



COUNCIL FOR AFFORDABLE
HEALTH COVERAGE

Response to Energy and Commerce Questions

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Committee on Energy and Commerce, Subcommittee on Health
Hearing on “Strengthening Our Health Care System: Legislation to Lower
Consumer Costs and Expand Access”

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The Honorable Michael Burgess, M.D. (R-TX)

- 1. Mr. Weiske, you note in your written testimony that “reinsurance is not a panacea” and that “it doesn’t change the fundamentals of the risk pool nor make the market healthier.” The bill that I introduced this week would allow states to use the available funds for reinsurance, but also for services such as maternity coverage and newborn care, promoting participation in the markets, and reducing out-of-pocket costs for patients. What are the benefits of coupling reinsurance with other efforts to reduce costs and improve quality of care for patients?***

This is exactly the point. The individual health insurance market remains a residual market – it is a market for people who do not have access to any other health insurance coverage. This means the market faces more adverse selection issues (i.e. people waiting until they develop a health condition to get coverage and/or dropping coverage when treatment is complete). Pre-ACA, these individuals were typically covered through other arrangements like high risk pools that ensured risks were shared equally.

In the post-ACA world, few of these arrangements exist. Guaranteed issue and community rating have made coverage more accessible, but not more affordable. The result has been rising costs both in the form of higher premiums and increasing consumer cost sharing. Reinsurance has been one tool that helps mitigate the cost for consumers. And while lower premiums can help attract a few more favorable risks to the pool, it doesn’t solve the problem.

States like Iowa have realized that the nature of subsidies and the cost of insurance have provided little value for the young and healthy consumers. Iowa’s proposed 1332 waiver would have substantially changed subsidies in the state to better attract a healthier risk pool that would drive overall exchange premiums downward.

Unfortunately, the current market functions much like a virtual high risk pool that largely attracts poor risks. In order for the individual market to move back to sustainability, the individual market needs a more balanced risk pool. Consumers who have opted out of the market need to again find value in rising prices and higher cost sharing. In short, Congressman Michael Burgess, M.D. (R-TX)’s proposal increases the value of health insurance to those currently priced out of the market. It could help lead to a more representative and stable risk pool. This will in turn lead to lower overall costs for the market at large.

- 2. Exchange plans have grown increasingly out-of-reach for many Americans, especially those who are not eligible for any subsidies. Yesterday, Kaiser Family Foundation released an analysis that found “premiums for even the cheapest exchange plans are still out of reach for many middle class people who are not eligible for ACA subsidies.” Consumer choice is a critical***

part of the affordability discussion. In what ways Congress or the Administration act to increase the number of lower-cost health insurance options for Americans?

I think it is important to reinforce the fact that the insurance market continues to be regulated by the states where insurers also must be licensed. The states also maintain the critical role of reviewing the rates, forms, and network adequacy of insurance plans in addition to conducting market conduct examinations on insurance companies to ensure compliance, but also respond on behalf of consumers when problems arise. States also have oversight on the sale of plans, and of the agents who conduct those sales. As the former Deputy Commissioner of Wisconsin, I can assure you state insurance commissioners, and their staff take the issue seriously. Similarly, the legislators in Wisconsin and other states who set the rules for insurers to follow and they also take their job seriously. It remains important to allow states the flexibility to respond to the needs of their consumers.

With that preface, President Trump has taken the opportunity to allow states additional flexibility in a number of ways. A variety of states from all sides of the political spectrum have taken advantage of these tools to improve access that suits the needs of their population. :

- State Empowerment or 1332 Waivers – The Trump administration has clarified the interpretation of State Empowerment waivers, and provided clearer guidance to states on the process of applying for and receiving a 1332 Waiver. It is important to note that any state changes can not waive the consumer protections included in the ACA.
- Short Term Health Insurance Plans – The Trump administration has returned the regulation of these plans back to the states. The prior administration’s 3 month limit did create consumer issues when consumers missed the open enrollment deadline and needed coverage for most of the year. States, individually, need to see the effect on their market. As a result, state action has been varied. Some states have decided to go much further than federal law requires, and have decided to ban short term health insurance plans altogether. In other cases, states have taken advantage of the flexibility to expand the availability of short term health insurance plans. It is important that the regulation of these plans continues at the state level with states having the best understanding of their markets.
- Association Health Plans – While at this writing, federal courts have struck down the rule, the AHP rule was an attempt to expand access to insurance for small employers. Small employers have the least flexibility under the rules – indeed their health insurance plans largely must follow the same rules as the individual market – but are not required to offer health insurance. The proposed AHP rule arguably contains more stringent rules than the market-at-large including a requirement to provide guaranteed issue and community-rated group coverage to sole proprietors.

