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Short-Term Health Insurance

On August 1, 2018, under the direction of President Donald Trump, the United States Departments of Health and Human Services, Labor, and Treasury issued a final rule expanding access to short-term health insurance plans. Short-term health plans are limited-duration, non-renewable insurance intended to provide health insurance for individuals experiencing a temporary gap in coverage, such as a period between employment or before employer-sponsored insurance goes into effect. Under the rule, short-term health plans are available for a longer duration (from three months to a year) and with easier means of renewal.

Short-term health plans are typically narrow in scope and provide coverage for a limited set of medical conditions. They also generally come with financial limits on claims. Short-term insurance is not held to the consumer protections enacted by the Patient Protection and Affordable Care Act (ACA) and therefore do not offer protections against denial or loss of coverage based upon pre-existing health status.

The final rule followeds an executive order issued by the president on October 12, 2017, directing the agencies to explore the expansion of short-term health plans. Since then, state insurance regulators, the insurance industry, consumer groups, and other stakeholders have submitted comments and weighed the implications of short-term health plans on the marketplace and the consumer. On July 26, 2018, 11 states and the District of Columbia filed a lawsuit challenging the administration's plan to expand short-term health plans. On September 14, 2018, seven health industry organizations filed a lawsuit challenging the final rule, citing the impact on individuals with pre-existing conditions.[1] The final rule went into effect 60 days after the rule was published in the Federal Register.

Background

Most short-term plans are sold through association health plans,[2] although some are sold on the non-group market. Because short-term health plans are intended to be temporary in nature and limited in scope, the ACA exempts short-term health plans from the consumer protections put in place by the law. Short-term health plans typically do not cover essential health benefits such as maternity benefits, prescription drug benefits, preventive care, and mental health care. Because they are medically underwritten, short-term health plans may deny an individual coverage due to a pre-existing health condition or charge consumers higher premiums based upon their

[1] The Association for Community Affiliated Plans, the National Alliance on Mental Illness, Mental Health America, the American Psychiatric Association, AIDS United, and the National Partnership for Women & Families, and Little Lobbyists.
[2] Association health plans are health plans offered by small businesses who act as one large employer to offer health insurance to their employees.

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health. Such plans may also rescind coverage. If an individual becomes sick or injured while insured by a short-term health insurance plan, their illness or injury may not be covered by their insurance company and they may not be able to find coverage under a new plan. Lifetime and annual limits are also often imposed and short-term health plans are not subject to the same market requirements required of other health insurance plans under current law, making them more profitable for insurance companies than ACA-compliant plans.

Passage of the ACA significantly altered how short-term health plans could operate in the marketplace, limiting both their availability and scope. Prior to the ACA, federal law limited short-term health plans to a year. Consumers were also able to extend their contract with the consent of the insurance company. However, after full implementation of the ACA, evidence of adverse selection in the insurance marketplace promoted federal agencies to act to protect the ACA market.

Shortly after the implementation of the ACA, some consumers began to shift to short-term health plans to avoid the premiums associated with the ACA. In response to this trend and the risk it posed to the stability of the ACA marketplace, in 2016, the United States Department of Health and Human Services issued a rule limiting the duration of short-term health plans from a year to three months. The rule also put in place prohibitions against extensions or renewals of coverage and required clearer consumer notices for shoppers. The rule went into effect in January 2017.

Short-Term Health Plans and the Insurance Marketplace

Because of their affordability and the coverage provided, short-term plans tend to attract and benefit younger and healthier consumers, drawing away these consumers from the ACA risk pool. Increases in short-term health plans are projected to cause adverse selection, leaving the ACA pool older and less healthy, potentially making plans more expensive. According to the Kaiser Family Foundation's (KFF) Subsidy Calculator for ACA-compliant plans, a 40-year-old male in St. Louis could pay as little as $38 a month for a short-term health plan. He would pay $281 a month for the most affordable plans available in the ACA marketplace.

