ISSUE BRIEF
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States Step Up to Protect Insurance Markets and Consumers from Short-Term Health Plans

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ABSTRACT

ISSUE: Short-term health insurance plans are expected to siphon healthy individuals away from the ACA-compliant insurance market, causing higher premium rates in the individual market and leaving millions enrolled in coverage that excludes key services and financial protections.

GOALS: To offer a comprehensive look at state regulation of short-term plans, better understand emerging trends in regulation of the short-term market, and glean lessons learned in the policymaking process.

METHODS: Review of state laws, analysis of new laws and regulations governing short-term plans in nine states and D.C., and structured interviews with policymakers and stakeholders.

KEY FINDINGS: States took steps in 2018 to ban or limit short-term plans and to increase the value of these products. State action aimed to protect consumers from products offering inadequate coverage and misinformation while safeguarding the individual health insurance market. New laws were passed with bipartisan backing and with support from consumer and patient advocates and health insurers.

CONCLUSION: If states do not take action to protect consumers, premium costs for ACA-compliant coverage are likely to rise and consumers may find themselves with plans that do not provide the protection they expect. States can pursue a variety of policy options, in addition to duration limits, to protect consumers and the individual health insurance market.

TOPLINES

- **If states do not regulate short-term health plans, rates in the individual market will likely increase and consumers may find themselves with insurance that doesn't provide the protection they expect.**

- **Some states took steps to regulate short-term health insurance plans and protect consumers, including limiting the duration of such plans, banning rescissions, and adding protections for people with preexisting conditions.**

The Commonwealth Fund

BACKGROUND

Short-term, limited duration health insurance — known as short-term plans — was originally intended to fill short gaps when people transitioned between coverage, but is now being sold as a replacement for year-round comprehensive coverage.[1] Short-term plans are not subject to the consumer protections of the Affordable Care Act (ACA). As a result, they have numerous gaps and limits in their benefit design, and people with these plans can be denied coverage for certain conditions (see Exhibit 1).[2] Short-term plans may appear cheaper, but may result in higher out-of-pocket costs or in people going without necessary care. In one instance, a plan paid only $11,780 toward $211,690 for heart surgery, leaving the enrollee with about $200,000 in bills. The insurer claimed this remainder exceeded the allowable amount under the plan.[3]

Federal regulations limit the duration of short-term plans. Out of a concern that people were enrolling in short-term plans in lieu of ACA-compliant coverage, in 2016 the Obama administration changed the maximum duration to less than three months and required the policies to include a consumer disclosure.[4] In 2018, the Trump administration reverted to a maximum term of less than 12 months while also allowing short-term plans to be renewed for up to 36 months.[5]

States maintain primary authority for regulating short-term plans, with federal rules acting as a floor.[6] Some states have a very light regulatory touch while four (California, Massachusetts, New Jersey, and New York) have banned the sale of all or most short-term plans (see Appendix A). Twenty-two states limit the initial duration of a short-term plan to less than the federal limit of 12 months. Some states additionally limit or prohibit "stacking," a practice used by some brokers and insurers to sell consumers multiple short-term plans at one time with consecutive start dates so that the plans patch together a full year of coverage. While a majority of states mandate that short-term plans have some benefit requirements,

Exhibit 1. Comparison of Marketplace Plans to Short-Term Plans for Sale in Dallas, Texas

Benefit design	ACA-compliant plans	Short-term plans
Highest deductible	$7,900	$25,000
Limit on total covered benefits	None	$100,000–$2,000,000 per contract term
Available regardless of health status	Yes	No, except one insurer offering guaranteed options with a $100,000 limit in total coverage per contract term
Preexisting conditions	Covered	Excluded
Mental health and substance use	Covered in parity with other services	Excluded by three of six insurers analyzed; all three insurers covering mental health and substance use treatment limit outpatient visits to 10 visits at $50 and limit inpatient services to $100 per day for these categories
Outpatient prescription drugs	Covered	Excluded by five of six insurers analyzed; only insurer covering outpatient prescription drugs limits coverage to $3,000 and excludes prescription drugs in lower-cost plans
Pregnancy and delivery	Covered	Excluded

Data: Authors' analysis of plans available in February 2019 on eHealthinsurance.com for the zip code 75001. There were a total of three ACA-compliant insurers and six short-term insurers.

