

How Did State-Run Health Insurance Marketplaces Fare in 2017?

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ABSTRACT

ISSUE: Sixteen states and the District of Columbia manage their own health insurance marketplaces under the Affordable Care Act. These states, which were broadly supportive of health reform, chose to run their marketplaces to exert greater control over their insurance markets and tailor the portals to suit local needs. Though federal policy changes and political uncertainty around the ACA in 2017 have posed challenges across the country, states that operate their own marketplaces had greater flexibility than others to respond.

GOAL: To understand how states on the forefront of health reform perceived and responded to federal policy changes and political uncertainty in 2017.

METHODS: Structured interviews with the leadership staff of 15 of the 17 state-run marketplaces.

FINDINGS AND CONCLUSIONS: Respondents unanimously suggested that federal administrative actions and repeal efforts have created confusion and uncertainty that have negatively affected their markets. The state-run marketplaces used their broader authority to reduce consumer confusion and promote stable insurer participation. However, their capacity to deal with federal uncertainty has limits and respondents stated that long-term stability requires a reliable federal partner.

KEY TAKEAWAYS

- ▶ Sixteen states and the District of Columbia manage their own health insurance marketplaces.
- ▶ Federal administrative actions and uncertainty created by ACA repeal efforts have made it harder for them to manage their marketplaces.
- ▶ States have used their authority to promote market stability, but long-term stability will require a reliable federal partner.

We sought to understand how states that have been more actively engaged in reform have perceived federal policy changes and political uncertainty in 2017, and to explore whether these states were better able to promote stability within their markets. To do so, we interviewed the leadership staff of 15 of the 17 state-run marketplaces in September and October 2017.⁶ This brief explores key themes that emerged from those interviews. It identifies the major challenges facing the marketplaces as they went into the fifth open enrollment period, how states responded to those challenges, and the limits on states' capacities to act.

KEY FINDINGS

Federal Actions Made It Harder for States to Manage Their Own Marketplaces

Marketplace respondents were unanimous in suggesting that actions taken by the Trump administration and ongoing efforts to repeal the ACA have created confusion and uncertainty that have negatively affected their markets. While these marketplaces had experienced ups and downs during their first three years of operation, many respondents were relatively optimistic in the fall of 2016 about future enrollment growth and stability in terms of plan participation and premiums — a view supported by independent analyses.⁷ But federal developments in 2017 made the challenges of the previous year “pale in comparison,” and respondents described a far more uncertain future.

Officials highlighted four federal-level developments during 2017 that jeopardized stability. First, respondents said that the administration's repeated threats to end federal payments supporting the ACA's cost-sharing reduction (CSR) plans caused protracted confusion and disruption and placed states in a “real jam.” These threats were eventually carried out, after months of uncertainty, in October 2017. But as deadlines for marketplace participation and rate setting for the upcoming year (2018) came and went with no clarity on whether the administration would continue to reimburse insurers for the cost of the CSR subsidies, marketplaces struggled to get insurers to commit to participate and to develop

responses to the significantly higher premiums the insurers sought to offset the lost payments.⁸

Second, most respondents noted that actions taken by the administration to undermine the ACA's individual mandate had the effect of undermining their marketplaces, as well. The requirement to maintain coverage, ultimately repealed on a prospective basis in December, was the law of the land throughout 2017 (and remains so in 2018). However, officials noted that an executive order, signed by the president on Inauguration Day, cast doubt on the enforcement of the mandate and caused insurers to be more cautious when setting rates.⁹ Many priced higher than they would have otherwise, fearing that a weakened mandate would lead to a sicker and more expensive risk pool.¹⁰ The president's actions and words were also perceived to have caused widespread confusion among consumers about whether the requirement to maintain coverage was still the law.

In a related vein, officials repeatedly expressed frustration at “federal noise”: ongoing but thus far inconclusive discussions about repealing and replacing the ACA, and related rhetoric by administration officials and congressional allies asserting that the health law was “dead” or “collapsing.” Respondents said it was a challenge to ensure residents had accurate information. They reported many instances of consumer confusion about the marketplaces, the mandate, coverage options, and the status of the health law, in general.

