Statement for the Record

American College of Physicians

Hearing before the Senate Health, Education, Labor and Pensions Committee

On

Stabilizing Premiums and Helping Individuals in the Individual Insurance Market for 2018: Health Care Stakeholders

September 14, 2017

The American College of Physicians (ACP) applauds Chairman Alexander and Ranking Member Murray for convening a series of bipartisan hearings to improve and strengthen the individual insurance market to ensure that millions of patients continue to have access to critical health coverage into the future. We also appreciate the HELP Committee inviting input from the physician community during the legislative process and we support the adherence to regular order which provides a valuable opportunity for analysis, review and input by organizations and other stakeholders, by members of the Senate, and by independent and nonpartisan analysts.

ACP is the largest medical specialty organization and the second largest physician group in the United States, representing 152,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

ACP is pleased to offer the following recommendations on market stabilization with the strong belief that any reforms should first, do no harm to patients and actually result in improving access and quality of care.

ENSURING COST SHARING REDUCTION PAYMENTS

ACP believes that Congress must make a clear, immediate and unambiguous commitment to preserve the ACA's cost-sharing reduction (CSR) payments to insurers at least through 2019, and better yet, for the long-term. In 2016, about 6 million enrollees relied on CSR payments to help reduce the burden of co-payments, deductibles, and co-insurance. Without a guarantee that the CSR payments will be continued, many insurers will have no choice but to leave the exchanges or to raise premiums by up to 23 percent to make up the shortfall according to preliminary insurer rate filings for plan year 2018.[1] Insurers are deciding now whether they will be able to offer insurance through the exchanges for the 2018 enrollment cycle and several have already announced substantial premium increases because of the uncertainty over whether the CSR payments will continue. The Congressional Budget Office (CBO) has determined that gross silver plan premiums would increase by 20 percent in 2018 and 25 percent in 2020 compared to the March 2016 baseline if CSRs are not continued after 2017.[2] While enrollees who receive premium tax credits would be largely insulated from rate fluctuations, individuals who do not qualify for subsidized plans would be forced to pay the higher premiums or switch to less-expensive, off-marketplace plans. However, eliminating CSR payments would in fact cost the federal government $194 billion *more* over ten years according to the CBO.[3] Therefore, it is imperative that CSRs be preserved into the future.

ENCOURAGE REINSURANCE AND OTHER STABILIZATION EFFORTS THROUGH STATE WAIVERS

The College believes that the Department of Health and Human Services' (HHS) March 13, 2017 letter encouraging states to seek Section 1332 waivers for reinsurance programs was a step in the right direction. There is ample evidence that reinsurance can help to ensure that patients retain the coverage they have while protecting insurers from high costs. The ACA's temporary reinsurance pool ended in 2016 and was proven to be effective by HHS' June 30, 2017 report on transitional reinsurance payments and risk adjustment transfers for plan year 2016. That report showed that the ACA's

[1] http://www.kff.org/health-reform/issue-brief/an-early-look-at-2018-premium-changes-and-insurer-participation-on-aca-exchanges/

[2] https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/53009-costsharingreductions.pdf

[3] Congressional Budget Office. The Effects of Terminating Payments for Cost-Sharing Reductions. August 2017. Accessed at https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/53009-costsharingreductions.pdf

transitional reinsurance program stabilized insurers with a substantial amount of high-cost enrollees, and, in concert with the risk adjustment program, reduced the risk of adverse selection.[4] Alaska's reinsurance program has successfully reduced premium costs,[5] containing premium hikes to just seven percent, down from a projected 42 percent increase. Minnesota has also applied for a section 1332 waiver to help finance its reinsurance program. Congress can also embrace initiatives that have proven effective in the Medicare Part D program by establishing permanent reinsurance and risk corridor programs as well as emergency fallback protections to provide coverage when no plans are available in an area.[6]

Congress should consider additional policies to encourage state innovation and bring more choice and competition into insurance markets without rolling back current coverage, benefits and other consumer protections guaranteed by the ACA and other federal laws and regulations**.** Provided that coverage and benefits available in a particular state would be no less than under current law, Congress should encourage the use of existing section 1332 waiver authority to allow states to adopt their own innovative programs to ensure coverage and access. Section 1332 waivers offer states the opportunity to test innovative ways to expand insurance coverage while ensuring that patients have access to comprehensive insurance options. However, ACP believes that Congress should *not* weaken or eliminate the current-law guardrails that ensure patients have access to comprehensive essential health benefits and are protected from excessive co-payments and deductibles. If existing requirements were removed (e.g. that waivers provide comprehensive, affordable coverage that covers a comparable number of people as would be covered under current law), a backdoor would emerge for insurers to offer less generous coverage to fewer people and to make coverage unaffordable for patients with preexisting conditions. As long as a state's waiver program meets the

[4] Centers for Medicare and Medicaid Services. Summary Report on Transitional Reinsurance Payments and Permanent Risk Adjustment Transfers for the 2016 Benefit Year. June 30, 2017. Accessed at https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/Summary-Reinsurance-Payments-Risk-2016.pdf on July 6, 2017.

