issues

Bipartisan Compromise on Healthcare: Are We There Yet?

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As open enrollment season begins and we see double digit increases in premiums on the exchanges again this year, efforts to shore up the ACA marketplaces are in full swing on Capitol Hill. At the same time, after several failed repeal-and-replace attempts in Congress, we've seen an Administration take matters in their own hands, determined to undermine the law—if not legislatively, then through regulations and administrative authority. Let's recap the flurry of activity in recent weeks:

October 12, 2017. President Trump announced an Executive Order that provides a pathway for less comprehensive, cheaper plans on the exchanges, including the expansion of association health plans (formed by groups of small employers) and short-term, limited duration plans (i.e. catastrophic plans). While the Administration is asking HHS to issue regulations around these "skinnier" options, and it could be some time before we see these options on the marketplaces, this move could be very significant, essentially segmenting the market and driving healthier, less expensive individuals away from exchange plans, leaving sicker, more vulnerable consumers with higher and higher premiums.

Later that evening, the White House announced it would immediately end cost-sharing reduction (CSR) payments used to subsidize healthcare costs for low-income individuals on the exchanges. The legal battle around CSRs has been playing out in the courts since 2014, with some arguing that the payments are illegal because they were not appropriated by Congress. Recent analysis from the Congressional Budget Office (CBO) predicts significant premium increases in 2018 and beyond as insurers attempt to cover the cost of the reductions and some consider leaving the marketplaces all together.

October 17, 2017. The following week, Chairman and Ranking Member of the Senate Health, Education, Labor, and Pensions Committee (HELP), Senators Lamar Alexander (R-TN) and Patty Murray (D-WA), announced a bipartisan bill designed to provide temporary stability in the marketplaces. Key tenets of the Alexander-Murray proposal include: 1) continued funding for CSR payments through 2019; 2) restoration of ACA enrollment funding through 2019, and 3) section 1332 waivers support, which allow states to implement their own health programs as long as they meet thresholds for coverage and affordability that are similar to those achieved under the ACA.

Yet despite early support for this bipartisan compromise among both Democrats and Republicans in the Senate, President Trump has signaled a singular focus on tax reform, suggesting there's no real path forward for this stabilization package. The proposal would also likely face an up-hill battle in the House where Speaker Ryan has said he does not support the bill and remains focused on repeal and replace. On October 25, the CBO released an initial impact analysis of this proposal, citing a deficit reduction of nearly $4 billion through 2027. Even with that news, the likelihood of this bill to move on its own appears slim; the most likely path for this proposal to become law, if at all, will be tacking it on to a "must pass" end of year funding bill.

Regardless of how—or when—the short-term stabilization package moves, the Administration's announcement to end the CSR payments has already made an impact. Early estimates show that premiums for a silver-level plan in 2018 will increase 34 percent, higher than the average 25 percent increase we saw in 2017, and not all enrollees will qualify for the premium tax credits used to offset these market increases. Without CSR payments, insurers will likely continue to consider exiting ACA exchanges in many states, leading to states with fewer options and a generally volatile marketplace. For those battling chronic illnesses, especially cancer patients, efforts by the Administration to loosen regulatory requirements around comprehensive coverage and decisions to end critical funding streams to assist insurers to provide meaningful coverage for the costliest consumers is particularly troubling and will mean higher cost plans and fewer options in the long term.

And, amid all this uncertainty, the open enrollment period for exchange plans has been scaled back to 45 days under the current Administration, with many organizations predicting hundreds of thousands fewer sign-ups this year due to the uncertainty and confusion about the fate of the ACA. Open enrollment runs November 1 through December 15, 2017.

Stay tuned—but maybe don't hold your breath—for any legislative progress on the bipartisan market stabilization bill. Are we there yet? Not quite. OI

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