Colorado and Connecticut are the only states that require coverage of a comprehensive set of benefits using the ACA's essential health benefit provision.[7] Other ways states have chosen to regulate the short-term market include limiting rating factors (that is, varying rates based on variables like gender or age); requiring insurers to pay a minimum percentage of premiums for medical claims and quality costs; and prohibiting rescissions, a practice in which insurers retroactively cancel coverage — often after a high-cost claim is filed (Exhibit 2).

Exhibit 2. State Policy Options to Regulate Short-Term Plans

Policy option	Description
Ban short-term plans	Prohibit the sale of short-term plans.
Limit plan duration	Limit the maximum contract term of short-term plans to less than the federal limit of under 12 months. Most common limits are about three or six months.
Limit stacking	Prevent circumvention of plan duration limits by prohibiting insurers from effectively stacking multiple policies to create coverage for a longer duration. Some states prohibit the sale of consecutive short-term policies while other states limit the total number of policies a consumer may purchase within a set period of time or the length of time a consumer can be covered by short-term plans within a year.
Preexisting condition protections	Prohibit or limit practices that discriminate against people with preexisting conditions. States can protect consumers at the time of enrollment by banning the consideration of preexisting conditions in determining if an applicant is eligible for a plan or only allowing preexisting conditions within a specific time period to be considered as part of the application process. States can protect enrollees issued coverage by prohibiting or limiting preexisting condition exclusions, which exclude coverage for any services or treatment related to a preexisting condition.
Require certain benefits	Require short-term plans to cover a minimum set of benefits, either by detailing benefits specific to the short-term market or requiring coverage of the essential health benefits.
Require a medical loss ratio	Require short-term insurers to spend a minimum percentage of all premium dollars on customers' medical claims and activities to improve the quality of care.
Limit premium rating factors	Limit the factors short-term insurers can use to determine premium rates. For example, states can prohibit short-term plans from age or gender rating (varying rates based on the age or sex of enrollees) or limit how much more plans can charge based on such rating factors.
Prohibiting rescissions	Prohibit plans from retroactively canceling coverage, except in the case of a subscriber's fraud or intentional misrepresentation of material fact. States can limit any cancellation of coverage by the insurer, including such instances of fraud or when the enrollee fails to pay premiums.
Limit who can enroll	Limit who is eligible for short-term plans, such as consumers who were not eligible for enrollment in the marketplace during the prior year.
Ensure consumers see or hear consumer disclosure	Require a stronger consumer disclosure than is required by federal regulations and require the disclosure be read to potential enrollees by agents and brokers or require the consumer to sign a statement that they have read the consumer disclosure.
Require external appeals	Require short-term plans to use an external appeals process for denied claims so enrollees have a third party making final appeals determinations.

Data: Authors' analysis.

Exhibit 3. New Laws or Regulations in 2018 That Limit Short-Term Plans in Nine States and D.C.

Policy option	California	Colorado	Delaware	District of Columbia	Hawaii	Illinois	Maryland	New Mexico	Vermont	Washington
Ban short-term plans	Yes	No	No	No	No	No	No	No	No	No
Limit plan duration	n/a	6 months or less*	3 months or less	3 months or less	Less than 91 days	Less than 181 days	3 months or less	3 months or less	3 months or less	3 months or less
Limit stacking	n/a	Yes*	Yes	Yes	No	Yes	No	Yes	Yes	Yes

Data: Authors' analysis of state laws governing short-term health plans.
* Colorado's limits on short-term plan duration and stacking existed prior to 2018. All other limits were enacted or issued in 2018.

In the states that do not strictly regulate short-term plans, the longer duration short-term plans now allowed by the Trump administration are expected to siphon healthy individuals from the individual insurance market.[8] Estimates vary, but the Congressional Budget Office estimates 1.2 million people will enroll annually in short-term coverage by 2028.[9] If this happens, rates will likely increase in the individual market and, if some insurers drop out of the market, consumer choice may decline.[10] The millions who enroll in short-term plans will be left with inadequate coverage that excludes services such as substance use disorder treatment or is cancelled after high-cost claims are filed.[11]

