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Health Insurance Exchanges, Implications of Policy Uncertainties, and How They Are Interlinked

BY CORAL T. ANDREWS, FACHE, RN, M.B.A.

Congressional policy deliberations on the Affordable Care Act (ACA) leave unanswered questions about the future role of the health insurance exchanges. Devising sound policy necessitates that we keep the consumer at the forefront.

In the crosshairs of the repeal and replace debate underway in the 115th U.S. Congress are several tiers of policy contemplations that center on the survivability and role of the insurance exchanges going forward. There is a recognition of the critical importance of maintaining stability in the individual market. There is also growing anxiety and anticipation about potential economic consequences and resultant cost shifting within the healthcare ecosystem if 20 million insured suddenly lose coverage.

KEY BOARD TAKEAWAYS

In this time of uncertainty, boards will need to continue their strategic focus on consumerism, quality, price transparency, and population health in the downstream environment. While federal policy and associated regulations are deliberated and negotiated, many state legislatures will resume session. One can only anticipate that they will be chasing a moving target should associated state legislation need to be amended to keep pace with the "repeal and replace" scenarios. Boards and CEOs will need to work closely with their trade associations, elected leaders, and the community at large to advocate for the best option to protect the health of the population, promote quality, and devise a healthcare strategy that is sustainable.

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At the outset of the health insurance exchange implementation in 2013, all states were afforded an opportunity to decide whether to implement a state-based marketplace, leverage the federal "healthcare.gov" platform, or engage in a partnership model. For states that elected state-based flexibility, subsequent state legislation moved forward to reflect the establishment of their marketplace governance structure, clarification on its interplay with the Medicaid agency, and other associated preferences to reflect state flexibility/choice. In addition to the federal and state statutory and regulatory framework, key policy considerations at the state level soon followed.

Starting with the vision and key tenets of the ACA (increased access, expanded coverage, and affordability), the governance bodies of the state-based marketplace gave thought to additional policy considerations that included whether to merge their

individual and small group markets, how they chose to establish consumer assistance programs, how to modernize or scale their IT infrastructure, and whether to offer employee choice (to name a few). For the small business marketplace (also known as SHOP), policy flexibility included employer contribution methodologies, rate change and regulatory frameworks, enrollment rules, and premium/payment calculation.[1]

As a product channel, the health insurance exchange goes beyond simply a transactional IT platform. The exchange of information and knowledge shared in the consumer encounter has placed consumers at the forefront of decision making for themselves and their families. To aid in consumer literacy, they have access to navigators and assisters. Information is shared in multiple languages (as Medicaid requires) and with associated cultural resources to further break down the complexity of the decisions that go into purchasing health insurance. They have provided a platform

1 Centers for Medicare & Medicaid Services, Health Insurance Marketplaces, Regulations and Guidance.

for the purchase and sale of health insurance that meets standards focused on consumer protection and transparency.

Is there an opportunity to "take another bite of the policy apple"? Yes. All new innovations leave open opportunity to shape the product as it matures in the market. A key factor in answering the policy question of "do the health insurance exchanges have a value proposition in ACA 2.0?" will largely depend on addressing the law's original objective of making health insurance, and subsequently healthcare, affordable.

Repeal and Replace: Is This Where We Are Headed?

Over the past weeks, we began to see projections by opponents of the law about "death spirals" of the ACA and a collapse of the individual marketplace if tax subsidies and tax credits are repealed. In contrast, the Department of Health and Human Services wrote that "a broad cross-section of Americans continue to rely on the marketplace to access affordable, quality coverage."[2]

There is a heightened drum beat toward "repeal and replace," which suggests an opportunity to strategically consider policy implications and innovative opportunities as it pertains to the role of health insurance exchanges going forward. With the game of Jenga in mind, each stick or lever that gets moved necessitates a consideration of the next move. So, too, is the interlinking between policy and its ability to achieve the goal of delivering accessible, affordable, quality health insurance to the consumer market. This was a key lesson learned in the debate between economic and health policy staffers in the rollout of the ACA. One is not exclusive of the other.

The emerging themes in the GOP "repeal and replace" policy framework highlight potential consensus options such as interstate sales of health insurance policies, transparency, health savings accounts, quality standards, and prescription drug pricing competition.[3]

Key themes that are emerging in the Democrat's strategy include concerns over a repeal without a replacement plan, the re-emergence of a discussion about a public option, and the desire to enable more regulatory authority to insurance commissioners.[4]

Removing any legal requirement to purchase health insurance leaves hospitals looking in the rearview mirror when uncompensated care losses were afforded few strategies or fiscal remedies for the growing cost of the uninsured.

The product design of the health insurance marketplace achieved standardization and flexibility, consumer protections in the regulatory construct of the marketplaces, consumer transparency, access through outreach, integration of Medicaid and health plan eligibility and enrollment, health plan quality ratings, and essential health benefits (EHB) with pharmacy coverage to enable advances in population health.