[5] Alaska Department of Commerce, Community, and Economic Development Division of Insurance. Alaska 1332 Waiver Application. December 7, 2016. Accessed at https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=106061

[6] http://www.commonwealthfund.org/publications/blog/2017/apr/shoring-up-the-health-insurance-marketplaces

ACA's standard of comprehensiveness at the same cost and level of enrollment, it can test a more market-based approach, or make other, more targeted revisions to continue existing state initiatives.

ENHANCE ENROLLMENT THROUGH PROMOTION AND ENGAGEMENT

ACP supports robust outreach to patients to encourage patient enrollment in health coverage. Congress should support and properly fund this outreach and other education efforts to avert declining enrollment that could lead to higher premiums and market destabilization. The administration's recent actions to cut marketing funding for advertising by 90 percent and cut navigator program grant funding by about 41 percent are steps in the wrong direction and are counter to the available evidence. Distressingly, the administration has also interrupted the current funding for the navigator program and it is unclear when the funding will resume.[7] With open enrollment starting November 1st and the administration already stating that the funding will *not* be retroactive, Congress must step in with its oversight authority to properly ensure that the navigator programs are properly funded.

ACP strongly believes that *more* intensive outreach and enrollment efforts will be needed because the open enrollment period for 2018 was considerably shortened. Many uninsured people remain unaware of marketplace-based coverage options and subsidies[8] and in 2017 marketplace enrollment declined after HHS prematurely ended its open enrollment publicity and outreach campaign. Evidence suggests that efforts such as enhanced television advertising can increase enrollment.[9] Curtailing funding for such advertising, as the administration is planning to do, will not only reduce overall enrollment, leading to more uninsured persons, but also lead to adverse selection (and higher premiums and federal premium subsidies) if younger and healthier persons to do not get the information needed to encourage and help them enroll. Therefore Congress must encourage the administration to redouble efforts to promote marketplace awareness and attract more people to shop and purchase the right coverage for them.

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[7] Cliff, Sarah. "This is the most brazen act of Obamacare sabotage yet." *Vox*, September 8, 2017. Accessed at https://www.vox.com/platform/amp/policy-and-politics/2017/9/8/16268572/trump-obamacare-navigators

[8] http://www.commonwealthfund.org/publications/blog/2016/jan/better-outreach-critical-to-aca-enrollment-particularly-for-latinos

[9] Karaca-Mandic P, Wilcock A, Baum L, Barry CL, Fowler EF, Niederdeppe J, Gollust SE. The Volume of TV Advertisements During The ACA's First Enrollment Period Was Associated With Increased Insurance Coverage. Health Affairs. 2017; 36(4):747-754. Accessed at http://content.healthaffairs.org/content/36/4/747 on June 13, 2017.

ENFORCE CURRENT-LAW REQUIREMENT TO PURCHASE A QUALIFIED HEALTH-PLAN

Not enforcing the insurance mandate penalty will lead directly to enrollment rates dropping among healthy enrollees who may be less inclined to purchase health insurance. Insurers would need to increase premiums to compensate for the resulting sicker risk pool. Insurance companies have already anticipated lax individual-mandate enforcement by the administration. For instance, the 2018 Maryland individual market rate filing for CareFirst stated that, "we have assumed that the coverage mandate introduced by ACA will not be enforced in 2018 and that this will have the same impact as repeal. Based on industry and government estimates as well as actuarial judgment, we have projected that this will cause morbidity to increase by an additional 20 percent".[10] The CBO predicts that while premiums are rising, tax credits that insulate enrollees from rising costs as well as the individual mandate "are anticipated to cause sufficient demand for insurance by enough people, including people with low health care expenditures, for the market to be stable in most areas." CBO also states that insurers withdraw from the market due to a variety of factors including, "substantial uncertainty about enforcement of the individual mandate and about future payments of the cost-sharing subsidies to reduce out-of-pocket payments for people who enroll in nongroup coverage through the marketplaces established by the ACA."[11]

Congress should avail itself of its oversight authority so that the administration effectively enforces the individual mandate under current law. Maintaining effective adherence helps balance the market's risk pool, attract healthier enrollees, and avoid dramatic premium rate increases. In addition, Congress should not enact any legislation to weaken or repeal the individual insurance requirement absent an alternative that will be equally or more effective. For example, automatic enrollment in a qualified health plan has been suggested by former CMS Administrator Andy Slavitt and former Majority Leader Bill Frist as an alternative to the individual insurance mandate; further analysis needs to be done by non-partisan experts, including the CBO, to determine if automatic enrollment is a viable alternative.

