



South Carolina

# Legislative and Regulatory Update

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- CSR Armageddon
- Nationwide stats in 2018 vs. 2017:
  - Total enrollment - 11.8M (2018) from 12.2M (2017)
  - New customers - 27% (2018) from 31% (2017)
  - Metal Levels
    - Catastrophic 1% (2018) 1% (2017)
    - Bronze **29%** **23%**
    - Silver **63%** **71%**
    - Gold **7%** **4%**
    - Platinum 1% 1%
  - Avg Premium pre-APTC: \$621 (2018) from \$476 (2017)



- Legal obligations (gov't and issuers)
  - Section 1402 of PPACA requires issuers to provide and government to pay

- Carrier Obligation

- (2) the issuer shall reduce the cost-sharing under the plan at the level and in the manner specified in subsection (c).

- Government Obligation:

- (3) METHODS FOR REDUCING COST-SHARING.—

- (A) IN GENERAL.—An issuer of a qualified health plan making reductions under this subsection shall notify the Secretary of such reductions and the Secretary shall make periodic and timely payments to the issuer equal to the value of the reductions.

- What is it?
  - Normal Silver is 70% AV plus or minus 4
  - CSR plans are 73, 87 and 94% - very rich benefits
    - 94% requires 34% Load
  - Average loads 15-25% for plans
  - Loading
    - Just Silver or all metal
    - Just On Exchange or All Plans

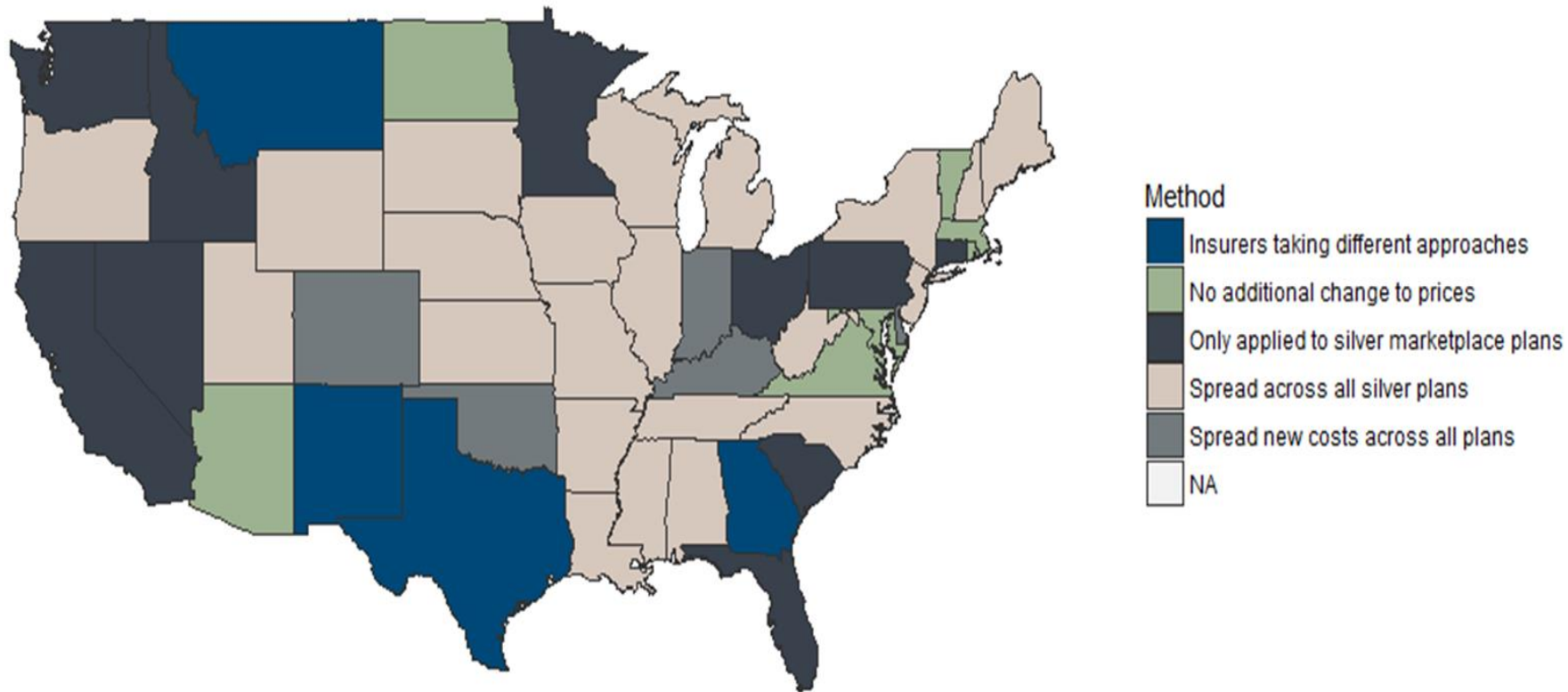


- Rise of the \$0 Prem Bronze

	<u>2nd Low</u>	
	<u>Silver</u>	<u>Bronze:</u>
<u>Base Prem PMPM</u>	\$280	\$240
<u>CSR Loaded Prem PMPM</u>	\$336	
 <b>2019 FPL:</b>	 \$12,140	

