rule to increase privacy protections for reproductive health information that will modify standards permitting use and disclosure of PHI.

4. Long-Term Care

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In alignment with [President Biden's Executive Order](#) on increasing access to high-quality care and supporting caregivers, the Administration will continue to issue regulations focused on improving oversight of long-term care facilities (LTCFs).

- **Increased Oversight:** CMS plans to [finalize a rule](#) establishing minimum staffing standards for LTCFs before a statutory deadline of September 6, 2026. Additionally, the rule requires states to report the percentage of Medicaid payments for certain Medicaid-covered institutional services that are spent on compensation for direct care workers and support staff. CMS will also [propose](#) new federal reporting requirements for certain covered entities in LTCFs when there is “reasonable suspicion” that a crime has been committed against a resident or an individual receiving care. The rule, expected in October 2024, will include procedures for enforcement activities including civil money penalties.

Relatedly, CMS will seek to improve oversight of accrediting organizations (AOs), prevent AO conflicts of interest, and improve transparency around quality and safety issues through a [proposed rule](#) expected before the end of 2023. While the rule will apply to AOs that accredit LTCFs, it will also apply to AOs more broadly, including organizations that accredit other types of health care providers and suppliers. OMB is currently reviewing the proposed rule.

5. Nondiscrimination Protections

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- **Conscience Rights:** The HHS Office of Civil Rights plans to issue a [final rule](#) intended to strengthen protections against conscience and religious discrimination for certain federally funded health care entities and providers ([proposed rule](#)). The proposal partially rescinds a [Trump-era final rule](#) that was held unlawful by three federal district courts. The final rule was slated for November 2023, but it is not at OMB for review as of this writing.

- **Disability:** In April 2024, the HHS Office of Civil Rights plans to issue a [final rule](#) that would protect against discrimination based on disability by recipients of financial assistance through HHS programs or activities ([proposed rule](#)). The final rule would revise regulations under section 504 of the Rehabilitation Act of 1973.

DOJ anticipates releasing a [proposed rule](#) in October 2024 to update the definition of disability and ensure that all Executive agencies are in compliance with anti-discrimination measures. DOJ also plans to [propose revisions](#) to its regulations under Title II of the Americans with Disabilities Act (ADA) to adopt standards set by the U.S. Access Board for Medical Diagnostic Equipment (MDE) in State and local government facilities. This move seeks to ensure that MDE is accessible to individuals with disabilities, which addresses a current gap in the ADA Standards and regulations. The [proposed rule](#) was expected in November 2023, but is yet to be released. Finally, DOJ aims to finalize regulations under Title II of the ADA to ensure the accessibility of websites and mobile applications offered by State and local government entities. The [final rule](#) is expected in April 2024.

- **Section 1557:** In January 2024, the HHS Office of Civil Rights plans to issue a final rule to reinstate and strengthen protections from discrimination in health programs and activities in Section 1557 regulations. The [proposed rule](#) strengthens protections against discrimination on the basis of sex, including discrimination on the basis of pregnancy or related conditions (including abortion) and discrimination on the basis of sexual orientation and gender identity. Covered entities of the proposed rule are recipients of federal financial assistance, HHS, and group health insurance issuers offering group or individual health insurance coverage that receive financial support.

C. Public Health and Safety

1. Public Health

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In addition to policies to improve access to health care, the Administration is also focused on lowering the risk of preventable diseases – particularly infectious diseases and smoking-related illnesses.

- **Emergency Preparedness:** In December 2023, CMS plans to issue a [proposed rule](#) that would revise and update national emergency preparedness requirements for Medicare- and Medicaid-participating providers and suppliers to plan adequately for both natural and man-made disasters, including climate-related disasters, and coordinate with federal, state, tribal, regional, and local emergency preparedness systems based on lessons learned during the COVID-19 public health

emergency and other recent events. OMB is currently reviewing the proposal. ASPR plans to issue a [final rule](#) that establishes the Health Resources Priorities and Allocations System, a new program that would support the acquisition of health resources, such as biological products, to promote the national defense ([proposed rule](#)). The final rule was slated for November 2023, and OMB is reviewing the proposal.

- **Infection Prevention:** OSHA plans to issue a [final standard](#) intended to protect healthcare workers from COVID-19 ([emergency temporary standard](#)). Notably, the highly anticipated final standard, now scheduled for December 2023, has been at OMB for review since December 2022. The Unified Agenda further delays OSHA's [proposed standard](#) to protect workers from long-standing infectious disease hazards (e.g., tuberculosis), as well as new and emerging infectious disease threats (e.g., pandemic influenza, COVID-19). The proposed standard is expected in June 2024, though it was initially slated for September 2023. It would apply to a broader group of workplaces, including health care settings, correctional facilities, homeless shelters, drug treatment programs, and occupational settings where employees can be at increased risk of infection.

