Recommendations for States' Efforts to Mitigate Harms Caused by Federal Policy Actions

Executive Summary

Executive Summary

Recent federal legislative and regulatory changes will result in more than 10 million people losing either Medicaid or Affordable Care Act (ACA) Marketplace coverage over the next decade; an additional 4 million people are expected to become uninsured because of Congress's failure to extend enhanced premium tax credits (PTCs). State insurance commissioners, working within their authority and in partnership with state-based Marketplaces and other state officials, can mitigate these harms in meaningful ways. This document outlines a set of state-level strategies to help protect consumers' access to affordable, high-quality coverage and access to care.

Ways State Insurance Regulators Can Mitigate Coverage Losses

State-level policy and operational actions can improve coverage affordability, reduce red tape, improve consumer education and assistance, and help maintain markets that provide comprehensive health insurance. These include:

1. **State-funded Financial Help**

   The most straightforward way to mitigate coverage loss is to provide state-funded financial assistance to defray premiums and/or cost-sharing for Marketplace enrollees. While state funds are unlikely to fully make up for the loss of enhanced PTCs, a state "subsidy wrap" can significantly improve affordability and help improve the individual-market risk pool.

2. **Basic Health Programs (BHPs)**

   BHPs have the potential to improve the affordability and comprehensiveness of coverage for low-income people, although states' available funding, implementation choices, and operational systems will determine a BHP's impact.

3. **Marketplace Eligibility and Enrollment Processes**

   In the face of increased red tape imposed by the federal government, state-based Marketplaces (SBMs) can streamline the consumer experience by leveraging previous interactions and information sharing between eligible individuals and state agencies; conducting "sludge audits" to identify friction points that inhibit consumers from completing enrollment; and adopting special enrollment periods (SEPs) that facilitate consumers' enrollment in Marketplace coverage.

4. **Consumer Communications and Engagement**

   Given finite resources, states should engage in data-driven, targeted strategies to identify and reach consumers who most need assistance. States can foster stronger connections with diverse communities by understanding the cultures of the people they serve, expanding language access to meet the needs of a wider range of enrollees, and leveraging trusted communications channels and messengers. SBMs will likely need to invest in personalized assistance to ensure that consumers have the support they need to navigate changing eligibility and enrollment rules and documentation requirements. State

departments of insurance (DOIs) should also consider educating consumers about the risks of switching to products or arrangements that are unregulated or do not meet ACA standards.

5. **Plan Management**

   Marketplace plan certification standards give state regulators the opportunity to protect consumers and support enrollment by improving affordability and reducing friction in the enrollment process. This can include active purchasing by SBMs and optimizing consumer decision-making through standardized benefit design.

6. **Insurance Regulation**

   States can use their regulatory authority to close new federal loopholes that could result in eligible consumers going without coverage. They can also leverage rate review to support "silver loading" (i.e., raising silver-plan premiums to compensate for the loss of cost-sharing reduction payments) and plan actuarial value standards that ensure robust coverage within the Marketplace.

7. **Market Oversight and Enforcement**

   As federal policy changes have reduced the affordability of ACA Marketplace health insurance, consumers are more vulnerable to aggressive, often deceptive marketing tactics by sellers of products that could leave them at considerable financial risk if they get sick or injured. State insurance regulators and SBMs will need to protect consumers from deceptive marketing tactics to ensure compliance with state standards and preserve market stability.

Documenting the Effect of Federal Policy on Consumers and Insurance Markets

As legislative and regulatory changes to insurance standards and Marketplace eligibility and enrollment processes take effect, states will want to collect, analyze, and share the impact of these changes on the accessibility and affordability of health insurance coverage. Such efforts could take on even greater importance if the Centers for Medicare & Medicaid Services (CMS) fails to provide robust data about the impact of Marketplace changes.

All states can take steps to mitigate the coverage loss likely to follow from federal-level policy changes. Some of the recommendations in this report are primarily applicable in states that operate their own Marketplaces; most can be implemented by state insurance regulators, either on their own or in partnership with other state policymakers and officials.

ACKNOWLEDGEMENTS

On behalf of the Consumer Representatives to the National Association of Insurance Commissioners (NAIC), Blood Cancer United contracted with Sabrina Corlette and Karen Davenport at Georgetown University's McCourt School of Public Policy Center on Health Insurance Reforms to conduct research and develop the report. The following Consumer Representative Work Group members contributed to the development of this report: Theresa Alban, Lucy Culp, Deborah Darcy, Claire Heyison, Anna Schwamlein Howard, Amy Killelea, Carl Schmid, Erin Miller, Wayne Turner, and Silvia Yee.

We are additionally grateful to the Robert Wood Johnson Foundation for financial support that made this research possible. The views expressed here do not necessarily reflect the views of the Foundation.

We would also like to thank the NAIC for supporting opportunities to provide consumer-focused input to insurance regulators on consumer access issues. The NAIC works closely with the Consumer Representatives to assist state regulators in their primary objective of protecting insurance consumers. The Consumer Representatives do not represent or work for the NAIC, and the views expressed here do not necessarily reflect the views of the NAIC. More information about consumer participation at the NAIC is available at content.naic.org/consumer/consumer-participation-program.


CONSUMER
HEALTH
ADVOCACY
AT THE NAIC