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the 2019 ACA enrollment period begins

Despite its troubled history and the repeated efforts by President Trump and the Republican Congress to repeal it, the Affordable Care Act (ACA) continues to look like it has become a permanent part of our nation's landscape.

The sixth ACA enrollment period began Nov. 1 and continues until Dec. 15. The coverage chosen during the open enrollment will begin in January 2019. What is noteworthy is that the ACA has sailed through turbulent waters to get to this point: It still exists despite the efforts of Republicans to challenge its constitutionality and to repeal it, either in part or entirely.

Rough Sailing for the ACA

By mid-2017, Republicans had challenged the ACA a remarkable 70 times. The most serious threat came in 2012 when the ACA faced a legal challenge that rose to the Supreme Court. As many will remember, the Court ruled that the individual mandate—the aspect of the ACA that was the main focus of the challenge—is consistent with the taxing authority of the Congress and therefore not unconstitutional, as had been claimed. Another Supreme Court ruling, unexpected by many, found it unconstitutional and coercive for the federal government to threaten to cut off all Medicaid matching funds to any state that did not participate in the expansion of Medicaid coverage to individuals up to 133 percent of the poverty line.

Factors Affecting Enrollment

Even with a substantial (30 percent) increase in premiums for 2018, enrollment in the exchanges for 2018 remained close to the numbers for 2017: 11.8 million insured in 2018 versus 12.2 million in 2017. That the number of insured hardly declined is not surprising because 86 percent of the people in the exchanges are receiving substantial premium subsidies, in amounts that cover about 85 percent of the premium cost. As long as such subsidies remain intact, there is no reason for individuals not to continue to purchase their insurance in the exchanges, no matter how much exchange premiums increase.

The effect on others who rely on the individual insurance market but who receive small or no subsidies has been much more challenging. Family premiums have increased 49 percent since 2014 compared with 39 percent for individual coverage. The number of people affected by these increases is not nearly as large as the number covered by the subsidies, but it is not a small number—more than 2 million people who purchased insurance in the exchanges in 2018 did not qualify for subsidies and therefore were facing substantially increased premium costs.

The final premiums for the 2019 year are not yet available, but preliminary information suggests that, despite the greater number of plan choices

for 2019, the plans generally will be offered at a higher price. The increase in premiums reported for silver plans—the second lowest-priced plans, the average amount for which is used to set the subsidies—varies from 0 percent in Michigan to an increase of 23 percent in Vermont. However, several states reported reductions in the premium cost of silver plans, with Pennsylvania reporting a 24 percent reduction in the cost of its silver plan, on top of a 30 percent reduction in the cost of the lowest-cost bronze plan.

Factors Driving Increased Premium Rates

The premium rates being reported for the 2019 open enrollment period presumably reflect the expected effect of the repeal of the individual mandate, which goes into effect next year, along with the increased availability of short-term, limited-duration plans. These two provisions are likely to prompt some individuals (presumably only those receiving little or no subsidy or who were feeling coerced into buying insurance) to drop their coverage. However, because the vast majority of those who have been buying insurance in the exchanges have been heavily subsidized, it is not surprising that few anticipate the effect will be greater than is being reported.

The number of exchange insurers available in each of state varies considerably from state to state. Sixteen states have only one or two insurers in the exchange, but seven states—including California, New York, Michigan, and Pennsylvania—each have more than five insurers.

Prospects for Future Legislative Action

Despite the legislative and political challenges that the ACA continues to face, the American public has made it clear that there is small support for repealing the ACA—even in an environment where there was sufficient public sentiment to elect a Republican Congress and president. In October 2016, the month before the election, the country was evenly split in its attitude toward the ACA, with about as many who favored the ACA as were opposed to it. Even as late as April 2017, the public remained roughly evenly divided between supporters and

detractors. It was only when Republicans actively moved to replace the ACA by passing the American Health Care Act in the House of Representatives in July 2017 that the percentage of Americans reporting a favorable view of the ACA reached a point where it substantially exceeded the percentage reporting an unfavorable view (i.e., 50 percent and 40 percent, respectively).

Unlike the Democrats, who passed the ACA at a time when they held a supermajority of votes and controlled the debate, the Republican majority in the Senate is narrow—51–49, after a Democrat was elected to replace Jeff Sessions following his cabinet appointment. Republicans therefore would need Democratic support to make changes in the legislation or would have to resort to the budget reconciliation process. Using such a legislative strategy has major constraints because it allows only for changes that have direct budget effects, which places much of the ACA off-limits to the strategy.

Consequences of the Legislative Impasse

The unwillingness or inability to make the usual type of legislative changes that typically follow passage of major social legislation is unfortunate. One effect is that the ACA exchanges remain in some level of churn, and the fact that 44 percent of counties have only one insurer left in their exchange explains some of the price increases in premiums that are being reported.

In the meantime, changes could be made to encourage more insurance availability, stabilize the individual insurance market, urge some of the “hold-out” states to expand their Medicaid coverage, or smooth the transition between Medicaid and exchange insurance. Unfortunately, none of these changes is likely to happen. ■

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