While most states' short-term laws have existed for years or even decades, nine states and the District of Columbia (D.C.) finalized new laws or regulations in 2018 in response to the changes from the federal government (Exhibit 3). California, Hawaii, Illinois, Maryland, Vermont, and D.C. did so through legislation; Colorado, Delaware, New Mexico, and Washington issued regulations.[12] To better understand emerging regulatory trends in this area, we analyzed these new laws and regulations and interviewed policymakers (legislators, legislative staff, or regulators) and stakeholders (consumer and patient advocates or health insurers).[13]

FINDINGS

States Aimed to Protect Consumers from Inadequate Products and Misinformation and to Safeguard Individual Health Insurance Markets

Decisions by states to regulate or ban short-term plans were based on concerns for consumers and the stability of health insurance markets. Some concerns centered on the coverage limitations of short-term plans. For example, Illinois consumer advocates highlighted a short-term plan that excludes coverage for some hospitalizations when patients are admitted over a weekend. Policymakers generally wanted to make sure consumers are aware of what they are purchasing. One regulator said there have been instances of individuals "thinking they had an ACA-compliant major medical plan" and a consumer advocate pointed to "sticker shock" after enrollees file claims. Regulators in two states expressed concerns about what brokers are telling consumers, noting that staff in their agencies happened to have been on the receiving end of telemarketing calls selling short-term plans and therefore experienced the sales pitch directly.

Some policymakers were concerned that the sale of longer duration short-term plans, with a 12-month term and potential for renewal up to 36 months, would harm the individual health insurance market if healthy enrollees pursued these plans instead of individual market coverage. One regulator said "people going into [short-term] plans are going to be healthier people . . . and therefore our marketplace is adversely impacted."

Nine States and the District of Columbia Took Action to Protect Insurance Markets and Consumers in 2018

Nine states and D.C. passed laws or introduced regulations in 2018 because of the new federal regulations (Exhibit 4 and Appendix B). The actions taken by states were designed to limit the sale of short-term plans and bolster consumer protections in the market.

Limiting Enrollment in Short-Term Plans

Stakeholders interviewed in almost every state reported that officials first considered whether there was a place for short-term plans in their insurance markets. In general, policymakers thought that short-term policies provided an important option to consumers transitioning between coverage. But legislators in California concluded that the drawbacks of short-term plans outweigh any potential benefits, especially since consumers transitioning between coverage can buy ACA-compliant plans through special-enrollment periods. California banned short-term plans, so such plans may no longer be sold.

The other eight study states and D.C. limit duration of short-term plans to six months or less. Colorado had already limited duration to six months; Illinois newly limited duration to less than 181 days, and six other states and D.C. newly limited duration to about three months. One regulator explained a three-month limit keeps short-term plans issued only "for the purpose they were intended." Five states and D.C. limit or prohibit the practice of stacking by restricting the total time an individual can enroll in short-term plans offered by one or more insurers. Stacking "effectively defeats the purpose of short-term" plans, one regulator said.

Exhibit 4. States' 2018 Actions to Protect Consumers in Short-Term Plans

Policy option	California*	Colorado	Delaware	District of Columbia	Hawaii	Illinois	Maryland	New Mexico	Vermont	Washington
Require certain benefits	n/a	✓								✓
Require a medical loss ratio	n/a	✓	✓							
Limit rating factors	n/a	✓								
Preexisting condition protections	n/a	✓		✓						
Strictly limit rescissions	n/a					✓				✓
Limit who can enroll	n/a				✓					
Require consumer disclosure	n/a	✓	✓	✓		✓	✓		✓	✓

Data: Authors' analysis of state laws governing short-term health plans.
Note: Checkmarks denote state action taken in 2018. Some states without checkmarks had previously required this consumer protection. Colorado finalized their preexisting condition protections and expanded their benefit requirements in 2019 with an April 2019 effective date.
* These consumer protections are not applicable to California because the state's ban prevents the sale of any short-term plan.

Two states took innovative approaches to limiting enrollment in short-term plans. Hawaii limits eligibility to those who were unable to enroll in marketplace coverage in the prior year in the open-enrollment or a special-enrollment period. This leaves only a small group of individuals, including undocumented immigrants and new residents, eligible to buy short-term plans. Washington prohibits the sale of short-term plans during the open-enrollment period for the next calendar year. This is to minimize the likelihood of short-term plans siphoning healthy risk from the ACA marketplace.

