Sabotage and Uncertainty Jeopardizing ACA Marketplaces, Insurers and Regulators Confirm

At the start of this year, the Affordable Care Act (ACA) marketplaces were poised for greater stability and success going forward. Unfortunately, initial 2018 individual market rate filings — along with statements from insurers and state regulators — show that sabotage by the Administration, and uncertainty created by both the Administration and Congress, is taking a toll.

Below is a collection of insurer and state regulator comments from across the country highlighting how Trump Administration sabotage and the threat of ACA repeal are increasing premiums and jeopardizing insurer participation for 2018. We'll update this page as additional insurers and state regulators comment.

California

Paul Markovich, President and CEO of Blue Shield of California (*Los Angeles Times*, May 18, 2017)

> *"'All this uncertainty is not helpful,' warned Blue Shield of California Chief Executive Paul Markovich, who said health plans were being forced to make plans to raise premiums to account for the turmoil, jeopardizing Americans' coverage."*

Markovich (Vox, May 8, 2017)

> *"It's pretty clear we need more certainty to be able to file the rates assuming we get those federal payments. Short of that, we'd have to assume they're not being paid."*

Dave Jones, California's State Insurance Commissioner (Memo to California insurers, April 24, 2017)

> *"In light of all the actions taken by the Trump Administration and House Leadership to undermine the ACA, I expect that health insurers will consider filing significant rate increases for 2018. Further, I am concerned that this needless uncertainty may, in some cases, cause insurers to leave markets entirely."*

Colorado

Marguerite Salazar, Colorado's State Insurance Commissioner (*Denver Post*, July 14, 2017)

> *"I believe that the dubious situation at the federal level has contributed to the premium increase requests we've seen from the companies."*

Salazar (*Los Angeles Times*, May 18, 2017)

> *"In Colorado, where most consumers continue to have multiple insurance choices, commissioner Marguerite Salazar said the Trump administration threatens the whole market. 'My fear is it may collapse,' she said."*

Connecticut

ConnectiCare spokesperson (Modern HealthCare, May 10, 2017)

> *"ConnectiCare, one of two insurers selling individual plans in Connecticut, requested to increase rates by 15.2% on average. A spokeswoman for the company, which is a subsidiary of New York insurer EmblemHealth, said the proposed rates reflect legislative and regulatory uncertainties surrounding the 'weakening of the individual mandate' and the funding for cost sharing reduction subsidies, as well as higher medical and pharmacy costs and increased utilization."*

Katherine Wade, Connecticut's State Insurance Commissioner (CBS News, May 9, 2017**)**

> *"The uncertainty that is driving the rates this year is how strictly the Internal Revenue Service is enforcing the individual mandate."*

Delaware

Trinidad Navarro, Delaware's Insurance Commissioner (Statement, June 14, 2017)

"Highmark's [Blue Cross Blue Shield of Delaware] proposed rate increase reflects the fact that the Federal Government could cut funding for the ACA by discontinuing cost-sharing reduction subsidies. Cost-sharing reduction subsidies are passed on to insurers to assist lower income individuals and families. In addition, it is unclear whether the ACA individual mandate will be enforced next year. If the Federal Government fails to live up to its obligations under the law, insurers will likely continue to exit the Marketplace."

Iowa

John Naylor, CEO of Medica (*Washington Post*, May 12, 2017)

- *"'It is challenging to stay focused on our mission to provide access to high-quality affordable health care when there's noise around the system and a lack of clarity of rules,' said John Naylor, chief executive of Medica, who called the amount of uncertainty being thrown at insurers at the moment unprecedented."*
- *"We have to build brand recognition and we have to get in and serve the members, but first and foremost we need a set of rules to be able to design products and price products, so that we can properly quantify the risks. So, as we went into these markets, there were pretty clear rules in a given year: Here's how the market works. And then, all of a sudden, the rules changed."*
- *"Our goal is to be in these communities, and the interesting thing of being a nimble, regional health plan is we're kind of agile and nimble in terms of going with the punches. Who would have thought a month ago, we'd be sitting here?"*

Geoff Bartsh, Vice President of Medica (*Des Moines Register*, May 3, 2017)

"Bartsh said Congress isn't helping the situation by continuously arguing over how to change rules in midstream while insurers are trying to figure out their rates for 2018. When asked what advice he would have for current Medica customers in Iowa, Bartsh replied, 'call your elected officials.'"

