



Responding to Federal Changes to the Individual Market: State Options

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Agenda: Federal Changes & State Options

- Federal Changes Affecting Individual Market
 - Repeal of individual mandate
 - Opportunity to offer skinnier, less expensive plans: proposed rules on Short-term Limited Duration Health Plans and Association Health Plans
 - Defunding CSRs and cutting advertising and outreach
 - Impact of uncertainty on rates
- State Options to Stabilize
 - State individual mandate
 - Reinsurance
 - Responses to short-term plans

State Individual Mandate

Tax Bill's Repeal of Individual Mandate

- The tax bill repeals the ACA's individual mandate penalty, effective January 1, 2019
- CBO estimates 10% premium increase, 13 million lose coverage
- Massachusetts' mandate, included in 2007 health reform, is still in effect

Option: States May Consider a Mandate

- Replaces federal policy
- Favorable fiscal calculus
- Tool for limiting substandard plans
- Expands 1332 options by improving baseline
- Manageable implementation

Key Statutory Elements of State Mandate

- Mandate legislation
 - Definition of qualifying coverage
 - Exemptions
 - Penalty amount
- Mechanism for granting certain exemptions
- Reporting by coverage providers
- Notification of uninsured about coverage options (optional)
- Special considerations for states with no income tax

Reinsurance

Overview

- Reinsurance is efficient mechanism for spreading the costs of high cost enrollees
- Temporary Federal reinsurance program kept premiums down for first three years of ACA
- Three states were approved for 1332 reinsurance waivers in 2017 (AK, MN, OR), several considering in 2018
- Elimination of mandate penalties for 2019 will build pressure for premium relief, especially for unsubsidized individuals
- Congress considering a second round of federal funding for reinsurance

Benefits of Reinsurance

- Proven track record of reducing premiums by guaranteeing carriers don't face large losses
- Increased insurer participation
 - insurer participation declined when federal reinsurance ended
- Reduced market volatility

Overview of Three Approved 1332 Waivers

	Alaska	Minnesota	Oregon
Approval Date	7/11/17	9/22/17	10/19/17
Reinsurance Type	Condition Based	Attachment Based	Attachment Based
Targeted Premium Reduction	20%	20%	Approximately 7%
Reinsurance Funding			
2018 Total Reinsurance Program Funding¹	\$60 M	\$271 M	\$90 M
Federal Pass Through Funding for 2018	\$58 M	\$131 M	\$54M
2018 State Funding Required (after pass through funding)	\$2 M	\$140 M	\$36 M
Percent of Program Covered by Federal Dollars²	97%	48%	61%
Authorizing Legislation	Reinsurance Program; Health Ins. Waivers. HB 374. 29th Legis., 2nd Session	Minnesota Premium Security Plan. Chapter 13, HF 5, 90th Legis., Regular Session	Enrolled. HB 2391. 79th Leg, 2017 Regular Session

1) These amounts are set by the states, which have the flexibility to decide on the size of reinsurance program, typically based on what percentage of premium reduction they have targeted. 2) If state uses all of the federal funds to replace state dollars, this is the percentage of the total program covered by federal dollars.

Primer on State Planning for 1332 Application

- Market assessment
- Scale of program
- State financing
- Legislative approval
- Infrastructure
- Timeline
- Federal funding

Early planning positions states to influence federal policy and to respond successfully to federal policy shifts

Short-Term Limited Duration Health Plans

Key Provisions of Proposed Regulations on STLD Plans

- Reverses 2016 rule's 3-month duration limit
 - Return to pre-ACA definition (policy less than 12 months)
 - Renewable (but with medical underwriting)
- Revises consumer disclosure to say
 - Coverage not required to comply with ACA
 - No eligibility for SEP
 - Not MEC (potential mandate penalty in 2018)
- Effective date – 60 days after final rule
- Comments due April 23

STLD Plans: Potential Impacts

- Impact compounded by zeroing out mandate penalty
- Smaller, sicker individual market enrollment
 - HHS estimates 100-200k enrollment loss; Urban Institute estimates 2.1 million
 - Higher premiums for ACA-compliant plans
 - Higher federal outlays for APTCs (\$96-\$168M estimate)
 - Fewer plan choices
- Consumer-level impacts
 - Young, healthy get cheaper options (if unsubsidized)
 - Old, sick, or seeking comprehensive coverage pay more
 - Increased financial liability if get sick, injured
 - History of deceptive marketing tactics

Issues, Implications for States

- States retain primary role as regulator of STLD plans
- Comments requested on
 - Effective date
 - Appropriate duration for STLD policies
 - Conditions for renewal & reapplication
 - Any estimates of impact on STLD and ACA-compliant markets, including premiums and federal APTC spending

State Options to Protect Markets and Consumers

- Protect market stability*
 - Ban outright
 - Require compliance with all individual market rules
 - NY, NJ
 - Require compliance with selected individual market rules, i.e., benefit mandates, underwriting limits
 - RI, AR
 - Limit duration, renewability
 - OR, CO, IN
 - Minimum MLR
 - RI
 - Require contributions to reinsurance

*Depending on state, some options can be implemented administratively, some will need legislation.

State Options to Protect Markets and Consumers

- Improve consumer disclosures & increase oversight
 - Monitor, respond to deceptive marketing
 - See e.g. consumer fraud alerts in IN, IA, AK, WY
 - Secret shopper scans
 - Require more, better consumer information
 - i.e. prominent disclosures on marketing materials, broker websites

Looking Ahead

What Will Individual Market Looks Like?

- Will Trump Administration efforts return individual market to pre-ACA days?
 - Some states working to hasten that evolution while other states push back
 - Growing divergence among states in approaches and outcomes
- Idaho presents interesting challenge
 - Will allow sale of plans that skirt ACA rules and do not meet benefit or rating requirements
 - State says it is still “substantially enforcing” the ACA
 - Will federal regulators step in?
 - Litigation likely

Prospects for Federal Market Stabilization

- Potential inclusion of stabilization measures in omnibus appropriations bill by end of March?
 - Collins-Nelson would provide \$4.5 B over two years for grants to help states establish reinsurance programs
 - Alexander-Murray would fund cost sharing reductions
 - Impact of funding CSRs after carriers loaded them into rates - refunds to government?
- Timing critical as carriers must decide whether to stay (or enter into) market and file rates by early summer
- Willingness to help “fix” the ACA?
- Blue Cross Blue Shield Association warns rates could increase 27% on benchmark plans in 2019 without stabilization measures

Q&A



Thank You

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