American Hospital Association® Special Bulletin

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Summary of Alexander-Murray Proposal to Stabilize the Health Insurance Marketplaces

Sens. Lamar Alexander (R-TN) and Patty Murray (D-WA) yesterday released a proposal intended to stabilize the Health Insurance Marketplaces authorized by the Affordable Care Act (ACA). The proposal would provide short-term funding for the cost-sharing reductions (CSRs); expand access to lower-cost, catastrophic health plans; give states additional flexibility to use 1332 waivers; provide states with outreach and education funding; and direct the Department of Health and Human Services (HHS) to issue regulations facilitating the sale of insurance products across state lines. The proposal has not yet been scored by the Congressional Budget Office (CBO) and would require 60 votes in the Senate to move forward.

A summary of the major provisions in the proposal follows.

MAJOR PROVISIONS

Cost-sharing Reductions (CSRs). The proposal would appropriate funds for the CSRs for the remainder of 2017, as well as 2018 and 2019. This month, the Trump administration announced that it would no longer reimburse health plans for the CSRs, and many plans increased premiums for 2018 to make up for the anticipated loss of this funding. The proposal would direct states to develop a plan for recouping any increases added to 2018 premiums attributable to the CSR program.

Catastrophic (or "Copper") Health Plans. The proposal would allow broader enrollment into catastrophic health plans, referred to as "Copper" plans, for plan year 2019 and beyond. Such plans use the highest allowable deductible amount but are required to cover at least three primary care visits within the deductible period. Currently, only adults under 30 years of age are eligible to purchase catastrophic coverage. This proposal would expand the availability of these plans to other consumers. However, like today, eligible individuals would not be permitted to use the advanced premium tax credit to offset the cost of Copper plans. Copper plan enrollees, however, would be included in the single risk pool.

1332 Waivers. The proposal would make several changes to the 1332 waiver process. The ACA allowed states to apply for 1332 waivers to modify certain insurance rules, including the employer and individual mandates, marketplace and qualified health plan rules and some consumer protections. To date, three states have approved 1332 waivers. Alexander-Murray would:

- Redefine how budget neutrality would be calculated. Specifically, the proposal would allow states to count federal savings accrued to other programs as a result of the waiver, such as the Medicaid program, when calculating budget neutrality. This is intended to account for states that have enrolled some of their Medicaid expansion population into coverage through the marketplaces;
- Modify the statutory consumer protections or "guardrails" related to affordability of coverage under the waiver, requiring that coverage be of "comparable" affordability;
- Clarify that states with a Basic Health Plan would be permitted to count federal savings attributable to that program for purposes of requesting federal funding for the waiver;
- Streamline the waiver application and approval process; and
- Rescind existing federal guidance, which, among other things, established federal rules related to consumer protections.

These changes could make it easier for states to receive a 1332 waiver, especially if they are applying to waive rules in a manner that is substantively the same as a waiver previously approved by HHS for another state (referred to as "me too" waivers). The impact of other provisions, such as the changes in rules related to affordability and budget neutrality, would depend on how HHS would interpret the new provisions.

Outreach and Education. The proposal would appropriate $105 million for outreach and enrollment activities for open enrollment for plan years 2018 and 2019 for states that rely on the federal marketplace. Outreach and consumer support provided through the call center would be funded separately, and the proposal specifically indicates that it would not rescind or cancel any funds already obligated for the 2018 plan year open enrollment period that begins Nov. 1. HHS has decreased outreach and enrollment funding for 2018 by $115 million, including a 90 percent reduction in advertising and a 40 percent reduction in funding for navigators.

Sale of Products Across State Lines. The proposal directs HHS, in consultation with the National Association of Insurance Commissioners, to issue regulations implementing a provision of the ACA that allows states to enter into compacts with other states to agree to terms allowing the sale of insurance products across state lines. The proposal would not compel any state to enter into such a compact.

For questions, please contact Molly Smith, AHA vice president of coverage and state issues forum, at mollysmith@aha.org.