

## Open Enrollment Season Begins for the Trump-Beleaguered ACA

With so many people riveted to the news of Special Counsel Robert Mueller's first indictments, it's easy to forget that an important marker is upon us in the healthcare industry: the start of open enrollment in the Affordable Care Act (ACA) exchange for 2018 coverage. But fascination over charges like conspiracy against the U.S. and money laundering leveled against former Trump associates isn't the only reason the commencement of ACA open enrollment may have escaped many people's notice.

Considering that Trump slashed the marketing and outreach budget from \$100 million to \$10 million, it appears he's counting on confused or uninformed consumers who will miss the deadline or throw in the towel without assistance in enrolling. Some people, depending on which media stream they follow, may even think the ACA itself is dead.

And furthermore, the exchange isn't expected to be a pretty place in many states, thanks to a couple of Trump moves; notably denying insurers cost-sharing reduction subsidy reimbursements and threatening not to endorse the individual mandate.

When individuals believe they won't be penalized for not carrying insurance, fewer healthy people enroll, which in turn leads to a greater proportion of sick individuals on the exchanges, resulting in higher costs and lower profits for insurers. In response to this uncertainty around those variables, companies are raising rates more than they would have if Trump had instead decided to make strides toward ACA success.

## If the GOP won't help him, Trump is determined to wound ACA on his own

Against all odds, the ACA survived multiple GOP attempts to repeal it and therefore is still the law of the land. That fact seems to have inflamed Trump, if his public barbs aimed at the Senators who voted against repeal are a reflection of the inner workings of his mind. And you don't need to be a doctor to predict that that inflammation would eventually find its way to the ACA state exchanges themselves.

Trump is doing what he can to fulfill his prophecy that the ACA is "a disaster" and "failing," even though polls showed that the more Republicans threatened to destroy it, the more Americans wanted to keep it. Trump has single-handedly destabilized the individual market by announcing he would not be following President Obama's example of assisting insurance companies in making coverage more affordable for consumers.

Although the (un-repealed) law still mandates that insurers provide cost-sharing reduction (CSR) subsidies to individuals whose income qualifies them to participate, Trump is withholding the federal reimbursement of those CSRs, which means insurers are now holding the subsidy bag. In the coming year, insurers will be responsible for around \$1 billion in costs they would not have in previous years (or had the presidential election gone a different way).

## States with no insurer competition seeing huge premium hikes

To be fair, the ACA had seen premium and deductible increases each year before Trump, as well as major insurers dropping out of state exchanges, but Trump's elimination of CSR reimbursements has sent insurers scrambling to hike rates. Rates for 2018 are going up in almost every state. In Iowa, where only a single insurer services the exchange, premiums are going up by 88% over last year. Wyoming, also with only one ACA insurer, will see a premium spike of 72%. Texas, with eight insurers on the exchange, will see an increase of 36% on average.

Because of variations between gold, silver, and bronze plans, some consumers won't ultimately feel the increase. Also, when premiums go up, silver-plan cost-sharing reductions typically go up as well. However, individuals who don't get insurance from their employer and who do not qualify for a CSR will likely pay more for similar coverage in 2018. Furthermore, some states are

spreading out rate increases across all plans.

## **So much to do, so little time**

Trump is not only withholding funds — he's withholding time, too. In previous years, the open enrollment period was a healthy 90 days (ending on January 31). Trump has slashed that in half. Open enrollment began on November 1 and will end on December 15, a mere 45 days later. A small number of states have opted to extend that period, ranging from a week extra to a full 45 days longer. California, D.C., and New York are the only places where January 31 will be the final deadline for 2018 coverage.

## **Think you have the whole weekend to spend on HealthCare.gov? Think again...**

Just in case a cut-in-half enrollment period, scant marketing and outreach, and skittish insurers with their fingers on the premium hike buttons aren't enough for guaranteeing fewer enrollees, the Trump administration has said it will take the marketplace website offline for 12 hours each Sunday during open enrollment.

This blog post is provided for educational purposes only and is not offered as, and should not be relied on as, legal advice. Any individual or entity reading this information should consult an attorney for their particular situation. For more information/questions regarding any legal matters, please email [info@nelsonhardiman.com](mailto:info@nelsonhardiman.com) or call 310.203.2800.