There is also growing concern that short-term health plans may put consumers at greater risk of health care-related debt and worsened health and health outcomes due to delayed care. According to KFF, of the short-term health plans offered in Missouri, 50 percent offer mental health and substance abuse benefits, 25 percent offer pharmacy benefits, and zero offer maternity benefits. Individuals who lose their short-term coverage because they get sick or pregnant and are unable to get ACA-compliant insurance due to being outside of the enrollment window are left without health coverage and are likely to accumulate significant medical debt to seek treatment. They may also exacerbate their condition or delay critical care, such a pre-natal care, because of the associated costs.

Under the ACA, most Americans were required to purchase health insurance. Failure to do so resulted in a tax penalty called the individual shared responsibility payment. This penalty mitigated some of the negative effects of short-term health plans by offsetting the price difference between short-term and ACA-compliant insurance. However, in December 2017

Congress and the president approved a measure, the Tax Cuts and Jobs Act, eliminating the penalty from January 1, 2019, through January 1, 2026.

The expansion of short-term plans, coupled with the repeal of the individual mandate penalty, may further increase the number of healthy, young consumers leaving the ACA-compliant insurance market.

A May 2018 Congressional Budget Office (CBO) estimate found that removal of the individual mandate penalty could reduce ACA marketplace enrollment by 3 to 6 million between 2019 and 2021. The CBO estimate also found that eliminating the individual mandate penalty would result in initial premium increases by approximately 10 percent. The CBO and the Joint Center for Taxation (JCT) estimate that by 2023, approximately 6 million additional people will be insured in either an ACA-compliant plan or a short-term health plan. Of those new enrollees, approximately 2 million will be enrolled in short-term health insurance. The CBO and JCT estimate that during that same period, premiums will increase by 2 to 3 percent in the ACA market.

The Future of Short-Term Health Plans

While federal law largely shapes the nature of the short-term health insurance market, states may regulate the sale of short-term plans. Short-term health plans are currently prohibited in Massachusetts, New Jersey, and New York. Other states place restrictions on the duration of a contract plan or the length of total time a consumer may be covered by a short-term health plan.[3]

Missouri currently does not restrict the sale of short-term health plans beyond what is restricted by federal law. During the 2018 session of the Missouri General Assembly, legislation was introduced that would allow consumers to purchase short-term plans with a duration of up to 364 days. Because the measure did not pass the legislature, Missouri continues to be directed by federal law.

For some insurance companies, the profitability of short-term plans continues to make them attractive. Other proponents of the plans cite an increasing need for affordable health insurance and options, especially for consumers living in states with few ACA marketplace choices and who do not benefit from the subsidies provided by the ACA. Consumer groups and other stakeholders cite the inadequacy of short-term plans as a form of health insurance and assert that expansion of the product will worsen health outcomes and access to care.

Analysts project that the combined effects of the temporary repeal of the individual shared responsibility payment and the expansion of short-term health insurance will result in destabilization of the ACA insurance marketplace. The individual shared responsibility payment was an important feature of the ACA law that was meant to create large, diverse risk pools for insurers and as a result would help restrain costs for consumers. Without the mandate, some consumers may choose to not be insured or may choose more affordable options, such as short-

[3] Arizona, California, Colorado, Nevada, Oregon, Minnesota, Michigan, Wisconsin, North Dakota, South Dakota, New Hampshire, Maine, and Connecticut.

term health plans, that are not considered to be comprehensive health care coverage. Thinner, less diverse risk pools increase the chances that costs will rise for consumers. The expansion of the short-term health plans, coupled with the repeal of the individual shared responsibility payment, may also create a perverse incentive for healthier and younger consumers to leave the ACA marketplace altogether in pursuit of more affordable, but less comprehensive options, or forego coverage altogether.

The expansion of short-term health plans also has the potential to negatively affect health care debt carried by individuals. According to the American Bankruptcy Institute, following the enactment of the ACA, bankruptcy filings decreased by approximately 50 percent. Individuals who are temporarily covered by a short-term plan and experience illness or injury may be left without coverage due to their inability to access comprehensive coverage and therefore financially liable for large, unmanageable costs associated with their care. Individuals who are not experiencing immediate illness may also put off critical preventive care, ultimately leading to higher long-term health care costs.

As state policymakers and other stakeholders examine ways to expand access to affordable health coverage to more Missourians, the risks of short-term health plans to the insurance markets and to individual health must be considered to fully assess the impact of the option.

Endnotes available upon request