John Forsyth, Chairman and CEO of Wellmark (Statement, April 3, 2017)

"While there are many potential solutions, the timing and relative impact of those solutions is currently unclear. This makes it difficult to establish plans for 2018."

Maine

Eric A. Cioppa, Superintendent of Maine's Bureau of Insurance (Quoted in *New York Times*, June 4, 2017)

"The uncertainty is extremely problematic. If they don't get a subsidy, I fully expect double-digit increases for three carriers on the exchanges here."

Maryland

Chet Burrell, CEO of CareFirst (Bloomberg, May 9, 2017)

"'Failure to enforce the individual mandate makes it far likelier that healthier, younger individuals will drop coverage and drive up the cost for everyone,' Chet Burrell, chief executive officer of CareFirst, said in a statement. The insurer is asking for an at least 50 percent increase in premiums in Maryland. Burrell said uncertainty over the mandate played a 'significant role' in the insurer's rate requests."

Evergreen Health Inc. (Preliminary Rate Justification for 2018 Individual Commercial Products, May 2017)

"The primary drivers of the components of the proposed rate increases are uncertainty in 2018 market morbidity as a result of potential regulatory changes such as repeal of CSR subsidies and individual mandate."

Montana

John Goodnow, CEO of Benefis (*Billings Gazette*, July 7, 2017)

"Great Falls-based Benefis CEO John Goodnow said the lifespan of the Affordable Care Act has been shortened because insurance companies are pulling out of the exchanges 'because of all the fear that's been created over funding. All you have to do is threaten to defund the subsidies,' he said Thursday on a panel in Helena organized by the Montana Nurses Association to discuss the bill."

New Hampshire

Roger Sevigny, Commissioner of New Hampshire's Department of Insurance (*Concord Monitor*, May 16, 2017)

"There is significant uncertainty now about what the market environment is going to be in 2018 and beyond, including whether cost-sharing reductions will be fully funded by the federal government."

New Mexico

Martin Hickey, CEO of New Mexico Health Connections (Vox, May 8, 2017)

"Uncertainty breeds higher costs. We have to plan for the worst case scenario until it finally gets decided. We have a lot of things to focus on, we're grinding out hours over rates, and it doesn't help that people are running around with zombie bills."

North Carolina

Brad Wilson, CEO, Blue Cross Blue Shield of North Carolina (*Washington Post*, May 26, 2017)

- *"The failure of the administration and the House to bring certainty and clarity by funding CSRs has caused our company to file a 22.9 percent premium increase, rather than one that is materially lower. That will impact hundreds of thousands of North Carolinians."*
- *"We filed a 22.9 rate increase for 2018 based on the assumption that the CSRs will not be in place. The rate increase would be 8.8 percent if the CSRs were guaranteed for 2018. Because they are not, the rate is 22.9 percent."*

Brian Tajlili, Director of Actuarial and Pricing Services, Blue Cross Blue Shield of North Carolina (Blue Cross Blue Shield of North Carolina Blog May 25, 2017))

"[C]ost-sharing reductions have a big impact on North Carolinians. That became clear to our actuaries as we looked at proposed rates for 2018. If the federal funding continued, we would have filed an average increase of just 8.8 percent for 2018. That's a difference of almost 14 percentage points – similar to what's happening across the nation. A recent analysis by the Kaiser Family Foundation said that the average Silver plan premium would be 19 percent higher without cost-sharing reduction payments to insurers. If you look past the questions about cost-sharing reductions, you can see that the ACA market in North Carolina has become more stable. Blue Cross NC has a better handle on expected medical costs among ACA participants in our state, which include our company's 502,000 customers for 2017. An increase of 8.8 percent for next year would have been our lowest proposed rate increase since beginning ACA coverage in 2014."

Blue Cross Blue Shield of North Carolina (Actuarial Memorandum, 2018 Individual ACA Single Risk Pool Rate Filing, May 2017)

"We believe the Individual ACA market will contract in 2017 and 2018, and that this will have a deteriorating effect on the overall market risk. We believe this is the result of:

- *The elimination of Federal funding of CSR payments, which will significantly increase rates for many members that do not receive APTC premium subsidies. This will drive many healthier individuals to exit the market.*
- *Consistent messaging from Federal policymakers stating their intent to abolish the ACA coverage mandates. We believe this will embolden many healthier individuals to drop coverage, no longer fearing enforcement of the mandate penalty. "*

Oregon

Pat Allen, Director of Oregon's Department of Consumer and Business Services (The Bulletin, May 16, 2017)

"There is not a continued worsening of the cost of the market. So there are a lot of factors that will argue for fairly stable rates."