Making Modest Improvements in Value of Short-Term Plans

Some study states created additional consumer protections in the short-term market. Illinois and Washington now ban rescissions except for very limited circumstances, such as fraud on the part of the enrollee. D.C. protects enrollees and applicants who are currently receiving medical treatment or have sought treatment in the past 12 months from being denied coverage or having a claim denied because of their preexisting condition. As of April 2019, short-term plans in Colorado cannot deny coverage based on a preexisting condition. Five of the study states and D.C. have consumer disclosure requirements, although some simply codify the federal requirement. In an effort to increase the likelihood consumers see or hear the disclosure, Delaware requires prominent placement on application materials, Illinois requires brokers and agents to read the disclosure to the applicant, and Washington requires consumers to sign a standard disclosure form that includes details on benefits and exclusions.

Two study states have benefit requirements. Washington requires a minimum level of benefits for short-term plans. According to a regulator, this is intended to balance two objectives: make coverage not "illusory" and also so that it does not look "so much like an ACA plan it would entice people away from marketplace coverage." In Colorado, regulations finalized in 2019 require short-term plans to cover all 10 essential health benefit categories.[14] To make sure plans have all the mandated benefits, Colorado requires the insurance commissioner to review the forms prior to the sale of the plans.

States Restricted Sale of Short-Term Plans with Little Opposition and with Bipartisan Support

Consumer and Patient Advocates and Individual Market Insurers Supported Changes; Brokers and Short-Term Insurers Opposed Them

In most of the study states, advocates and health insurers participating in the individual market supported the policy changes. Consumer and patient advocacy groups sometimes pushed for stronger consumer protections and engaged in efforts to educate the public and legislators on the gaps in short-term policies. In two states, individual market health insurers proposed legislative language limiting short-term plans. In many states, legislators worked closely with their insurance marketplaces and regulators in writing legislation. Final legislation in D.C. included additional protections introduced by the mayor in separate legislation and recommended by patient advocates and regulators during a hearing.

When there was opposition, it was primarily from agents, brokers, and short-term health insurers.[15] One state reported that a short-term insurer was adamant about the need to "discriminate against people with preexisting conditions in order to have a vibrant business." In another state, a few brokers commented that a three-month limit "makes no sense" and that some consumers either do not want to pay for ACA-compliant coverage or miss open enrollment.

Advancing Bipartisan Policies

All the states that passed legislation did so with bipartisan support, although these were all states with Democratic control of one or more legislative chambers. While the Republican governor vetoed Illinois's bill, the Senate overrode the veto unanimously. The sponsoring legislator in Illinois agreed to amend the legislation, including taking out the requirement that short-term plans meet all the same requirements as ACA-compliant plans, to obtain bipartisan support. In Maryland, a Republican administration supported the Democrat-sponsored legislation.

One factor credited for bipartisan consensus was the efforts of advocates to educate legislators on the nature and limitations of short-term policies. Advocates said they laid out the differences in benefits between individual market and short-term policies. Consumer advocates in one state found legislation to be an “easy sell” to policymakers once they understood the limitations of short-term policies. A legislator in another state noted that experts supporting and explaining the proposal helped shore up bipartisan support.

DISCUSSION

The short-term market is expected to grow as plans with longer durations are marketed as an alternative to ACA-compliant coverage. In states that take no steps to protect consumers, premium costs for ACA-compliant coverage are likely to rise and consumers will discover too late that their short-term plan does not provide the protection they expect. An increasing number of people will likely be left with denied claims or find themselves uninsured when their coverage is rescinded. States that took early action regulating short-term plans can provide insight to policymakers looking to protect consumers and insurance markets.

While states frequently adopt duration limits in their effort to regulate short-term plans, there are other policy options that can restrict short-term plans and increase consumer protections. At a minimum, states can enforce duration limits and prohibit the sale of consecutive policies to close the stacking loophole. Policymakers also are thinking creatively about ways to improve the value of short-term plans, by requiring a minimum set of benefits, prohibiting the rescission of coverage from sick enrollees, or banning discrimination against applicants and enrollees with preexisting conditions. States can decide which protections best fit their insurance markets.

Although the effects of these state actions on the broader insurance markets is still unknown, these efforts show that regulating the short-term market is feasible. Legislation can be passed with support across party lines and with the backing of large health insurers, as well as consumer and patient advocates.