Additionally, CDC plans to issue new rules regarding respirators: (1) a [proposed rule](#) in February 2024 to add a new class of respiratory protective devices; (2) a [proposed rule](#) in March 2024 to allow testing of a new respiratory fit capability test standard; and (3) and [final performance standards](#) in July 2024 for air-purifying particular respirators.

- **Tobacco Control:** As part of the Administration's [Cancer Moonshot](#), the FDA is pursuing an array of rules to [reduce tobacco use](#). First, FDA plans to issue product standards (1) to prohibit menthol as a characterizing flavor in cigarettes ([final rule](#) in March 2024); (2) to prohibit characterizing flavors in cigars ([final rule](#) in March 2024); and (3) to establish a maximum nicotine level in cigarettes and certain other combusted tobacco products ([proposed rule](#) in April 2024). Second, FDA plans to issue a [final rule](#) in April 2024 that would increase the minimum age of sale for tobacco products from 18 to 21 years of age, as required by the Further Consolidated Appropriations Act, 2020 (P.L. 116-94). Third, FDA plans to [finalize new requirements](#) in October 2024 to assure the protection of public health related to the manufacturing, registration, advertising, and importation of tobacco products ([proposed rule](#)). Relatedly, FDA plans to release a [proposed rule](#) in October 2024 that would allow FDA to administratively detain tobacco products during inspections of manufacturers or other establishments that the FDA believes are adulterated or misbranded. Lastly, FDA plans to release a [proposed rule](#) in January 2024 that would allow FDA to more effectively and efficiently identify e-cigarettes and other electronic nicotine delivery system products imported into the United States.

- **Gun Violence Prevention:** The Department of Justice (DOJ) forecasts releasing multiple regulations related to gun violence prevention. At least five of them are part of the implementation of the Bipartisan Safer Communities Act. Of these, three are pending: [NPRM](#), [NPRM](#), [NPRM](#). A fourth specifies what it means to be a firearms dealer and is expected to be released as a [final rule](#) in April 2024. A [fifth](#) incorporates new statutory provisions into Department firearms regulations and was finalized in November 2023. Also related to firearm violence prevention, two additional regulations pertaining to residency requirements for individuals acquiring firearms were finalized in [November](#) and [December 2023](#).

2. Drug Development and Safety

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The FDA intends on finalizing proposals related to National Drug Code format and nonprescription drugs, while releasing proposed rules to address regulation of laboratory developed tests and product recall regulations.

- **Laboratory Developed Tests (LDTs):** In April 2024, the FDA is expected to [finalize](#) the [proposed rule](#) to make explicit that LDTs are devices under the Food, Drug, and Cosmetic Act that are subject to FDA regulation.
- **Nonprescription Drug Product with Additional Condition for Nonprescription Use:** By April 2024, the agency is expected to release the [final rule](#) addressing requirements for nonprescription drug products with an additional condition for nonprescription use (ACNU). The June 2022 [proposed rule](#) asserted that such regulations would allow consumers to appropriately self-select or use nonprescription drug products without the supervision of a healthcare practitioner.
- **National Drug Code Format:** The FDA is expected to issue a [final rule](#) by August 2024, to standardize the format of all National Drug Codes (NDCs), which would include NDCs being 12-digits in length with three distinct segments: labeler code, product code, and package code.
- **Product Recalls:** The FDA intends on releasing an [advanced notice of proposed rulemaking](#) to seek comments, research, information, data, and responses from stakeholders to inform the modernization of product recall regulations. The expected release date was November 2023, but it is not yet at OMB for review.

3. Housing

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The Department of Housing and Urban Development (HUD) plans to issue an array of proposed rules in support of the [Administration's policy agenda](#) to lower housing costs and expand access to affordable rent and home ownership. HUD's forthcoming regulations also seek to reduce evictions and improve programs aimed at addressing homelessness.