Laura Cali Robison, Oregon Insurance Commissioner (The Bulletin, May 16, 2017)

"We know there are still many unknowns facing insurers and consumers as we look ahead to 2018. Now that the filings are in, we will begin our vigorous review to ensure the proposed rate changes, including the potential impact of various sources of uncertainty, are actuarially sound and justified."

Pennsylvania

Pennsylvania Insurance Department (Press Release, June 1, 2017)

"Insurance Commissioner Teresa Miller today announced that the five health insurers that sell on Pennsylvania's individual market will stay in the market and filed plans for 2018 with aggregate statewide rate increases of 8.8 percent for individual plans and 6.6 for small group plans. However, Miller warned that these increases will be much worse if the federal government takes actions that would change the Affordable Care Act or its enforcement…

Commissioner Miller warned of the significant impact that action from the federal government to change the Affordable Care Act would have on insurers' aggregate proposed rate increases. If the individual mandate is repealed, insurers estimate that they would seek a 23.3 percent rate increase statewide. If cost-sharing reductions are not paid to insurers, the companies would request a 20.3 percent rate increase statewide. If both changes occurred, insurers estimate they would seek an increase of 36.3 percent."

Teresa Miller, Pennsylvania's State Insurance Commissioner, and the CEOs of Highmark, Geisinger, UPMC Health Plan, Independence Blue Cross, and Capital Blue Cross (Joint letter to Health and Human Services Secretary Tom Price, April 26, 2017)

- *"Despite these challenges [in prior years], working together over the past year, we have put our market on a path toward stability."*
- *"Specifically, the most immediate drivers of instability are the weakening of the individual mandate, the uncertain status of funding for the cost sharing reductions and the absence of funding for overall market stabilization measures."*
- *"The absence of certainty regarding market parameters, and in particular those with direct financial consequence, magnify the risks of market participation in a way that issuers and regulators cannot ignore."*

Tennessee

Julie Mix McPeak, Tennessee State Insurance Commissioner (Nashville Public Radio, July 11, 2017)

"This year, the problem they cite is federal uncertainty: It's unclear whether the federal government will keep paying out an Obamacare subsidy that covers part of the cost of insurance on the marketplace. 'If Congress were to appropriate that or if the administration would promise to pay those payments through 2018, the rate increases would go down.'"

Mix McPeak (*The Tennessean*, May 12, 2017)

- *"We're interacting with Congress. We're interacting with the Trump administration and you're hearing: 'It's HHS. It's (Office of Management and Budget). It's the Department of Justice. It's the president himself.' We don't know how to get our information, and at least the urgency of those funding mechanisms, to the right person that's making the decision. It's been hard for us."*
- *"I asked my colleagues at a meeting of insurance commissioners nationwide, and no one feels optimistic about the market if CSRs are not funded. We would prefer for funding of those cost-sharing reductions through '19. Again figuring out who gets to make that decision has been tough for us as regulators."*
- *"It's that instability, that uncertainty, the insurers hate the most. They are going to price for that."*

Blue Cross Blue Shield of Tennessee (Letter to State Insurance Commissioner, May 9, 2017):

- *"I'm pleased to report that, though still very early, our 2017 performance has improved due to a combination of better claims experience and a more sustainable rate structure based on the medical needs of the members we're serving."*
- *"Given the potential negative effects of federal legislative and/or regulatory changes, we believe it will be necessary to price-in those downside risks, even at the prospect of a higher-than-average margin for the short term, or until stability can be achieved. These risks include but are not limited to the elimination of Cost Sharing Reduction subsidies (CSRs), the removal of the individual mandate and the collection of the health insurer tax."*
- *"And, while we hope this is unnecessary, we reserve the right not to sign our QHP agreement in September in the event of any post-bid changes that destabilize the market and affect our risk exposure."*

Washington

Mike Kreidler, Washington State Insurance Commissioner (Press Release, June 19, 2017)

"There is a great deal of uncertainty underlying our country's health insurance system today and no state is immune. There are specific issues with our health insurance system that we need to address, such as the rising costs of prescription drugs and health care services. Yet, the current federal administration's actions – such as not committing to reimburse insurers for cost-sharing subsidies and not enforcing the individual mandate – appear focused only on destabilizing the insurance market. Sadly, it's the people in our communities and across the country who will pay the price."