NOTES

1. Jeff Smedsrud, "Q&A About Short Term Medical Insurance Plans," *Pivot Health Blog*, Pivot Health, n.d.; and Sabrina Corlette et al., *The Marketing of Short-Term Health Plans* (Urban Institute, Jan. 2019).

2. Dania Palanker et al., "Proposed Federal Changes to Short-Term Health Coverage Leave Regulation to States," *To The Point* (blog), Commonwealth Fund, Feb. 20, 2018; and Dania Palanker, JoAnn Volk, and Kevin Lucia, "Short-Term Health Plan Gaps and Limits Leave People at Risk," *To The Point* (blog), Commonwealth Fund, Oct. 30, 2018.

3. Cheryl Fish-Parcham, Families USA, to Alex Azar et al., "Comments on Short-Term Limited Duration Insurance Proposed Rule (CMS-9924-P)," Apr. 23, 2018.

4. "Excepted Benefits; Lifetime and Annual Limits; and Short-Term, Limited-Duration Insurance," 81 Fed. Reg. 75316, 75326 (Oct. 31, 2016).

5. "Short-Term, Limited-Duration Insurance," 83 Fed. Reg. 7437 (Feb. 21, 2018).

6. Emily Curran et al., "Do States Know the Status of Their Short-Term Health Plan Markets?," *To The Point* (blog), Commonwealth Fund, Aug. 3, 2018.

7. Colorado Amended Regulation 4-2-59, Concerning Premium Rate Setting for Short-Term Limited Duration Health Insurance Policies (2019) and "Short-Term, Limited-Duration Health Insurance Policies," State of Connecticut, Insurance Department, Bulletin HC-121 (Aug. 9, 2018).

8. Total enrollment in short-term plans is unknown, in part because short-term plans are often sold through national associations which may not report enrollment to states. See Emily Curran, Dania Palanker, and Sabrina Corlette, "Short-Term Health Plans Sold Through Out-of-State Associations Threaten Consumer Protections," *To The Point* (blog), Commonwealth Fund, Jan. 31, 2019.

9. Congressional Budget Office, *How CBO and JCT Analyzed Coverage Effects of New Rules for Association Health Plans and Short-Term Plans* (CBO, Jan. 2019). See also: Linda J. Blumberg, Matthew Buettgens, and Robin Wang, *The Potential Impact of Short-Term Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending* (Urban Institute, Feb. 2018); and Preethi Rao, Sarah Nowak, and Christine Eibner, *What Is the Impact on Enrollment and Premiums If the Duration of Short-Term Health Insurance Plans Is Increased?* (Commonwealth Fund, June 2018).

10. Ibid.

11. Reed Abelson, "Without Obamacare Mandate, 'You Open the Floodgates' for Skimpy Health Plans," *New York Times,* Nov. 30, 2017.

12. Emergency and temporary legislation was passed into law in the District of Columbia in 2018 with identical permanent legislation signed into law in 2019. Emergency regulations were promulgated in Delaware in 2018, with identical final regulations published January 1, 2019. Colorado issued final regulations in 2018 and amended regulations were issued in January 2019. New Mexico issued proposed regulations in 2018 but there were no final or emergency regulations promulgated in 2018 so these regulations are not included in the analysis.

13. Authors were unable to schedule interviews in one of the nine states.

14. Regulators noted that the regulations clarify that Colorado law requires coverage of the 10 essential health benefit categories (ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services,

including oral and vision care) which are codified into state law for individual health benefit plans. However, short-term plans are not required to cover the full set of essential health benefits as defined by the state's benchmark plan and, unlike ACA-compliant individual market plans, short-term plans are allowed to place dollar value limits on essential health benefits.

15. Brokers receive commissions for short-term plans that, in some instances, are higher than those for ACA-compliant coverage. See Kevin Lucia et al., *Views from the Market: Insurance Brokers' Perspectives on Changes to Individual Health Insurance* (Robert Wood Johnson Foundation and Urban Institute, Aug. 2018).