- **Affirmatively Furthering Fair Housing:** The Affirmatively Furthering Fair Housing [rule](#) is expected to be finalized in December 2023. Comments were accepted during the spring of 2023.
- **Reducing Evictions:** A [proposed rule](#) that would create a 30-day notification requirement before eviction procedures begin is currently open for comments through January 30, 2024. A separate [rule](#) is expected to be finalized in June 2024 that pertains to the timeframes that tenants facing eviction in public housing and properties must have to receive emergency rent relief during public health emergencies thus preventing unnecessary evictions.
- **Affordable Housing:** A [proposed rule](#) is forecasted to be released in December 2023 that would streamline project requirements in HUD's HOME Investment Partnership Program to improve the production and maintenance of affordable housing for both home ownership and rental housing. A [separate rule](#) is expected to be released in January 2024 that aims to improve the financing available for insured affordable multifamily project loans. Section 8 regulations can be complex. Given this, a [proposed rule](#) is expected in May 2024 that would standardize regulations and contracts in order to reduce regulatory complexities in Section 8 project-based rental assistance programs that provide Housing Assistance Payments (HAP).
- **Making Housing Counseling Services More Accessible:** A [rule](#) is expected to be finalized in June 2024 that will modernize the housing counseling services funded through HUD to expand the options available to clients including virtual and/or telephone meetings rather than solely in person.
- **Housing Protections & Violence Against Women:** A [proposed rule](#) from HUD is expected in January 2024 that will implement the Violence Against Women Act within federal housing programs.
- **Equity, Housing & Criminal Justice:** A [proposed rule](#) from HUD that would expand access to public housing and rental assistance for individuals who have criminal histories but do not pose a threat to other residents continues to be forecasted. Housing helps individuals with criminal

justice system involvement successfully integrate back into society. A separate [proposed rule](#) would remove criminal conviction tester restrictions for the Fair Housing Initiatives and Fair Housing Assistance Program grantees. [Comments](#) are currently being accepted through January 2, 2024 and the final rule is expected in April 2024.

- **Access for Persons with Disabilities:** A [notice of proposed rulemaking](#) is expected in March 2024 that will seek public comments on whether HUD should adopt a national accessibility standard to ensure that multifamily housing is designed and constructed in a manner that is accessible for individuals with disabilities as required by the Fair Housing Act.
- **Non-Discrimination:** HUD anticipates releasing a [proposed rule](#) in February 2024 to update its regulations that ensure nondiscrimination on the basis of disability in all programs and activities receiving federal financial assistance. The regulations have not been updated since 1988.
- **Safe Lead-Free Housing:** Two proposed rules pertain to HUD's efforts to protect young children from lead-based paint which is known to have long term negative health impacts. The [first rule](#) is expected in April 2024 and would expand lead safety protections to include zero bedroom dwellings built before 1978. The [second rule](#) pertains to the same protections and is also expected in April.
- **Homelessness:** HUD expects to propose two rules that will help address homelessness and to finalize a third. The first of the [proposed rules](#) would shape the [Continuum of Care Program](#); the second [proposed rule](#) would alter the [Emergency Solution Grants Program](#). Both are expected in June 2024. HUD expects to finalize a third [rule](#) by March 2024 that addresses the use of federal properties to help homeless individuals.
- **Climate:** HUD anticipates publishing a [proposed rule](#) by July 2024 that will update HUD requirements to comply with the National Environmental Policy Act and other environmental laws.

4. Nutrition

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- **Summer EBT Program:** A [proposed interim final rule](#) that is part of establishing a permanent Summer EBT Program and codifying flexibilities for rural areas is anticipated by December 29, 2023. The program was created as a temporary program during the COVID-19 pandemic and made permanent by the Consolidated Appropriations Act at the end of December 2022.

- **SNAP Work Requirements:** A [proposed rule](#) is anticipated to be released in May 2024 regarding SNAP work requirements for able bodied adult without dependents. The changes will primarily impact individuals who are homeless, veterans, and foster care youth.
- **SNAP Benefits and Energy Assistance:** A [final rule](#) is expected to be released in April 2024 that will require select states to make an allowance for utility assistance in their SNAP determinations, including the Low-Income Home Energy Assistance Program (LIHEAP). A second [rule](#) that would standardize State Heating and Cooling Utility Allowances is also expected to be finalized in April 2024.
- **Child Nutrition Standards:** FNS anticipates publishing a [final rule](#) in April 2024 to make school meals more nutritious. The rule will finalize long-term school nutrition standards based on Dietary Guidelines and stakeholder feedback.
- **Front-of-Package Nutrition Labeling:** A [proposed rule](#) from the FDA is expected in June 2024 that would require certain nutrition information to be displayed on the front of food labels. The rule is intended to help address the obesity epidemic by helping consumers quickly and easily identify healthy foods. It is also intended to encourage the food industry to produce healthier foods. Similar labeling approaches are used in other parts of the world.
- **Clarifying What “Healthy” Means:** A [second FDA rule](#) is anticipated to be finalized by April 2024 updating the definition of “healthy” so that it aligns with current nutrition science and federal dietary guidelines. This rule is intended to help consumers make healthier, more-informed food choices. Comments on the rule were accepted until February 2023.
- **Updating WIC Food Packages:** A [final rule](#) is anticipated in April 2024 that will revise WIC food packages including aligning them with the 2020 Dietary Guidelines for Americans.
- **Equity:** In January 2024, FNS anticipates publishing a [proposed rule](#) to modernize SNAP terminology to make it more inclusive and equitable by removing stigmatizing terminology and utilizing person-first language instead. This proposed rule aligns with a January 2021 [Executive Order](#) on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. A separate [proposed rule](#) is projected to be finalized in September 2024 with a focus on improving access and parity within a range of nutrition programs including SNAP. Comments on that rule closed in October 2023.
- **Race & Ethnicity Data Collection:** Of note, USDA finalized a [rule](#) in October 2023 preventing states from using visual observation to collect race and ethnicity data from SNAP program

applicants who choose not to provide this information. The final rule aligns SNAP regulations with current federal policy.