Peter Adler, President of Molina Healthcare in Washington (*Los Angeles Times*, May 18, 2017)

"If the federal government's full CSR funding commitments are in jeopardy, we believe that the viability of the exchange market is in immediate jeopardy of failing."

Mike Kreidler, Washington State Insurance Commissioner (Statement, April 25, 2017)

"An analysis by my office projects that failure to approve the [cost sharing reduction] payments could cause individual health insurance rates to increase by 6 percent to 20 percent next year in Washington state. And the threat to withhold the payments adds to health insurers' concerns about the viability of the individual market and their future participation in it."

Association of Washington Health Plans and Mike Kreidler, Washington State Insurance Commissioner (Letter to Secretary Price, April 8, 2017)

- *"It is critical to maintain enforcement of the personal responsibility requirement in order to avoid premium increases and to ensure access to care for all residents. In Washington state, my office performed economic modeling based on actual purchasing data from 2016. This modeling predicts that weakening enforcement of the individual mandate will result in people abandoning coverage, especially younger, healthier individuals."*
- *Failure to secure ongoing funding of CSRs (rather than as an annual discretionary funding matter) results in uncertainty year after year regarding funding, compounded by the timing of appropriations decisions made long after issuers are required to file their rates for the upcoming year. Fully funding CSRs will continue to ensure affordable health coverage options for lower income enrollees and a stable marketplace for issuers."*

Comments from Major National Insurers

Cori Uccello, Senior Health Fellow, American Academy of Actuaries (Statement, July 12, 2017)

"During the early transition years to the ACA marketplaces, the uncertainties that drove premium changes in the individual market were inherent to insuring unknown populations under untested market rules. While more has become known about the ACA market, the continued rise in health care costs and increased uncertainty surrounding the market rules are some of the major factors driving premium changes for 2018."

Carl McDonald, Senior Vice President at HCSC, Marketplace Insurer in Illinois, Montana, New Mexico, Oklahoma, and Texas (Axios, May 23, 2017)

"'We still would've been profitable [without one-time cost reductions for 2017],' said Carl McDonald, HCSC's divisional senior vice president of treasury and business development. 'It's really been the individual [market] business that's driven the turnaround this year.' … McDonald would not say what the company was doing for 2018, as rate filing deadlines approach and uncertainty lingers around the ACA's cost-sharing subsidies for low-income people. 'At this point, it's hard to say,' he said."

Cathryn Donaldson, Spokesperson for America's Health Insurance Plans (*New York Times*, May 22, 2017)

"We need swift action and long-term certainty on this critical program [CSRs]. It is the single most destabilizing factor in the individual market, and millions of Americans could soon feel the impact of fewer choices, higher costs and reduced access to care."

National Association of Insurance Commissioners (Letter to Mick Mulvaney, May 17, 2017)

"On behalf of the nation's state insurance commissioners, the primary regulators of U.S. insurance markets, we write today to urge the Administration to continue full funding for the cost-sharing reduction payments for 2017 and make a commitment that such payments will continue, unless the law is changed. Your action is critical to the viability and stability of the individual health insurance markets in a significant number of states across the country."

Joseph Swedish, Chairman and CEO of Anthem BlueCross BlueShield (CNBC, April 26, 2017)

"We are notifying our states that if we do not have certainty that CSRs [cost-sharing reduction payments] will be funded for 2018 by early June, we will need to evaluate appropriate adjustments to our filing," Swedish said. Those adjustments could include resubmitting higher rates increases, "or exiting certain individual ACA-compliant markets altogether."

J. Mario Molina, then-CEO of Molina (Letter to congressional leadership, April 27, 2017)

"If the CSR [cost sharing reduction payments] is not funded, we will have no choice but to send a notice of default informing the government that we are dropping our contracts for their failure to pay premiums and seek to withdraw from the Marketplace immediately. That would result in about 650,000 to 700,000 people losing insurance coverage in 2017, and we would not participate in Marketplace in 2018 resulting in over 1 million Americans losing health insurance coverage."