<b>Subsidy Eligible Bronze Premiums</b>							
<u>FPL</u>	<u>Income</u>	<u>Prem % of Inc</u>	<u>Max Prem PMPM</u>	<u>Old</u>	<u>Bronze</u>	<u>CSR</u>	<u>Bronze</u>
				<u>Subsidy</u>	<u>Prem</u>	<u>Loaded Subsidy</u>	<u>Prem</u>
100%	\$12,140	0.0208	\$21.04	\$258.96	\$0.00	\$314.96	\$0.00
200%	\$24,280	0.0654	\$42.09	\$237.91	\$2.09	\$293.91	\$0.00
250%	\$30,350	0.0836	\$52.61	\$227.39	\$12.61	\$283.39	\$0.00
300%	\$36,420	0.0986	\$63.13	\$216.87	\$23.13	\$272.87	\$0.00
400%	\$48,560	0.0986	\$84.17	\$195.83	\$44.17	\$251.83	\$0.00

## SILVER LOADING BY STATE



Source: <https://fivethirtyeight.com/features/a-state-by-state-guide-to-those-wonky-obamacare-payments-you-keep-hearing-about/>

- Signed into law
  - Tax Cuts & Jobs Act of 2017
    - Elimination of ACA individual mandate starting in 2019
  - Continuing Resolution (H.R. 195) to 2/8/18
    - CHIP funding through FY2023
    - Delay in “Cadillac” tax to 2022
    - HIT moratorium in 2019 only
    - Delay in Medical Device tax to 2020
  - Consolidated Appropriations Act, 2018 (Omnibus)  
3/22/18

- Pending or dormant at this time
  - Market stability/Reinsurance bills
    - CSR funding & 1332 Waivers - Sens. Alexander(R)/Murray(D)
    - Reinsurance Pool funding - Sens. Collins(R)/Nelson(D)
    - CSR & Patient and State Stability Fund – Rep. Ryan Costello(R)
  - MLR bill
    - Agent/broker commissions out of MLR calculation - Sens. Isakson (R)/Coons(D)
  - HIT tax (2018 and/or 2020+) - Rep. Kristi Noem(R)
  - Repeal and Replace - Sens. Graham(R)/Cassidy(R)



- Finalized
  - 2019 Notice of Benefit & Payment Parameters
    - EHB Changes
- Pending
  - Association Health Plans - Final Rules
  - Short Term Health Plans – Final Rules
  - Medicaid Work Requirements
    - State Responses/Section 1115 Waivers
  - State Innovation Waivers (Section 1332)
  - Protecting Statutory Conscience Rights in Health Care – Final Rules
  - HRA Expansion – Proposed Rules

- Association Health Plan (1/4/18):
  - Expanded “commonality of interest test”
  - Formal organizational requirements
    - Board composed of members
    - Has to act in interest of member employers
  - Allows for inclusion of sole proprietors
  - Nondiscrimination rules apply
  - State law is not preempted
  - Self-funded MEWAs are not exempted
  - Final Rule Expected SOON

- Short Term Limited Duration Plans:
  - Increases maximum duration up to 364 days
  - Policy expiration date specified in contract takes into account any extensions elected by policy holder without issuers consent
  - Revised consumer notices
    - STDLI plans are not ACA compliant
    - Are not MEC
    - Individual mandate will apply (in 2018)
  - Applies 60 days after final rules issued



- Elimination of Employer Mandate
- Continuous Coverage requirements
- 1557 Non-discrimination
- Third-Party payments
- “Idaho Effect” - Idaho DOI Bulletin 18-01
- State efforts on “Individual Mandate” MA/NJ
- More 1332 waiver requests/State reinsurance pools



- US District Court Decision (Northern District of Texas) in State of Texas v. United States on March 5, 2018
- Court ruled states not required to reimburse HIT
- Due to HHS regulations violating the non-delegation doctrine
- Federal government appealed on May 3, 2018
- ASOP 49 requires provision for HIT



- US District Court Case (Northern District of Texas) in State of Texas et. al v. United States and California
  - challenging constitutionality of ACA with no individual mandate
- Court granted CA's motion to intervene
- DOJ filed motion agreeing with Texas
  - Seeks preliminary injunction effective 1/1/19 (GI & CR)
- Decision on preliminary injunction expected Aug/Sep

- HHS Blueprint – more affordable drug prices:
  - Improve competition
    - Generic
    - Biosimilar
  - Move Medicare Part B drugs to Part D
  - Give Part D plans greater discretion
    - Formularies
    - negotiation of drugs in protective classes
    - utilization management tools
  - Exploring discrepancies in US drug prices vs. abroad
  - Improve Transparency in Medicare and Medicaid drug prices



Questions?