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April 4, 2017

Commentary: How the Trump Administration Might Sabotage ACA Insurance Markets

By Sarah Lueck

President Trump says the Affordable Care Act (ACA) is "exploding right now" and predicts a "very bad year," with insurer pullouts and large premium increases in many states' individual health insurance markets. In reality, health insurance markets are generally stable under the ACA, as analysts such as the Congressional Budget Office have noted,[1] and insurers' financial situation has improved.[2] A key question, though, is whether Trump will take more steps to sabotage the ACA and the individual health insurance market — on top of his extremely troubling actions to date.

The President issued an executive order January 20 directing federal agencies to begin dismantling the ACA "to the maximum extent permitted by law" by delaying or granting exemptions from ACA provisions. During the final week of open enrollment for 2017 plans, when there is a typically a rush of sign-ups (especially among younger consumers), the Administration halted planned advertising. Enrollment had been running ahead of the prior year but then dropped, ending up slightly lower than the prior year.

The Administration has also proposed rule changes that it says would promote market stabilization but would likely discourage enrollment and undermine stability. Two of them — cutting the open enrollment period for 2018 in half and requiring more paperwork from people seeking individual-market coverage after losing job-based coverage — could deter healthier people from participating. In addition, the proposed changes would allow insurers to raise cost-sharing charges, which would also reduce premium tax credits for many moderate-income people by

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1 "Congressional Budget Office Cost Estimate: American Health Care Act," Congressional Budget Office, March 13, 2017, https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/americanhealthcareact.pdf.

2 Deep Banerjee, "The ACA Individual Market: 2016 Will Be Better Than 2015, But Achieving Target Profitability Will Take Longer," S&P Global Ratings, December 22, 2016, https://morningconsult.com/wp-content/uploads/2016/12/12-22-16-The-ACA-Individual-Market-2016-Will-Be-Better-Than-2015-But-Achieving-Target-Profitability-Will-Take-Longer.pdf.

reducing the value of their plans, likely depressing enrollment because coverage would be less attractive and less affordable.[3]

In the weeks and months to come, it will become clear whether the Administration will further undermine the ACA and the individual health insurance market. Here are signs to watch out for:

1. The Administration stops making cost-sharing reduction payments to ACA marketplace insurers. The ACA's cost-sharing reductions lower deductibles, copayments, and other out-of-pocket charges for more than 6 million low-income enrollees in marketplace plans.[4] But they have been the subject of a legal battle since 2014, when House Republicans filed a lawsuit arguing the Obama Administration lacked authority to fund them. With the legal case on hold under an agreement between the Trump Administration and the House, the question is what will happen next.

President Trump could continue making payments as he has done so far, and House Republicans could drop their lawsuit, reducing a key source of uncertainty for insurers. Or, President Trump could halt these payments or leave open the possibility of doing so in the future, leading to significant premium increases and insurer pullouts for 2018.[5] A key date to watch: May 22, when the House and the Administration are due to provide a status update on cost-sharing reductions to the court.

2. The Administration weakens the ACA's mandate for individuals to have coverage or pay a penalty. As the recent debate over the House Republican health care bill showed, eliminating the individual mandate would have a large, detrimental impact on coverage and the stability of the individual insurance market. As soon as people no longer have to pay a penalty for being uninsured, the market will start losing healthier enrollees, which would push up premiums by 15-20 percent for everyone else the following year. Significantly weakening (rather than eliminating) the mandate would have similar harmful effects.

The individual mandate remains in force, but after the President's ACA executive order, the IRS abandoned plans to tighten reporting of health coverage this tax-filing season, leading to a flurry of media coverage that likely confused the public and made some think the individual mandate is no longer in effect.[6] That alone could have undermined market stability by leading some healthier people not to enroll in coverage and appears to have caused some skittishness in the insurance industry. Dominant Iowa insurer Wellmark Blue Cross & Blue Shield announced it would not offer

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[3] Aviva Aron-Dine and Edwin Park, "Trump Administration's New Health Rule Would Reduce Tax Credits, Raise Costs, For Millions of Moderate-Income Families," CBPP, February 15, 2017, http://www.cbpp.org/research/health/trump-administrations-new-health-rule-would-reduce-tax-credits-raise-costs-for.