[10] CareFirst Blue Cross Blue Shield. Part III Actuarial Memorandum. Accessed at http://www.healthrates.mdinsurance.state.md.us/AllNewRateReq.aspx

[11] Congressional Budget Office. Cost Estimate of H.R. 1628 Better Care Reconciliation Act of 2017. June 26, 2017. Accessed at https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/52849-hr1628senate.pdf

ACP supports consideration by Congress of additional steps and incentives to encourage younger and healthier persons to enroll, such as targeted outreach and education programs, as long as they do not increase premiums and out of pocket costs for older and sicker persons or erode current law essential benefits and consumer protections.

ENACT LEGISLATION TO EXPAND INDIVIDUAL CHOICE IN THE MARKETPLACES

Currently, some exchanges have difficulty attracting enough insurers and some patients may have only one insurer from which to obtain coverage. Congress should enact a public option that would provide more options and increase competition. Several avenues exist to achieve a range of public options including a buy-in program for traditional Medicare and Medicare Advantage, Medicaid, and other publically funded health programs to offer real competition to private insurers in the marketplaces.

For instance, ACP supports the development of a Medicare buy-in option for people age 55-64. Older adults would have the opportunity to enroll in the popular Medicare program while potentially improving both the Medicare and ACA marketplace risk pools and driving down premiums. Specifically, ACP recommends that: 1) a Medicare Buy-in Program must include financing that assures that premiums and any subsidies are sufficient to fully cover expenses without further undermining the solvency of the Medicare trust funds; 2) a Medicare Buy-in Program should include subsidies for lower-income beneficiaries to participate; 3) Eligibility for a Medicare Buy-in Program should include adults age 55-64 regardless of their insurance status; 4) Enrollment in a Medicare Buy-in program should be optional for eligible beneficiaries and should include the full range and responsibilities of Medicare benefits (Parts A, B, Medicare Advantage and Part D); and 5) Reimbursement for services, including evaluation and management services, should be no less than under the traditional Medicare reimbursement rates.

The benefits of a Medicare Buy-in program, according to the American Academy of Actuaries, may expand patient access to providers and enhance the continuity of care for individuals changing over to

Medicare while at the same time helping to reduce premiums for individuals in the marketplace exchanges. [12]

USE EXISTING STATUTORY AUTHORITY TO ALLOW SALE OF INSURANCE ACROSS STATE LINES

ACP supports states using authority under existing law to permit the sale of insurance across state lines among states that have agreed to enter into a regulatory compact to protect patients. Without a robust regulatory structure that ensures that such plans meet existing essential benefit, community-rating, network adequacy standards, prompt claims payment and other consumer protections, the current evidence strongly suggests that selling insurance across state lines would not likely result in significant cost-savings while at the same could cause a "race to the bottom." Instead of pursuing new laws to sell insurance across state lines without such protections for patients, Congress should strongly encourage the administration to work with states to promote and support the development of interstate health insurance compacts as already authorized under Section 1333 of the ACA. While these compacts could potentially broaden choice of insurance options for patients while still maintaining crucial insurance regulations, benefit requirements, and other protections that characterize health plans under current law, it is unclear if many states or insurers are willing and able to sell insurance across state lines, and create the necessary regulatory compact structure to allow such sales. One limitation is that insurers typically negotiate market-specific contracts with physicians, hospitals and other providers of health care services; insurers located outside of a specific market would face challenges in having the relationships needed to negotiate effective contractual arrangements. Therefore, some caution is appropriate in considering the likely impact that selling insurance across state lines, under existing statutory authorities, will have on patient choice, access to care, and premiums.

BIPARTISAN PROPOSALS AT THE STATE LEVEL

ACP is encouraged by the broad discourse about the individual insurance market at both the state and federal level. Several bipartisan proposals, including those put forth by Gov. John Kasich (R-OH) and Gov. John Hickenlooper (D-CO) along with other state governors and the Bipartisan Policy Center can

[12] http://election2016.actuary.org/sites/default/files/Medicare-Buy-In-Option.pdf

further the discussion and contain some promising ideas. While ACP continues to study these proposals more closely, the College agrees that maintaining CSR payments and creating reinsurance programs should be the first steps in stabilizing the individual market. ACP also supports the overall concept of state innovation through Section 1332 waivers, including Congress possibly adding structural or procedural improvements to shorten the waiver process, as well as offering a public option, as described above. We also agree that funding for outreach and enrollment must be strengthened. However, ACP strongly believes that essential health benefits and other consumer protections (guaranteed issue and renewability, modified community rating) must be maintained at the federal level and would be concerned about efforts to give states the ability to modify or reduce these benefits.

CONCLUSION

The College would again like to sincerely thank Chairman Alexander and Ranking Member Murray for convening this hearing and for your shared bipartisan commitment to stabilizing the individual insurance market. We greatly appreciate the Committee inviting input from the physician community and the opportunity to provide recommendations on strengthening the health insurance market, and stand ready to work with the committee on the development of any reforms where our experience and expertise could be of value. Our hope is that the information shared today will provide the Committee with a clinician perspective and we welcome the opportunity to continue to work with you as you advance healthcare reforms through the 115th Congress. Please contact Jared Frost at jfrost@acponline.org with any questions or if additional information is needed.