Fourth, a majority of respondents predicted that the administration's decision to reduce advertising spending for the federal marketplace by 90 percent would have negative side effects for the state-run exchanges. Officials in both big and small states explained that because the federal marketing campaign was national in scope and used television advertising — a medium too expensive for several state marketplaces — it was effective in reaching their residents and had complemented state messaging efforts in prior years. Several respondents also lamented the perceived political ramifications of the funding cut, suggesting that the administration's action would cause enrollment through the federal exchange to diminish, putting the entire program at greater risk of repeal.¹¹

State Marketplaces Used Their Authority to Promote Stability Despite Federal Uncertainty

Extending Open Enrollment

While the administration used its first major ACA-related rulemaking to reduce the open enrollment period for the federal marketplace from 90 to 45 days, nine of the 12 state marketplaces with authority to choose their enrollment dates extended their sign-up periods beyond the federal deadline (Exhibit 2). (The five state-run marketplaces that use HealthCare.gov for enrollment are not permitted to deviate from the federal government's default enrollment dates.) Most reported that this decision was designed to counteract confusion caused by "federal noise" and that an extension was critical to fulfilling outreach strategies and giving consumers sufficient time to enroll.

When selecting a deadline, many states sought — with some difficulty — to balance the interests of consumers who needed more time to decide on a plan with insurers'

requests for a longer coverage period with a full 12 months of premium payments. In the three states that chose not to extend, officials reported that prior year trends showed most consumers enrolled by the federal December 15 deadline.

On the other hand, one respondent from a state marketplace that uses HealthCare.gov expressed frustration in not having the same flexibility to choose a deadline. The respondent noted that even a few additional days would have helped to manage operational tasks and increase sign-ups.

Promoting Consumer Choice

Respondents suggested the uncertain federal policy environment led their marketplaces to work diligently to maintain insurer participation and thus, more choices for consumers. In California, officials modified insurers' contracts to allow carriers that incur 2018 losses because

Exhibit 2. Deadlines for the Fifth Open Enrollment Period in the State-Run Marketplaces

Marketplace	Extended open enrollment	Date of extension	Prohibited from extending open enrollment*	Chose not to extend open enrollment
Arkansas			X	
California	X	January 31		
Colorado	X	January 12		
Connecticut	X	December 22		
District of Columbia	X	January 31		
Idaho				X
Kentucky			X	
Maryland				X
Massachusetts	X	January 23		
Minnesota	X	January 14		
Nevada			X	
New Mexico			X	
New York	X	January 31		
Oregon			X	
Rhode Island	X	December 31		
Vermont				X
Washington	X	January 15		

* The five state-run marketplaces that use HealthCare.gov for enrollment are not permitted to deviate from the federal government's default enrollment dates.

Data: Authors' analysis.

of federal policy or enrollment changes to recoup lost funds in subsequent years.¹² In New York, the governor issued an executive order preventing any insurer that withdrew from the individual marketplace from offering plans in another state program.¹³ One state refrained from making major changes to plan requirements to avoid creating additional burdens in an already difficult year, and several respondents noted that state officials and governors personally reached out to insurers to encourage them to remain in the marketplace and maintain competition.

Combating Consumer Confusion

In the face of widespread consumer confusion, several state marketplaces increased marketing budgets to compensate. In California, for instance, officials credit past investments in marketing and outreach for producing increased enrollment, a better risk mix, lower premiums, and greater certainty for health plans. They budgeted \$111 million for these responsibilities in 2018 — up from \$99 million in 2017 and more than twice what the administration spent on the federal marketplaces combined. In Oregon, the state increased spending during the final weeks of 2017 enrollment — after the administration cut federal marketing — and found the added funding drove higher enrollment.

Many other state marketplaces reallocated limited funds or modified their marketing strategies to more effectively target the uninsured and reduce misinformation. Most state-run marketplaces began advertising earlier — several months before the start of 2018 open enrollment — to assure consumers they were “open for business.” They also revised their messaging to emphasize the value of insurance and financial assistance, rather than focusing on the individual mandate. Others reported shifting from more expensive outreach efforts, like television marketing and brick-and-mortar enrollment locations, to promotional activities designed to cultivate free and local media, and grassroots initiatives. For example, in Connecticut, the marketplace reduced spending on television marketing and increased its community outreach, including attending local football games. In

Colorado, the marketplace invested in “geo-code outreach” to identify the uninsured by zip code, and in Minnesota, marketplace staff devoted more time to traveling throughout the state, promoting enrollment in person.

