Wakely

ACA Under New Administration:

Key Issues and Trends

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Agenda

- Executive Order
- CSRs
- Alexander- Murray
- Draft Payment Notice
- Questions

Executive Order

- On October 12th, 2017 President Trump signed an executive order that :
  - Directs the Departments of the Treasury, Labor, and Health and Human Services to consider expanding coverage through low cost short-term limited duration insurance (STLDI).
  - Directs the Secretary of Labor to consider expanding access to Association Health Plans (AHPs),
  - Directs the Departments of the Treasury, Labor, and Health and Human Services to consider changes to Health Reimbursement Arrangements

Executive Order

Key Considerations

- What They Do
  - Executive Orders do not have force of law in their own right.
  - They are essentially “marching orders”
  - Key Details are Vague or Missing
  - Actual regulations may differ from initial intent
- Examples: Mandate, Contraception

Short Term Duration Plans

Key Considerations

- Short-term plans are non-ACA plans that were originally designed to bridge coverage gaps.
- Since they do not have comply with majority ACA regulations and even some HIPAA considerations (EHB, AV, annual limits, MOOPs, pre-existing condition exclusion, etc.) they are much cheaper and people began to market them as full time alternatives to ACA coverage
  - Currently not considered minimal essential coverage
- Starting in 2016, these plans were increasingly being marketed as full time alternatives to ACA plans
- The EO directs the Agencies to create rules remove the Obama era regulations on the length of time people can be enrolled in these plans

Association Plans

Key Considerations

- Associations plans are plans where small businesses band together to purchase insurance.
- These plans are regulated as self-insured plans so many ACA regulations do not apply to them (they can offer skimpy plans/charge sick people more).
- Unclear if the self-employed will be allowed to join associations
  - At least, 20% of the individual market enrollees are self-employed
- Historically, association plans have also have had solvency issues
- An association (the Farm Bureau) has caused risk pool problems in Tennessee

Health Reimbursement Accounts

Key Considerations

- The EO directs tri-agency to creating regulation that increase the usability of HRAs, to expand employers' ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with non-group coverage

- An Obama era regulation prevented employers from setting up HRA arrangement such that those funds could be used to pay for premiums in the non-group market
  - CURES ACT reinforced this

- The EO could expand usage of HRAs which cause unhealthy employees to shift to the non-group market

Key AAA Concerns:

- **Adverse Selection** AHP and STLD could result in higher-cost and less healthy groups in the traditional insurance market, driving up premiums. AHP could cause adverse consequences to the individual market if groups are defined to include self-employed individuals.
- **Solvency concerns.** Uncertain or conflicting rules regarding AHP solvency requirements could create conditions where bankruptcies result.

