
Greenstein: Trump COVID-19 Executive Actions Woefully Inadequate, Legally Dangerous

CBPP today released a statement from Robert Greenstein, president, on the Trump Administration's executive actions addressing COVID-19 relief:

President Trump's new executive actions should deeply concern all Americans. They fall dramatically short of responding effectively to the enormous need across the country due to COVID-19 and the deep recession. And, by bypassing Congress on major budget and tax decisions and trying to override federal laws on the use of federal funds, they weaken our democracy by shredding longstanding norms of governance and potentially violating the Constitution.

When negotiations between top Administration officials and congressional leaders of both parties over the next economic relief package began last week, Democrats stood behind the House-passed, \$3.4 trillion Heroes Act while the White House and Senate Majority Leader Mitch McConnell proposed a \$1 trillion package (keeping its price tag low by leaving out nutrition assistance, rental assistance, and more than a very small amount of fiscal relief, and by cutting federal unemployment benefits by two-thirds). After several days of talks that reportedly prompted some concessions on both sides, however, the White House assumed a "my way or the highway" hard line, insisting that the package not exceed \$1 trillion. The White House apparently decided to derail the negotiations to set the stage for Trump's executive actions (which, based on the President's press conference today, appears to be motivated in part by political calculations related to his re-election campaign).

That we have reached this point is a national tragedy. The executive actions raise serious legal issues and may not withstand legal challenge. Nor is it clear that the Administration actually can implement them — in particular, that it can secure the funding and use the funds as the executive actions direct. Of note is the requirement that states pay 25 percent of the \$400-a-week unemployment benefit supplement that the Presidential directive claims to provide — even as today's executive actions provide *no* fiscal relief to states despite the massive pandemic-driven budget shortfalls they face. With most of the limited funding that the CARES Act provided to states through the Coronavirus Relief Fund already spoken for, the 25 percent requirement will force states to choose between letting the federal supplemental unemployment benefits end entirely and slashing other parts of their budgets — likely including laying off teachers, health care workers, and others — to find the funds for the new match while balancing their budgets at the same time, as virtually all states are legally required to do.

And even if every state could find new money to cover 25 percent of these unemployment benefit costs, the benefits apparently would run out after about six weeks. The Presidential directive calls for using up to

\$44 billion in Federal Emergency Management Agency (FEMA) funds for the 75 percent of costs that the federal government would cover, an amount that would be exhausted sometime in September.

Beyond that, the executive actions leave enormous gaps that only a bipartisan legislative package can address.

For starters, the executive actions provide no new funds for testing, contact tracing, and other measures to combat the spread of COVID-19. And, although nearly 30 million adults reported that their households didn't have enough to eat during the week ending July 21st, Census estimates show, today's actions contain nothing for food assistance.

In addition, state and local governments face enormous budget shortfalls due to COVID-19 and the recession, as noted above, and many of them have delayed implementing draconian budget cuts as they awaited the outcome of White House-congressional negotiations over the next economic relief package, which was widely expected to include significant new state fiscal relief. Instead of providing such relief, however, the executive actions make this problem worse by trying to pressure states to put up billions of dollars to help finance the supplemental unemployment benefits. States will now have little choice but to proceed with severe budget cuts, likely including cuts in programs that provide basic services for tens of millions of people.

The executive actions also offer no help for schools, which face substantial new costs to make their facilities safe when they can open and to facilitate effective online learning when students attend school online, in whole or in part. Not surprisingly, the actions provide no funds for the beleaguered U.S. Postal Service or for safeguarding the integrity of the coming elections (which also may help explain why the White House apparently sought to avoid a deal).

Even in areas that the executive actions cover, they are woefully inadequate. Millions of Americans are behind on rent, and the President claimed at his press conference that he is extending the federal evictions moratorium and providing rental assistance. But the executive order on housing does *neither*. It merely directs the Housing and Urban Development (HUD) Secretary to take legally permissible steps to help people avoid eviction or foreclosure, and the order notably doesn't include extending the evictions moratorium in its list of actions for HUD to consider. Similarly, the order simply asks the HUD and Treasury secretaries to try to identify any federal funds that the Administration could use to provide financial assistance to renters and homeowners, implying that the White House hasn't yet been able to identify funds that they can legally tap for this purpose.

The use of these executive actions, as compared to a bipartisan legislative agreement, also will damage the economy. The notion that a several-month deferral of payroll taxes will significantly aid the economy is laughable. Employers and workers will still owe the taxes and have to pay them at a later date, so they will be reluctant to spend the money now and, in turn, help stimulate the economy. Moreover, employer decisions on hiring and investment will be driven by the demand for the goods and services they produce, not whether they owe these taxes now or later.

COVID-19 and the deep recession have caused deep and widespread hardship and, due to longstanding inequities, Black, Latino, immigrant, and Indigenous communities have been hit especially hard. The failure to enact measures to substantially reduce hardship and bolster the economy will make racial disparities, which the pandemic and recession already are exacerbating, even starker.

To all of these shortcomings and gaps, add the enormous uncertainty that the executive actions will create because they are legally suspect and because of serious questions about whether the Administration actually can implement aspects of them.

There simply is no shortcut to the hard work of crafting a bipartisan economic relief package that meets the needs of a reeling economy, struggling families, and cash-strapped states and localities. And under our constitutional system, the President and Congress together — not the President acting alone — have the power to appropriate funds and decide how to use them. The President cannot substitute executive actions for congressional action and cannot, acting unilaterally, provide the strong help that families and the economy need.

To help a nation suffering through one of its gravest crises in many decades, the White House should withdraw the executive actions, return to the negotiating table, and do what's needed to reach the deal that our nation so badly needs.

#

The Center on Budget and Policy Priorities is a nonprofit, nonpartisan research organization and policy institute that conducts research and analysis on a range of government policies and programs. It is supported primarily by foundation grants.