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Could the health insurance marketplace be leveraged to operationalize the GOP policy framework? Interstate sales with Web-based access? Regulatory levers that achieve a larger risk pool definition to drive down the overall cost of care? Transparency in pricing much like we see in the consumer retail market? Broad access to information that fosters consumer literacy, promotes consumerism, drives quality expectations, and is tweaked to incent toward improved population health? With an innovative mindset, we need to contemplate how the "good parts" of the ACA can be leveraged (similarly to the consensus around disallowing pre-existing condition discrimination) to continue to support the consumer.

There are broad policy considerations that need to be weighed as both political parties and key constituent groups devise political and legislative process strategies. Examples include:

- Will the defunding and the removal of tax subsidies collapse the individual market? Are there alternative cost strategies that will be necessary to meet the CBO scoring benchmark?
- How does the removal of regulatory stabilization pillars in the existing health insurance marketplace design enable or disable a repeal and replace strategy?
- With the original policy objectives of increased access, expanded coverage and affordability in mind, how will the recent advances in healthcare consumerism allow for adaptability and resilience in this environment of change? Devising policy is one thing…implementing it is another.

Given the growing healthcare industry consensus around pay-for-quality and a

2 K. Leonard, "Obamacare Sign-Ups Reach 11.5M," *U.S. News & World Report*, January 10, 2017.
3 D. Trump, "Healthcare Reform to Make America Great Again," (www.donaldjtrump.com/positions/healthcare-reform).
4 J. Sherman and A. Palmer, "Schumer Adopts Trump Slogan: GOP wants to 'Make America Sick Again,'" Politico, January 4, 2017.

focus on strategies to drive improvement in population health, there is a need for broad "repeal/replace" policy considerations to answer these questions:

- How should policy be shaped if the insurance marketplace is viewed from the optics of the consumer? The insurance marketplace is not merely a transactional platform or a secondary marketing channel. The insurance marketplace has provided a platform for the purchase and sale of health insurance that meets standards to ensure consumers can see, more transparently, what they are purchasing. Neutral consumer resources in the form of in-person assisters and navigators provide supported language and cultural resources to empower consumers to learn about health insurance.
- With a focus on transparency, choice, and interstate sales, is there a value proposition to assuring that consumer choice remains central to marketplace product design in any "repeal and replace" legislation?
- Could the health insurance marketplaces be leveraged to support CMS Innovation Center priorities beyond their existing operational role in the sale of health insurance?

Capacity to Implement New Policies

If there is "repeal and replace" legislation that passes, there are important considerations that will need to be considered in the timeframes for implementation.

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HHS has published guidance through 2018 which includes open enrollment periods. Coverage obligations for the 2017 open enrollment period are in motion. Open enrollment for 2018 is scheduled for November 1, 2017–January 31, 2018. Issuers will need to begin work on Qualified Health Plan submissions in early April 2017.[5]

State legislative bodies are moving into session and will be chasing a moving bullseye in their efforts to modify existing state statutes depending upon what comes out of the "repeal and replace" debate.

As we learned in the initial implementation of the ACA, states have varying degrees of capacity to implement broad health policy programs and initiatives. How will the federal government address the ability for all states to build sufficient capacity to perform the functions of the new law?

What will the federal government's role be in enabling state's capacity to implement policies when some states are leveraging the federal marketplace and others have governance of state-based marketplaces?

States that use functions of the federal platform are leveraging existing federal assets and operations to support their marketplace functions and rules governing qualified health plan (QHP) issuers. For state-based and partnership models, their Medicaid IT systems for eligibility and enrollment are integrated. This allows for scalability and the promotion of consumer access. How does this get disentangled if the public–private collaboration truly is a Jenga conundrum?

According to Kevin Counihan, former CEO of Healthcare.gov, a goal should be to implement policy that "assures that as many people as possible get healthy and stay healthy at the lowest possible cost. The highest cost to states and the nation results from an unhealthy population."[6]

We should stay tuned as the political strategy and debate unfolds in the coming weeks. Charting a course politically will be driven by the realities of fiscal policy insights, risks associated with moving to an unsubsidized market, deploying 20 million uninsured back to the healthcare ecosystem while balancing all of this within the goals of quality, transparency, and choice.

The Governance Institute thanks Coral T. Andrews, FACHE, RN, M.B.A., Executive Consultant, for contributing to this article. She can be reached at info@ctandrews.com.

5 Centers for Medicare & Medicaid Services, Health Insurance Marketplaces, Updates, December 16, 2016, Final Key Dates Calendar for 2017.
6 M. Abramowitz, "Uncertainty About the ACA future Not Healthy for Health Care," *Daily Reflector,* January 8, 2017 (see www.reflector.com).