Again, it is important to note that all of these decisions were largely left to the states to regulate. And states continue to do what they traditionally do – function as “laboratories of democracy” – and take differing approaches. States may eventually move to a consensus on the best approach, or it might be their markets differ significantly enough that no consensus will emerge. I believe the best course of action is to let states continue to regulate their insurance market in this manner.

3. You mentioned in your testimony that most state exchanges lack adequate consumer accessibility and decision-support tools. I personally jumped through hoops when the Affordable Care Act went into effect and I chose my own plan off of healthcare.gov. It is difficult, even when you have a plethora of experience in both delivering health care and as a policymaker, to find a plan that you like and understand. In what ways do the state exchanges fail to meet or adapt to consumers' needs?

a. Will the state exchanges ever overcome those difficulties or are they structurally ingrained in the marketplace?

I think it is important to note that when we are talking about exchanges, we are talking about a website in which a consumer purchases health insurance coverage. The point of reference then isn't just whether or not the website delivers necessary information, but whether it provides a world-class customer experience on the website. Consumers can shop for thousands of products on Amazon's website – including products from other retailers serviced by Amazon – and the product integration is seamless. Netflix and Hulu allow consumers to sort through and view thousands of television shows and movies on multiple devices. This is the competition for the exchange, and this seamless experience is the expectation of the consumer..

This is a shifting target that requires a significant financial investment every single year. It requires constant updating of the underlying technology and updating of the consumer experience. There are very few government entities that can afford the long-term price tag of consistently rebuilding an exchange website to continually improve upon the customer experience.

Consumers should expect a one-stop shop from the exchange website when on average the exchange costs each consumer over \$140¹ per year. For that amount of money, consumers, agents, and insurers should be demanding more accountability. Unfortunately, in many ways the exchange serves as another regulator of the health insurance market making it difficult for anyone to demand accountability.

The study we conducted bears out these concerns. Since my testimony, we have issued another version of our report. It is located at:

<https://www.cahc.net/newsroom/2018/10/29/new-report-highlights-shortcomings-on-healthcaregov-state-based-exchanges-ahead-of-open-enrollment-season>

A few highlights from the report:

- More than half the exchanges (7) received a D or F—all of them state-based. There was one A, four Bs and one C. The average exchange website scored 71 out of a possible 100 on our composite index, and had 3 best-in-class shows.

¹ Assuming average monthly premium of \$400 month, over 12 months, and a 3 percent exchange fee.

- The DC Health Link’s exchange ranked first overall, scoring 92 out of a possible 100. DC Health Link was best-in-class in six of the eight primary features reviewed. Although DC’s exchange website offers an out-of-pocket cost calculator, the calculator does not directly factor in consumers’ specific prescription drug utilization.
- Healthcare.gov, the federally-facilitated exchange that serves 38 states, ranked fourth in our index, scoring 81 out of a possible 100. The federal exchange had four best-in-class showings. Key minuses included a rudimentary cost calculator—one based on a default order that prioritizes premiums alone rather than more important indicators of consumer value, such as expected annual out-of-pocket costs. These deficiencies can present a misleading view of the expected costs and benefits of plans to consumers.
- Variation in exchange composite scores indicate the consumer experience is uneven across the country, with an F (a 48) at the low end and a high of 92. This may reflect the varying levels of commitment (both political and financial) to public exchanges.
- Five exchanges—DC Health Link, Connect for Health Colorado, Healthcare.gov, Maryland Health Connection, Washington Healthplanfinder—offer both integrated provider and prescription drug directories. These features enable consumers to search and filter for plans based on key areas of suitability, such as the inclusion of preferred providers or the coverage and cost sharing corresponding to their prescribed medications.
- Four exchanges—Access Health CT, Covered California, Healthsource RI, Massachusetts Health Connector—offer integrated provider directories but not prescription drug formularies.
- Ten exchanges—Access Health CT, Connect for Health Colorado, Covered California, DC Health Link, Healthcare.gov, Healthsource RI, MNSure, Vermont Health Connect, Washington Healthplanfinder, Your Health Idaho—offer an out-of-pocket cost calculator, which provide consumers with a cost estimate of total annual out-of-pocket costs (premiums, deductibles, and cost sharing). However, the exchanges vary significantly in the factors considered for their cost estimates and the results provided to consumers. In the cost calculator category, none of the exchanges received an “A” grade for optimal decision-support.
- All insurance exchange websites, with the exception of Massachusetts Health Connector and Vermont Health Connect, now offer complete website translation services into Spanish with one click, including for the window shopping tool.

The technology gap between private exchanges and government-run exchanges will continue to widen. As insurers in all lines find new ways to interact with their customers, government entities face a variety of challenges including laws and regulations that become out dated, technology resource issues, and the general inability of any government to respond to market demands.