APPENDIX A. SNAPSHOT OF REGULATION OF SHORT-TERM PLANS IN THE 50 STATES AND THE DISTRICT OF COLUMBIA

State regulation:	Is initial contract duration limit shorter than federal limit?	Is purchase of multiple or consecutive plans prohibited?	Are there rating restrictions?	Are all preexisting condition exclusions banned?	Are rescissions prohibited?	Are essential health benefits required?	Is there a minimum medical loss ratio requirement?	Do consumers have access to external appeals?
Alabama	No	No	No	No	No	No	No	No
Alaska	No	No	No	No	No	No	No	Yes
Arizona	No	No	No	No	No	No	No	Yes
Arkansas	No	No	No	No	No	No	50%	No
California	Short-term plans are not permitted							
Colorado	6 months	Cannot be enrolled more than 12 months in an 18-month period	Same as ACA	No	Yes	Yes[a]	80%[a]	Yes
Connecticut	6 months	No	No	No	No	Yes	No	Yes
Delaware	3 months	Cannot be covered by the same insurer more than three months in a 12-month period	No	No	No	No	60%	No
District of Columbia	3 months	Cannot be enrolled in more than one policy within a 9-month period	No	No	No	No	No	Yes
Florida	No	No	No	No	No	No	No	No
Georgia	No	No	No	No	No	No	No	No
Hawaii	91 days	No[b]	No	No	No	No	No	Yes
Idaho	No	Cannot be enrolled with the same insurer more than 12 months in a 14-month period	No	No	No	No	No	Yes
Illinois	181 days	Cannot be covered by same insurer more than 181 days in a 240-day period	No	No	Yes	No	No	Yes

State regulation:	Is initial contract duration limit shorter than federal limit?	Is purchase of multiple or consecutive plans prohibited?	Are there rating restrictions?	Are all preexisting condition exclusions banned?	Are rescissions prohibited?	Are essential health benefits required?	Is there a minimum medical loss ratio requirement?	Do consumers have access to external appeals?
Indiana	6 months	No	No	No	No	No	No	No
Iowa	No	No	No	No	No	No	55%–60%	Yes
Kansas	No	No	No	No	No	No	No	Yes
Kentucky	No	No	No	No	No	No	No	Yes
Louisiana	No	No	No	No	No	No	No	No
Maine	No	Cannot be covered more than 24 months	No	No	Yes	No	50%	No
Maryland	3 months	No	No	No	No	No	No	Yes
Massachusetts	Underwritten short-term plans are not permitted							
Michigan	185 days	Cannot be covered by same insurer more than 185 days in a 365-day period	No	No	No	No	No	Yes
Minnesota	185 days	Cannot be covered by same insurer more than 365 days in a 555-day period	Gender rating prohibited	No	No	No	60%[c]	Yes
Mississippi	No	No	No	No	No	No	No	Yes
Missouri	No	No	No	No	No	No	No	Yes, if plan has network
Montana	No	No	Gender rating prohibited	No	No	No	No	Yes
Nebraska	No	No	No	No	No	No	No	Yes
Nevada	185 days	Cannot be covered by same insurer more than 185 days in a 365-day period	No	No	No	No	No	Yes
New Hampshire	6 months	Cannot be covered more than 540 days in a 24-month period	No	No	No	No	No	Yes
New Jersey	Underwritten short-term plans are not permitted							

State regulation:	Is initial contract duration limit shorter than federal limit?	Is purchase of multiple or consecutive plans prohibited?	Are there rating restrictions?	Are all preexisting condition exclusions banned?	Are rescissions prohibited?	Are essential health benefits required?	Is there a minimum medical loss ratio requirement?	Do consumers have access to external appeals?
New Mexico	3 months	Cannot be covered by same insurer more than 3 months in a 12-month period	No	No	No	No	Rules to be promulgated	No
New York	Short-term plans are not permitted							
North Carolina	No	No	No	No	No	No	No	Yes
North Dakota	6 months	No	No	No	No	No	55%	No
Ohio	No	No	No	No	No	No	No	Yes
Oklahoma	6 months	No	No	No	No	No	No	Yes
Oregon	3 months	Cannot be covered by same insurer more than 3 months in a 5-month period	No	No	No	No	No	No
Pennsylvania	No	No	No	No	No	No	No	No
Rhode Island	No	No	No	Yes	Yes	No	80%	Yes
South Carolina	11 months	No	No	No	No	No	50%-60%	Yes
South Dakota	6 months	No	No	No	No	No	No	No
Tennessee	No	No	No	No	No	No	55%–60%	Yes
Texas	No	No	No	No	No	No	No	Yes
Utah	No	No	No	No	No	No	55%–60%	Yes
Vermont	3 months	Cannot be covered more than 3 months in a 12-month period	No	No	No	No	No	Yes
Virginia	6 months	No	No	No	No	No	No	Yes
Washington	3 months	Cannot be covered more than 3 months in a 12-month period	No	No	Yes	No	No	Yes
West Virginia	No	No	No	No	No	No	No	Yes