Proactive Problem-Solving on CSRs

Respondents viewed the administration’s equivocating over CSR funding as seriously destabilizing; their marketplaces moved ahead under their own authority to mitigate the damage. Months before the administration would end the uncertainty by stopping the payments, the California marketplace became the first to announce a workaround. Officials directed insurers to assume CSR reimbursements would not be made and to allocate the premium increase needed to offset the funding cut-off onto their silver-tier marketplace plans.¹⁴ This innovative approach — ultimately adopted by 30 states — enabled subsidized consumers to access a larger premium tax credit and exercise greater buying power on the marketplaces. It also insulated unsubsidized shoppers from the effects of the CSR-related surcharge.¹⁵

For Long-Term Market Stability, States Need a Reliable Federal Partner

Though respondents expressed confidence in the ability of their marketplaces to use existing authority to do right by their residents, most made plain that long-term stability depended on a constructive partnership with and support from the federal government. Respondents repeatedly invoked a kind of “Hippocratic Oath” for health insurance, imploring the administration to first do no harm to their markets. The “biggest thing” that could happen, said one, would be for the administration to stop sowing uncertainty. To that end, most urged, during the fall of 2017, that the government commit to funding CSRs and enforce existing federal law.

Beyond these rather remarkable requests to stop undercutting their efforts, respondents saw value in several steps the federal government might take to support their markets and the consumers who rely on them. Most expressed that reinsurance programs were effective in reducing premiums and could “help everyone” — the

subsidized and unsubsidized alike. Several states were pursuing such programs using a blend of state and federal funding, under the ACA's Section 1332 innovation waiver program.¹⁶ But respondents noted that state budget constraints limited the potential of this mechanism. They suggested that a permanent federally funded reinsurance program would do far more to promote stability across the nation.¹⁷

Respondents also generally favored modest changes to the 1332 waiver program. While they were strongly supportive of the “guardrail” provisions that protect state residents from waivers that might worsen the comprehensiveness, affordability, or availability of coverage, respondents suggested that efforts to streamline the application process and provide greater flexibility in the interpretation of the program's deficit neutrality requirements would be welcome.

DISCUSSION

The states that chose to manage their own marketplaces viewed the portals as an important tool for broadening access to affordable coverage for their residents and embraced the opportunity to make them work.¹⁸ Though their experiences in the first three years of operation varied and sometimes were rocky, these marketplaces appeared fundamentally stable heading into 2017.

Since then, the Trump administration and its congressional allies have engaged in a sustained effort to undermine the ACA. These actions have had a destabilizing effect on marketplaces across the country, including — as respondents made clear — the marketplaces run by the states.

However, because these 17 states retained local control over their marketplaces, they have been able to respond to threats to their stability and act more nimbly in the face of changing circumstances. All respondents detailed actions their states were taking to counter consumer confusion and market uncertainty and increase the chances of a successful fifth open enrollment season. These efforts appear to have paid dividends. On average, the state

marketplaces were able to retain insurers at a higher rate than were the federal exchanges.¹⁹ Their premium rate increases, though substantial, were on average less than in federal marketplace states.²⁰ And total plan selections through the state exchanges during the most recent open enrollment period rose slightly, year-over-year, even as sign-ups through the federal marketplace modestly declined.²¹

States may chart their own course in other ways. Though recent proposed changes to federal rules would eliminate consumer-friendly innovations for plans sold on the federal marketplaces, including optional standardized plans to facilitate consumer decision-making, the state marketplaces have authority to maintain these improvements.²² Administration proposals that would expand the availability of benefit plans that do not meet the ACA's consumer protections do not stop states — regardless of marketplace type — from regulating such plans if policymakers choose. And though the federal individual mandate goes away in 2019, states may replace it and adopt policies that encourage residents to maintain coverage.