[4] Sarah Lueck, "Interactive Map: Cost-Sharing Subsidies at Risk Under House GOP Health Bill," CBPP, March 21, 2017, http://www.cbpp.org/blog/interactive-map-cost-sharing-subsidies-at-risk-under-house-gop-health-bill.

[5] If the Administration ceased making cost-sharing reduction payments, insurers could sue and likely would eventually recover the amounts owed. However, that process would be lengthy and would likely cause uncertainty in the marketplace while the lawsuit was pending. See comments from David Super in Jonathan Curry, "House Republicans Won't Drop ACA Lawsuit, Ryan Says," Tax Notes, March 31, 2017.

[6] Tara Straw, "IRS: ACA's Coverage Requirement Still in Effect," CBPP, February 16, 2017, http://www.cbpp.org/blog/irs-acas-coverage-requirement-still-in-effect.

new individual-market plans in the state in 2018, and CEO John Forsyth cited, in part, the Administration's decision "not to enforce" the penalty.[7] It will be important to see if the Administration takes further adverse steps related to the mandate.

3. The Administration takes other actions that will reduce enrollment in ACA plans, particularly among healthier people. As noted, the Administration's proposed rule changes would likely weaken market stability by shrinking enrollment and making the pool of people with coverage sicker, on average.[8] The rule could be finalized in coming weeks. In addition, there is a serious risk that the Administration will not invest adequately in ACA-related outreach and enrollment. It is critical that consumers receive needed information before open enrollment and have access to navigators and other assisters for help in applying. The Administration also must ensure that the enrollment process at the HealthCare.gov website goes as smoothly as possible. Lack of information and assistance for consumers, or a glitchy enrollment process, could lead eligible people — especially healthy ones — to stay out of the market due to frustration. And concerns that this will be the case could lead issuers to raise premiums or withdraw from the marketplace for 2018.

4. The Administration continues to sow uncertainty among insurers. Uncertainty among insurers leads to higher premiums, as companies try to protect themselves by building in higher "risk premiums." Insurers are deciding right now whether and where to offer individual-market plans for 2018, as well as what their premiums will be, ahead of a June 21 deadline to submit information about those plans to the federal marketplace (a number of states have earlier rate-filing deadlines). If they think they will lose cost-sharing reduction payments, it could mean higher premiums. So could lingering uncertainty about whether the individual mandate will be enforced, or whether consumer outreach and enrollment efforts will be robust. Continued talk of possibly reviving legislative efforts to repeal the ACA also breeds uncertainty that is likely to lead insurers to propose higher rates than they otherwise would or to stop offering individual-market plans.[9]

Also, Health and Human Services Secretary Tom Price promised during the debate over the House health care bill to make rule changes that would cheer ACA opponents, but he has provided no details, leading to even greater uncertainty for insurers. This, too, could cause insurers to raise premiums or decide not to participate, further weakening the marketplaces and the individual market.

The ACA remains the "law of the land" for the foreseeable future, as House Speaker Paul Ryan put it after the House Republican health care bill failed. President Trump must decide whether to allow the law to continue to make its historic progress in reducing the ranks of the uninsured or to halt or reverse that progress.

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[7] Tony Leys, "Wellmark to halt sales of individual health insurance policies," *Des Moines Register,* April 3, 2017.

[8] Sarah Lueck, "Trump Health Rule Would Raise Consumer Costs, Discourage Enrollment, Weaken Marketplaces," CBPP, February 15, 2017, http://www.cbpp.org/blog/trump-health-rule-would-raise-consumer-costs-discourage-enrollment-weaken-marketplaces.

[9] Aviva Aron-Dine, "To Help Stabilize the Individual Health Insurance Market, Take ACA Repeal off the Table," Center on Budget and Policy Priorities, April 4, 2017, http://www.cbpp.org/research/health/to-help-stabilize-the-individual-health-insurance-market-take-aca-repeal-off-the.