State regulation:	Is initial contract duration limit shorter than federal limit?	Is purchase of multiple or consecutive plans prohibited?	Are there rating restrictions?	Are all preexisting condition exclusions banned?	Are rescissions prohibited?	Are essential health benefits required?	Is there a minimum medical loss ratio requirement?	Do consumers have access to external appeals?
Wisconsin	No	Cannot be covered by same insurer more than 18 months	No	No	No	No	No	Yes
Wyoming	6 months[d]	No		No	No	No	No	Yes

Data: Authors' analysis of state laws governing short-term health plans as of April 30, 2019.

Notes: A state is identified as having a:

Contract duration limit if the state limits initial contract duration of short-term plans to less than the federal limit, which is less than 12 months, in one of the following ways: 1) the state has explicitly stated that it will enforce a duration limit that is shorter than less than 12 months or less than 365 days through statute, regulation, or subregulatory guidance; or 2) if a short-term plan lasting longer than the specified duration would become subject to one or more of the following state consumer protections: guaranteed issue, guaranteed renewability, or required coverage of essential health benefits.

Purchase of multiple or consecutive plans are prohibited in short-term coverage if the state limits stacking of short-term plans by prohibiting the issuance or purchase of multiple short-term plans within a time period either by 1) expressly limiting the total number of days or months an individual may be enrolled in a short-term plan within a set time period (e.g., 185 days in a 365-day period) by one or multiple insurers; or 2) by both prohibiting renewal of short-term plans and expressly defining renewal to include the purchase of a new short-term plan by either the same or any insurer (for example, defining renewal to include purchase of a new short-term plan within 60 days of being enrolled).

Rating restrictions if the state imposes restrictions on factors insurers can use in determining an individual's premium rate, such as age, gender, zip code, or preexisting conditions.

Preexisting condition ban only if the state broadly prohibits a short-term plan from excluding any preexisting conditions. Some states limit how long an insurer may look back to determine if a condition is preexisting or not allow preexisting conditions on conditions for which an enrollee recently received care, which are not reflected here.

Prohibition on rescissions if the state prohibits insurers from retroactively cancelling short-term coverage or only allows retroactive cancellation of short-term coverage in cases of fraud, misrepresentation of material fact, or failure to pay premiums.

Requirement to cover the essential health benefits if the state requires that short-term plans cover at least the 10 categories of benefits as defined by the ACA.

Medical loss ratio requirement if the state, through statute, regulation, or written guidance, 1) requires short-term plans to meet a specified minimum percentage of premium dollars on customers' medical claims and quality improvement activities, or 2) requires short-term plans to base their premium rates on an actuarial projection that they spend a specified minimum percentage of all premium dollars on the customers' medical claims and quality improvement activities. This does not include states that consider medical loss ratio in determining if rates are reasonable unless specific ratios are set in statute, regulation, or written guidance.

Access to external appeals if the state guarantees short-term plan enrollees with the right to a review of an adverse decision by the insurer to an independent third party not related to the plan.

a. The essential health benefits and 80% medical loss ratio requirements in Colorado became effective April 1, 2019.

b. However, insurers in Hawaii also cannot issue, renew, or reenroll an individual in a short-term policy if the individual was eligible to purchase health insurance through the federal exchange during an open enrollment or a special enrollment period in the previous year, limiting maximum enrollment to less than 12 months for many individuals.

c. It is the interpretation of the Minnesota Department of Commerce that Minnesota statute 62A.02 requires short-term plans have a projected minimum loss ratio of 60%.

d. The Wyoming Department of Insurance interprets Wyoming statute § 26-18-127 as a guaranteed renewability requirement, which applies to short-term plans longer than 6 months.

