SPECIAL REPORT

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HEALTH INSURANCE

The State Group and Individual Health Plans

AFTER MONTHS of failed tries by Congressional Republicans to eliminate the Affordable Care Act, President Trump in October stepped in with two sweeping changes that are reverberating throughout the health insurance system.

The main order he issued immediately eliminates subsidies that are paid to health insurers that participate in government-run exchanges to reduce deductibles and copays for lower-income customers buying individual and family policies.

Executive Orders that May Affect Group Plans

- One tries to expand the use of health reimbursement accounts, into which employers contribute funds that employees can to purchase health coverage on the open market.
- The other would allow employers to band together to create "association" plans, which would offer plans that are not as comprehensive as dictated by the ACA.

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While some pundits say the move will create chaos in the individual market, they differ on the likely fallout for group policies.

Cost-sharing fallout

Nineteen states have already sued to challenge the cost-sharing reduction subsidies, saying the ACA does not appropriate funding for the subsidies and hence they are illegal. Without them, insurers will likely have to significantly increase their premiums or pull out of the health insurance exchanges.

While the order means many people purchasing plans on the individual market will see drastic rate hikes, the order doesn't directly affect group plans.

The American Benefits Council, a national trade association based in Washington, D.C. that advocates for employer-sponsored benefit plans, said that the move to cut off the subsidies could spur some insurers to increase their fees for large employer plans in order to make up for the lost revenue in the individual market.

"Employers rely on a healthy and viable individual health insurance marketplace, since an unstable market could result in further cost-shifting from health-care providers to large employer plans," the council said.

But that sentiment is not universal. We expect nominal increases in premiums in 2018.

Expanded use of HRAs

Another part of the executive order directed the Departments of Treasury, Labor, and Health and Human Services to study ways to expand access to Health Reimbursement Accounts (HRAs) and the ability of businesses to offer them to their workers.

HRAs reimburse employees for out-of-pocket medical expenses not covered by insurance. Funds are put into the accounts pre-tax. Currently, the ACA bars employers with 50 or more employees from using HRAs to reimburse employees for purchasing health insurance on their own. Smaller firms can use them, but the law sets limitations on how.

Any changes that might be made would not be immediate as the rule-making process takes time. So there would be no changes to the law for plans incepting on Jan. 1, 2018

Association plans

Trump also ordered regulators to start work on new regulations that would allow small businesses to band together to buy insurance across state lines, and for those plans to be considered part of the large-group market for pricing purposes.

Unfortunately, these types of plans have not fared well in the past and currently six states have laws on the books that allow insurers to sell across state lines. The problem

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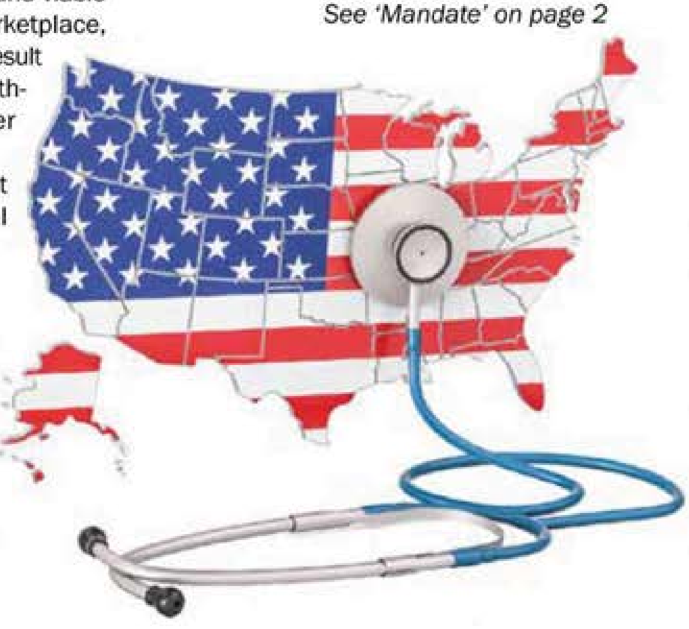

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Affordable Care Act Indvidual Mandate Under Attack

is that insurers have to spend significant sums to expand their networks into new areas and contract with local doctors, hospitals and groups.

And despite those six states having these laws, "No state was known to actually offer or sell such policies," the National Conference of State Legislatures said in a new report released in October.

Individual market and exchanges

Unfortunately, while the group market is stable, the individual market is going through a state of upheaval due to the repeated efforts by the GOP to repeal the law and the Trump Administration's actions.

Already, many insurers have been spooked by the uncertainty and have dropped out of participating in ACA marketplaces.

The ACA requires insurers to reduce cost sharing (deductibles and copays) in silver-level plans for marketplace enrollees with incomes below 250% of the federal poverty line. Until now, insurers have relied on offsetting payments from the federal government to provide this feature.

These payments amounted to $7 billion for fiscal year 2017, $10 billion for 2018 and will reach $16 billion by 2027.

However, the Trump administration in August moved to end the controversial payments to the insurance industry designed to encourage carriers to remain in the ACA exchanges. These payments – known as "cost-sharing reduction payments," or CSR payments – were not authorized in the original law as passed by Congress in 2010.

In May 2016, a federal judge ruled the payments illegal U.S. House of Representatives vs. Burwell, Civ. Action 14-1967), prompting the Trump administration's decision to halt them.

In the absence of these payments though, millions of Americans could wind up paying more for health insurance on the exchanges.

An estimate from Avalere Health indicates that the loss of these federal subsidies would translate into a 20% premium increase in exchange plans. A survey has already found that the most popular ACA exchange plans are seeing an average premium increase of 34% for 2018.

Following the Trump administration's decision to halt the payments, a group of 18 state attorneys general promptly sued to force the government to continue making the CSR payments to insurers pending an appeal, but lost their bid in in a federal court on Oct. 25, when a judge ruled that the administration likely had the stronger legal argument.

Individual mandate under attack

After efforts to repeal the ACA failed in Congress, some Republicans are now pushing to include a repeal of the individual mandate.

Doing so would save the government $416 billion over a decade, which could be used to offset tax-rate cuts in the GOP's tax overhaul legislation. Repealing the mandate would result in increasing the number of people who are uninsured, thus cutting federal spending on subsidies for insurance coverage, according to the Congressional Budget Office.

If the legislation eliminating the individual mandate is signed into law, pundits predict that the bottom would fall out of the marketplace structure.

The political outlook

In the Senate, Lamar Alexander (R-Tenn.) and Patricia Murray (D-Wash.) have introduced a bipartisan bill authorizing continued CSR payments for 2018 and the following two years. The bill also restores $105 million in advertising and outreach programs that the Trump administration cancelled.

This compromise bill appears to have backing in the Senate, where Senator Chuck Schumer claims it has the support of all Senate Democrats and at least 12 Republicans, which would give it the 60 votes needed to overcome a filibuster.

At present there isn't much happening in the House of Representatives.

At any rate, even if the Alexander-Murray compromise bill is signed into law, it would be too late to affect health insurance premiums for 2018. Insurers have already set their premiums, state and federal regulators have approved premiums and plans, and open enrollment period for 2018 is already at hand.