States' capacity to deal with federal uncertainty is not unlimited. Though the administration has made it a goal to empower states, the experiences of the states that have embraced responsibility for their marketplaces show the limits of this federal commitment. For the marketplaces to work for the people who need them, constructive federal engagement and support will be essential.

NOTES

- ¹ Unless otherwise noted, we count the District of Columbia as a state in this analysis.
- ² S. Dash, C. Monahan and K. Lucia, “[Health Policy Brief: Health Insurance Exchanges and State Decisions](#),” *Health Affairs*, July 18, 2013; see also J. Giovannelli and K. Lucia, *The Experiences of State-Run Marketplaces That Use HealthCare.gov* (The Commonwealth Fund, Sept. 2015).
- ³ K. Keith and K. Lucia, *Implementing the Affordable Care Act: The State of the States* (The Commonwealth Fund, Jan. 2014); and Kaiser Family Foundation, *Status of State Action on the Medicaid Expansion Decision* (Henry J. Kaiser Family Foundation, Nov. 2017).
- ⁴ See, e.g., I. Bobic, “[Trump Says There’s ‘No Such Thing As Obamacare Anymore’ One Month Before Enrollment Starts](#),” *Huffington Post*, Oct. 16, 2017; R. Pear, “[Governors Rally Around Health Law Fixes as White House Pushes Repeal](#),” *New York Times*, Sept. 7, 2017; and A. Carlsen and H. Park, “[The Same Agency That Runs Obamacare Is Using Taxpayer Money to Undermine It](#),” *New York Times*, Sept. 4, 2017. In December 2017, Republican congressional majorities passed, and the president signed, legislation that effectively repealed the ACA’s individual mandate: the requirement that individuals maintain minimum essential health coverage or else pay a tax penalty. This change takes effect beginning in 2019.
- ⁵ See, e.g., J. Rovner, “[Timeline: Roadblocks to Affordable Care Act Enrollment](#),” *Kaiser Health News*, Nov. 1, 2017; S. Kliff, “[This Is What Obamacare Sabotage Looks Like](#),” *Vox*, Sept. 5, 2017; and J. Giovannelli and K. Lucia, “[Amid Market Uncertainty, Trump Administration Retreats from Health Plan Oversight](#),” *To the Point*, The Commonwealth Fund, June 20, 2017.
- ⁶ We sought to interview officials representing all 17 state-run marketplaces and ultimately conducted structured interviews with executive staff from 15 of the exchanges, primarily the marketplace’s CEO or executive director. The interviews took place in September and October 2017, prior to the start of open enrollment on November 1 and before Congress passed legislation repealing the ACA’s individual mandate, in late December.
- ⁷ M. Fielder, *Taking Stock of Insurer Financial Performance in the Individual Health Insurance Market Through 2017* (Brookings Institution, Oct. 2017); C. Cox and L. Levitt, *Individual Insurance Market Performance in Early 2017* (Henry J. Kaiser Family Foundation, July 2017); and D. Banerjee, *The ACA Individual Market: 2016 Will Be Better Than 2015, But Achieving Target Profitability Will Take Longer* (S&P Global Ratings, Dec. 22, 2016). See also K. Giesa, *Analysis: Market Uncertainty Driving ACA Rate Increases* (Oliver Wyman Health, June 2017); and C. Garthwaite and J. Graves, “[Success and Failure in the Insurance Exchanges](#),” *New England Journal of Medicine*, March 9, 2017 376(10): 907–10.
- ⁸ S. Corlette and K. Lucia, “[Down to the Wire: Indecision on ACA Cost-Sharing Reduction Payments Creates Confusion for States](#),” *To the Point*, The Commonwealth Fund, Sept. 8, 2017.
- ⁹ N. Bagley, “[Trump’s Executive Order on Obamacare](#),” *Incidental Economist*, Jan. 21, 2017.
- ¹⁰ R. Kamal, C. Cox, C. Shoaibi et al., *An Early Look at 2018 Premium Changes and Insurer Participation on ACA Exchanges* (Henry J. Kaiser Family Foundation, Aug. 2017); and S. Corlette, K. Lucia, J. Giovannelli et al., *Uncertain Future for Affordable Care Act Leads Insurers to Rethink Participation, Prices* (Urban Institute, Jan. 2017).
- ¹¹ See also D. Scott, “[Obamacare Enrollment Is Shrinking After Trump’s Sabotage](#),” *Vox*, Dec. 15, 2017.
- ¹² Covered California, *Policy and Action Items* (Covered California, Aug. 17, 2017).