- **Quality Control:** FNS plans to continue to advance multiple rules to help ensure quality in nutrition programs. This includes a [proposed rule](#) to strengthen SNAP's quality control system that is likely to be finalized in 2024. Comments on that proposed rule closed in late November. A second [proposed rule](#) slated for November 2023 seeks to ensure quality in the Child and Adult Care Food Program and Summer Food Service Program.
- **Replacing Stolen SNAP Benefits and Increasing Security to Protect Them:** A [final rule](#) is expected in September 2024 that will establish regulations requiring states to replace SNAP benefits that are stolen through various fraudulent means. Additionally, a [rule](#) is expected by October 2024 that will require state agencies to implement new card security measures to protect against card skimming, card cloning, and other fraudulent efforts to steal SNAP benefits.
- **WIC & Baby Formula:** A [final rule](#) codifying the Access to Baby Formula Act of 2022 was released in December 2023 and will take effect in 60 days. The rule adds requirements to state infant cost containment contracts, establishes waiver authority for the Secretary of Agriculture to use in emergencies, disasters, and supply chain disruptions that impact WIC, and requires WIC state agencies to have disaster plans to ensure WIC access to baby formula.

5. Economic Opportunity

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The Administration plans to pursue rulemaking to promote economic opportunities for families.

- **Temporary Assistance for Needy Families (TANF):** A [final rule from ACF is expected in April 2024](#) that aims to strengthen the TANF program in alignment with President Biden's [Executive Order](#) on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. It is part of the Biden-Harris Administration's effort to advance economic growth through investment in American families and intends to address the current shortcomings in which TANF serves less than 25 percent of eligible families compared to 70 percent in 1997.
- **Economic Opportunities for Low and Very Low-Income Persons:** HUD anticipates that a [final rule](#) will be published in March 2024 that will amend HUD regulations in order to better advance economic opportunities for low and very low-income persons and eligible businesses.

- **Childcare:** Multiple rules seek to improve childcare including access, affordability, quality, and workforce. ACF anticipates releasing a [final rule](#) April 2024 that would update the Child Care and Development Fund (CCDF) regulations to increase access to quality childcare for families using subsidies. The rule will address enrollment, provider payment rates, and more. Another [proposed rule](#) focuses on supporting the Head Start workforce, plus the program more broadly. It is currently open for comments through January 19, 2024.
- **Data Equity:** The Office of Management and Budget (OMB) closed a comment period in October 2023 on proposed rules aimed at enhancing public trust in federal statistical agencies including the production of timely, credible, accurate, and objective statistical information. A [final rule](#) is expected in January 2024.

6. Immigration

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The Administration plans to pursue rulemaking intended to support immigrants, people seeking asylum, and refugees and unaccompanied children.

- **Public Charge:** DOJ intends to issue a [proposed rule](#) in May 2024 to establish consistent substantive standards for addressing the public charge ground of inadmissibility irrespective of the agency handling a particular noncitizen's case.
- **Asylum:** DOJ intends to address several immigration issues in 2024, including a [proposed rule](#) expected in June 2024 to modify or rescind regulatory changes governing bars to asylum eligibility and procedures finalized in 2020, and a [proposed rule](#) expected in January 2024 to clarify definitions for fair and efficient asylum determinations to help in adjudication of claims made by applicants whose claims fall outside of the rubric of the protected grounds of race, religion, nationality, or political opinion, such as people who have suffered or fear domestic violence.
- **Refugees & Unaccompanied Children:** A [final rule](#) from ACF is expected to be finalized in April 2024 that will update the Refugee Resettlement Program including removing outdated provisions in the unaccompanied refugee minors program and refugee medical and cash assistance program. A separate [final rule](#) is also expected to be finalized in April 2024 and would establish the regulatory framework for the Unaccompanied Children Program with the intention of codifying protections and service delivery. A third [final rule](#) that is expected by May 2024 will implement part of the Violence Against Women Reauthorization Act to apply to facilities that house unaccompanied immigrant children. This rule is intended to prevent, detect, and respond to sexual abuse and sexual harassment involving unaccompanied children.