APPENDIX B. OVERVIEW OF MAJOR PROVISIONS OF NEW LAWS OR REGULATIONS REGARDING SHORT-TERM PLANS IN 2018

State	Major pieces of new law or regulation	
California SB 910 Codified Chapter 687, Statutes of 2018	Ban	Bans sale of short-term health plans
Colorado 4-2-41 4-2-59[a] 4-2-60	Benefit requirements	Clarifies that all benefit requirements applying to individual market apply to short-term plans, except for some benefits specifically excluded from short-term polices Essential health benefit categories apply to short-term plans (effective April 1, 2019)
	Rating limit	Clarifies age rating limited to 3:1
	Medical loss ratio	Clarifies medical loss ratio of 80 percent required
	Preexisting conditions protections	Coverage cannot be denied to an applicant based on a preexisting condition
	Filing requirement	Requires all short-term plans file forms with Division of Insurance
Delaware 22 DE Reg. 607 to be codified at 18 *DE Admin. Code* § 1320	Duration limit	Limits contract duration to three months or less
	Limit purchase of multiple policies	Cannot be covered by more than one short-term policy by same insurer within a year
	Medical loss ratio	Actuarial projections of 60 percent medical loss ratio required
	Consumer disclosure	Requires prominent display of federal disclosure and provision of an outline of coverage to applicants
	Filing requirements	Plans must be approved by insurance commissioner
District of Columbia B22-1001 Act Number A22-0595[b]	Duration limit	Limits contract duration to three months or less
	Limit purchase of multiple policies	Cannot be covered by more than one short-term policy by same insurer that previously covered the individual in preceding 9 months
	Consumer disclosure	Requires disclosure of D.C.'s individual mandate requirement and other disclosures insurance commissioner requires through rulemaking
	Preexisting condition protections	Cannot exclude coverage as a preexisting condition or deny coverage to an applicant for a preexisting condition if applicant sought treatment for the condition in prior 12 months or is in active course of treatment
Hawaii HB 1520 Act 192	Duration limit	Limits contract duration to less than 91 days
	Enrollment limit	Cannot enroll, reenroll, or renew if eligible for a marketplace plan in prior year through open enrollment or a special enrollment period
Illinois SB 1737 Public Act 100-1118	Duration limit	Limits contract duration to less than 181 days
	Limit purchase of multiple policies	Cannot be covered by same insurer within 60 days of coverage
	Rescissions	No rescissions except for fraud
	Consumer disclosure	Must be read out loud by broker or agent
	Filing requirement	Plan must be filed with and approved by insurance department

State	Major pieces of new law or regulation	
Maryland HB 1782 Chapter 37	Duration limit	Limits contract duration to 3 months or less
	Consumer disclosure	Codifies federal disclosure
New Mexico 13.10.29 NMAC	Duration limit	Limits contract duration to 3 months or less
	Limit purchase of multiple policies	Cannot be covered more than 3 months in a 12-month period
Vermont H 892 Act 131	Duration limit	Limits contract duration to 3 months or less
	Limit purchase of multiple policies	Cannot be covered more than 3 months in a 12-month period
	Consumer disclosure	To be determined by insurance commissioner
	Filing requirements	Insurer must have certificate of authority form insurance commissioner Insurance commissioner to adopt rules including filing of rates, form, and marketing materials
Washington WAC 284-43-8000 to -8030	Duration limit	Limits contract duration to 3 months or less
	Limit purchase of multiple policies	Cannot be covered more than 3 months in a 12-month period
	Enrollment limit	Cannot purchase a plan for the next calendar year during the open enrollment period
	Rescissions	No rescissions except for fraud and certain instances of intentional nondisclosure of enrollment in a short-term plan in the 12 months prior to the application and limitations on cancellation
	Consumer disclosure	Must disclose benefit information using template established in rule Requires consumer acknowledgment
	Benefit requirements	Must cover hospital, surgical, and medical expenses Maximum benefit no less than $1 million Copayment and coinsurance not to exceed 50% of covered services At least one plan offered must have deductible of $2,000 or less
	Preexisting condition protections	Limits preexisting condition exclusions to conditions for which medical advice, diagnosis, care, or treatment was received or recommended no more than 24 months prior to application
	Filing requirements	Plan forms and rates must be approved by insurance commissioner prior to use/sale

Data: Authors' analysis of state laws governing short-term health plans.

a. Colorado's regulation 4-2-59 was proposed in 2018 and finalized in January 2019 with an April 1, 2019, effective date.

b. The Bill and Act numbers are the final legislation that was signed in 2019, but identical to emergency and temporary legislation passed into law in 2018.

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