- ¹⁵ Office of Governor Andrew Cuomo, *Executive Order No. 167: Ban on Insurers that Withdraw from New York State of Health* (New York State Office of the Governor, June 30, 2017).
- ¹⁴ Covered California, *Supplemental Guidance on Rate Filing Instructions Related to the Cost-Sharing Reduction Program* (Covered California, June 6, 2017).
- ¹⁵ S. Corlette, K. Lucia, and M. Kona, “States Step Up to Protect Consumers in Wake of Cuts to ACA Cost-Sharing Reduction Payments,” *To the Point*, The Commonwealth Fund, Oct. 27, 2017.
- ¹⁶ The ACA’s Section 1332 waiver program allows states to waive enumerated provisions of the health law to facilitate state-specific strategies to improve coverage. Section 1332 allows states to access federal funding for a waiver program in certain circumstances. By 2018, three states — Alaska, Minnesota, and Oregon — were using Section 1332 waivers to tap federal funding to support a state-based reinsurance program. See J. Giovannelli and K. Lucia, *The ACA’s Innovation Waiver Program: A State-by-State Look* (The Commonwealth Fund, March 2018).
- ¹⁷ Many respondents suggested a permanent federal reinsurance program could be modeled on the temporary one established under the ACA, which was successful in moderating premiums during its operation from 2014–2016.
- ¹⁸ This view was universal, common both to the states that use their own eligibility and enrollment websites, as well as to those that rely on HealthCare.gov.
- ¹⁹ A. Semanskee, C. Cox, G. Claxton et al., *Insurer Participation on ACA Marketplaces, 2014–2018* (Henry J. Kaiser Family Foundation, Nov. 2017). See also E. Curran, J. Giovannelli, and K. Lucia, “Insurer Participation in ACA Marketplaces: Federal Uncertainty Triggers Diverging Business Strategies,” *To the Point*, The Commonwealth Fund, Jan. 5, 2018.
- ²⁰ M. Hall and M. McCue, “Health Insurance Markets Perform Better in States That Run Their Own Marketplaces,” *To the Point*, The Commonwealth Fund, March 7, 2018; C. Gaba, *And with That, I’m Done. Final 2018 Rate Hike Average: -29.5%, 3/5ths Caused Directly by Trump Sabotage* (ACASignups.net, Oct. 27, 2017); and C. F. Pearson and C. Sloan, *Silver Exchange Premiums Rise 34% on Average in 2018* (Avalere, Oct. 25, 2017).
- ²¹ Kaiser Family Foundation, *National ACA Marketplace Signups Dipped a Modest 3.7 Percent This Year* (Henry J. Kaiser Family Foundation, Feb. 2018).
- ²² In a proposed rule intended to take effect in 2019, the Trump administration would eliminate two features of the federal marketplace intended to improve consumer decision-making: standardized plan options and the “meaningful difference” standard. Patient Protection and Affordable Care Act, “HHS Notice of Benefit and Payment Parameters for 2019, Proposed Rule,” *82 Fed. Reg.* 51052, 51081, 51111 (Nov. 2, 2017). A standard plan is a plan with a standardized cost-sharing structure (deductibles, copayments, and coinsurance) that is intended to make it easier for consumers to make apples-to-apples comparisons between plans. The federal marketplace specified optional standard plan designs in 2017 and 2018 and provided differential display of these plans on HealthCare.gov. The “meaningful difference” standard is intended to reduce consumer confusion and make the task of health plan selection more manageable by prohibiting the same insurer from selling multiple marketplace health plans that are so similar to one another in terms of cost-sharing structure, provider networks, covered, benefits, and plan type, that a reasonable consumer could not distinguish between them.
- Seven state-run marketplaces use standard plans and many have established a “meaningful difference” standard. These marketplaces may continue to apply these features notwithstanding the proposal by the federal government to eliminate them for the federal exchange.

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