

Affordable Care Act: *Potential Legislative and Administrative Actions*

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A Sustainable Individual Market

- I. Individual enrollment at sufficient levels to balance the risk pool
- II. Stable regulatory environment that facilitates fair competition
- III. Sufficient insurer participation and plan offerings to provide competition and consumer choice
- IV. Slow spending growth and high quality of care



Status of Current Individual Market

- ❑ ACA dramatically reduced uninsured rates, yet current enrollment is lower than anticipated and enrollees have been less healthy than expected.
- ❑ Competing issuers generally face the same rules; but, some rules might disadvantage those participating on the marketplaces compared to off
- ❑ The uncertain and changing legislative and regulatory environment, including legal challenges, allowing pre-Affordable Care Act (ACA) coverage to continue, and constraints on risk corridor payments, contributed to adverse experience among issuers. Issuer participation and consumer plan choice declined in 2016 and is declining further in 2017.
- ❑ Experience can vary significantly by state.



Challenges to Market Stability

- ❑ The need to increase enrollment among healthy individuals to achieve a more balanced risk pool
- ❑ Uncertainty regarding legislative and regulatory activity and potential unlevel playing field
- ❑ Sufficient issuer participation in all regions
- ❑ Slow spending growth



I. Achieving a Balanced Risk Pool

- ACA individual mandate is weak, but increases enrollment for healthier individuals
 - Strengthening through increased financial penalties, fewer exemptions, and increased enforcement could have impact
 - Eliminating would cause additional adverse selection
- Increasing premium subsidies would increase enrollment of healthier individuals
- Wider age rating limits could attract younger individuals
- Continuous coverage requirement with late enrollment penalties likely would be less effective than a mandate
- External funding for high-cost enrollees would lower premiums and be more attractive to healthier individuals



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II. Legislative and Regulatory Activity

- Administration decision to not enforce the mandate would lead to a deterioration of the risk pool.
- Decisions regarding cost-sharing reduction reimbursements (and uncertainty regarding those decisions) will affect insurer participation and premiums
- Other areas of uncertainty regarding potential regulatory actions:
 - The requirements for essential health benefits
 - The actuarial value requirements
 - Future changes not identified yet



II. Legislative and Regulatory Activity

- Threats to a level playing field
 - Allowing the sale of insurance across state lines could lead to market fragmentation
 - Allowing for association health plans (AHPs) could lead to market fragmentation and solvency concerns
 - Opening up non-ACA compliant plans to new purchasers could lead to market fragmentation

- Each of these could result in increased premiums for plans subject to stricter rules:
 - Younger and healthier individuals would still be able to find coverage
 - Older individuals and those with health problems could find it more difficult to obtain coverage



III. Sufficient Issuer Participation

- The optimal number of insurers likely differs by area and local market conditions:
 - the number of eligible enrollees,
 - the degree of provider concentration
- Rural areas support fewer insurers, for instance, due to low potential enrollment numbers and the presence of sole community providers.



IV. Slow Spending Growth

- As most premium dollars go toward paying medical claims, keeping premiums affordable requires controlling health care costs.
 - ▣ Signs that health spending growth rates are beginning to increase
 - ▣ Evidence that we are not spending our health care dollars wisely
- Improving health care quality
 - ▣ Measured by basing on health care outcomes



Recent Academy Publications

- [Letters to Congress on ACA Repeal without Replace](#)
 - ▣ (December 2016)
- [An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes](#)
 - ▣ (Issue Paper, January 2017)
- [Selling Across State Lines](#)
 - ▣ (Issue brief, February 2017)
- [Association Health Plans](#)
 - ▣ (Issue brief, February 2017)
- [Using High-Risk Pools to Cover High-Risk Enrollees](#)
 - ▣ (Issue brief, February 2017)
- [Proposed Approaches to Medicaid Funding](#)
 - ▣ (Issue brief, March 2017)
- [Letter to U.S. House on American Health Care Act \(AHCA\)](#)
 - ▣ (March 2017)

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