http://www.actuary.org/Executive_order_on_AHPs_and_short_term_policies

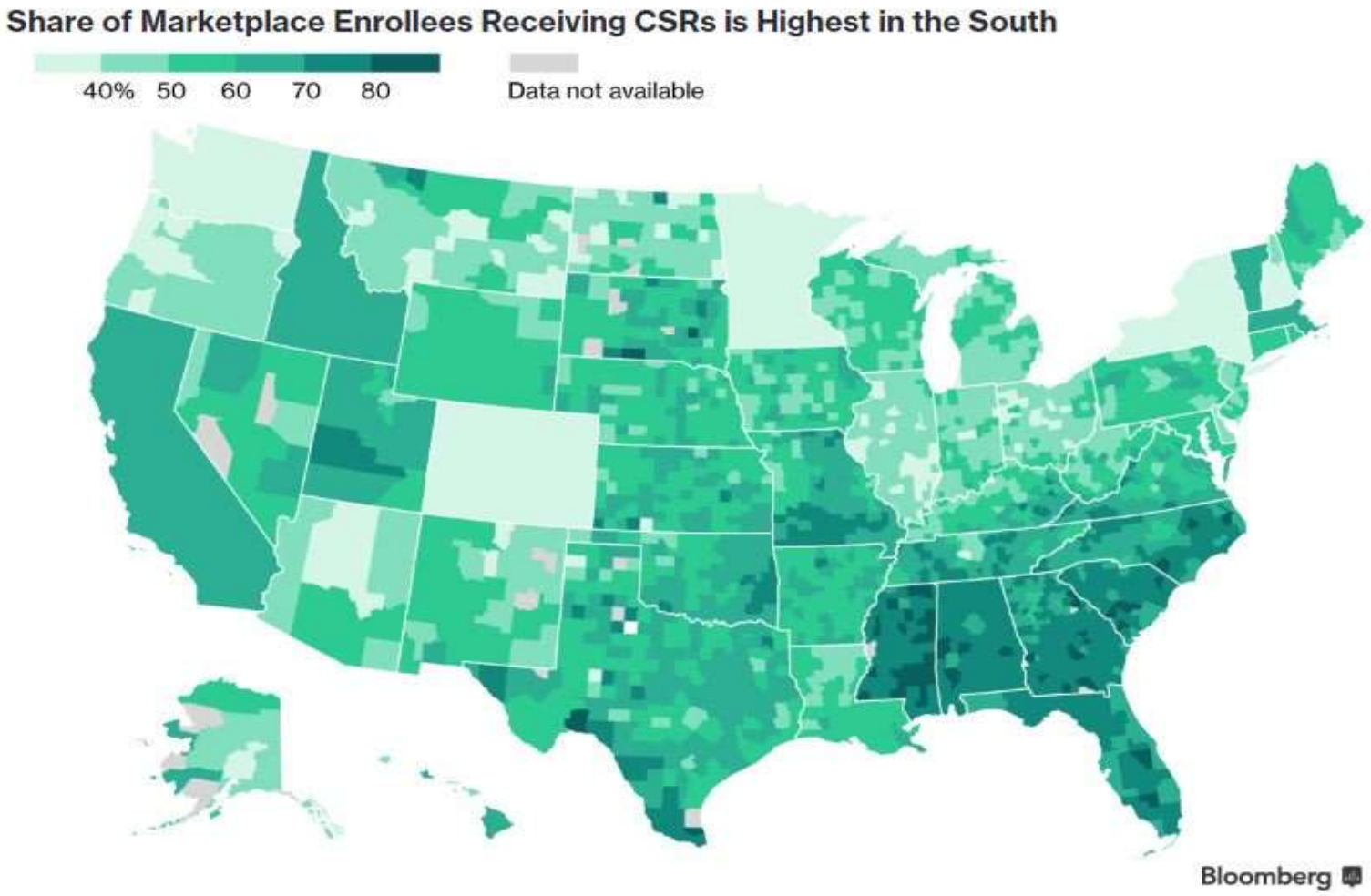
What to Watch For

- Timing of Policy
  - EO directs that proposed regulations on short-term and associations be created within 60 days, HRA regulations within 120 days.
  - Will require additional time for comments and rule finalization
- Role of States
  - What authority is allowed and what states use those authorities?
- Open Policy Questions – Individuals, Mandate, Effective Date, and more
- Legal Issues

CSRs

- HHS ceased paying CSRs for the October Payment Cycle
- Key Issues
  - Rating/Open Enrollment
    - Most states now have rates that did not include CSR payments
    - Mixture of rating strategies (Silver v. All Metals)
  - Losses
    - NAIC estimates potentially $1 bn in losses in 2017 due to non-CSR payment
  - Lawsuits
    - Judge denied injunction that would have forced CSR payments this year
    - Other suits pending or forthcoming (Judgement Fund)
  - Congressional Action?
    - Funding possible either as part of healthcare bill or budget bill
  - Regulations
    - Additional guidance/regulations likely forthcoming
      - CSR Reconciliation

Effects Different by State



Source: Centers for Medicare and Medicaid Services
Note: State-level data is shown for states that do not use HealthCare.gov.

CSR Funding Change and Implications

- Potential for Metal Level Shifting
  - Relative Increase of SLCSP makes Bronze and Gold More Affordable
- More Individuals will have APTCs
- Off-Exchange Variation for Silver Load

Risk Adjustment and CSRs

Where we may be going

- Impact of Potential CSR Change on PLRS & Transfers
  - Average transfers (as % of premium) weighted by MMs, by CSR

	2015	2016	2017	2018
Individual CSR 94 & 87	11%	11%	10%	-0.2%
Individual Other	-6%	-5%	-5%	0.1%
Small Group	0%	0%	0%	0%

1. Based on non-catastrophic 2016 WNRAR data, paid through April 2017. Data is re-scored with weights from 2015, 2016, 2017, and 2018. Includes proposed 2018 changes to CSR member scoring.
2. 2017 and 2018 scores include enrollment duration factors
3. Limited to issuers who submitted pharmacy data and markets with 3+ issuers with pharmacy data.
4. Uses a Wakely-developed pharmacy mapping for RXCs.
5. Includes proposed 2018 age factors.

Alexander- Murray

- Bipartisan bill led by Alexander (R) and Murray (D)
  - Bill would
    - Provide CSR funding for 2017-2019
    - Provide additional outreach funding
    - Allow anyone to purchase a Catastrophic (Copper) Plan
    - Make 1332 waivers easier and faster to get approved
  - Significant support in Senate, less so in House
  - CBO Score
    - Reduces Deficit, Reduces Premiums
  - Potential for Enactment ?

2019 Draft Payment Notice

- State flexibility for small group risk adjustment
- State EHB flexibility
- SHOP exchange functions
- Rate review
- QHP certification
- State review of network adequacy
- Standard options
- Meaningful difference

Health Reform Update

Q&A / Comments

For any follow up questions:

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