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LEGISLATIVE MEMO

HB 2355 and SB 6062, to create a state reinsurance pool to care for people with high-cost medical conditions

By Dr. Roger Stark, MD, FACS, Policy Analyst, Center for Health Care January 2018

Key Findings

1. **The Affordable Care Act (ACA), also known as Obamacare, provided federal taxpayer funds for a health care reinsurance program from 2014 through 2016.**
2. **Before enactment of the ACA, Washington state had an effective, viable state-based high-risk pool for its individual health insurance market.**
3. **The problem with any high-risk pool is developing an equitable funding mechanism.**
4. **The broadest socialization of funding for this small group of high-cost health care users should come from the state General Fund.**
5. **With the proper broad-based tax funding mechanism, reinsurance through a high-risk pool is an excellent method of providing health care for high-cost patients, while keeping individual insurance choices and low premium costs available for everyone else.**

Introduction

The Affordable Care Act (ACA), also known as Obamacare, provided federal taxpayer funds for a health care reinsurance program from 2014 through 2016. This money was designed to stabilize the individual and small group health insurance market by using federal money to provide subsidized insurance to high-cost patients.

Before enactment of the ACA, Washington state had an effective, viable state-based high-risk pool for its individual health insurance market. The state high-risk pool ensured that patients with high health care costs could get insurance coverage. The ACA now directs money into the state health insurance exchanges and into the expansion of Medicaid instead. As a result, the successful Washington State Health Insurance Pool (WSHIP) is currently not taking new enrollees and is scheduled to end in 2022.[1]

Contrary to what was promised, the ACA has failed to reduce the cost of health insurance. As in many states, patients in the individual health insurance market in Washington are faced with ever-increasing insurance premium costs. Average premium prices increased by 23 percent for 2018 in Washington state.

Two bills in the Washington State Legislature, HB 2355 and SB 6062, would establish a variation of a high-risk pool by providing reinsurance financing for those patients in the individual market who require high-cost health care.

Summary of HB 2355[2] and SB 6062[3]

The bills would create the Washington reinsurance program, which would provide money for high-cost patients and stabilize the individual health insurance market.

Payments from the reinsurance pool would begin once the patient's health care expenses reached $75,000 for a calendar year. The cap on reinsurance costs per patient would be determined by the Insurance Commissioner and must be between $500,000 and $1 million. The bills, with amendments to-date,

1 "Washington state health insurance pool," at https://www.wship.org/wship.asp.

2 "Washington state legislature bill information, HB 2355," at http://app.leg.wa.gov/billsummary?BillNumber=2355&Year=2017.

3 "Washington state legislature bill information, SB 6062," at http://app.leg.wa.gov/billsummary?BillNumber=6062&Year=2017.

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set the co-insurance rate at 50 percent of the difference between the $75,000 and the cap. Total reinsurance costs for the entire program for any calendar year could not exceed $200 million.

The ACA gives states the ability to apply for federal waivers to innovate and circumvent some of the regulations of Obamacare. If HB 2355 and SB 6062 are enacted, Washington state officials would then need to submit a 1332 waiver to the federal government to establish the state's reinsurance pool.[4] Officials of the Trump Administration have indicated they are open to approving innovative high-risk health insurance programs created by the states.

Funding for the reinsurance pool would come initially from a "covered lives assessment." This tax would be placed on health insurance companies and third party administrators that cover the individual market. The amount of tax paid by each carrier would be based on that company's percentage of enrollment of the state's total individual market.

Additional funding would presumably come from the federal government in the form of health insurance exchange subsidies or from additional money requested through the 1332 waiver process.

The bills also provide for the exploration of alternative funding mechanisms.

Policy Analysis

Because of the nature of human disease and the vulnerability of certain people with severe health conditions, there will always be a small group of high health care utilizers and high-cost patients. From an underwriting standpoint, these people should pay much higher insurance premiums than the average patient because they represent a much greater cost risk. There is no guaranteed method to predict from year to year who will be in this group.

The ACA forces all insurance companies to accept any patient, regardless of previous health issues. This is the federal pre-existing condition coverage mandate.

Since the passage of the ACA in 2010, insurance companies have continually raised premium rates on all customers in anticipation of new enrollees with pre-existing conditions and existing enrollees with high costs. Tragically, this has priced many young and healthy individuals out of the insurance market.

A state high-risk pool, which is essentially what HB 2355 and SB 6062 would create, solves this problem. It is an excellent way to care compassionately for high-cost patients and also keep regular insurance premium rates low for everyone else.[5]

The main problem with any state high-risk pool is providing the funding mechanism. These bills place the burden of funding on insurance companies in the individual and small group market. Of course, the insurance carriers would simply pass the extra state-imposed costs on to their customers, which in turn would raise premiums for everyone in the individual market and make health insurance less affordable for young and healthy people.

A much more equitable funding mechanism would be to provide a broader socialization of the costs of covering high-risk patients. Specifically, funding for this small group of high-cost health care users should come from the state General Fund. In that way, everyone, including those in large-group health insurance plans and Medicare, would contribute to caring for the hardest-to-insure patients. Each insurance participant would pay a little toward financially assisting the most

4 "Administrative improvements to the Affordable Care Act and state options for health care reform," by Roger Stark, MD, Policy Brief, Washington Policy Center, at https://www.washingtonpolicy.org/library/doclib/Stark-Administrative-improvements-to-the-Affordable-Care-Act-and-state-options-for-health-care-reform.pdf.

5 "High-risk pools work well in covering hard-to-insure patients, " by Roger Stark, MD, Policy Note, Washington Policy Center, at https://www.washingtonpolicy.org/library/doclib/Stark-High-Risk-Pools-3-22.pdf.

vulnerable in our communities. The resulting safety net program would serve the public interest because it would insure that everyone, no matter how sick, would receive coverage.

However, a taxpayer-funded state high-risk pool does not justify imposing a single-payer health care system on everyone. The free market remains the best solution for serving the vast majority of people in our health care system, based on personal choice and price competition, without the limited access and rationing of total government control.[6]

With the proper broad-based tax funding mechanism, reinsurance through a high-risk pool is an excellent method of providing health care for high-cost patients, while keeping individual insurance choices and low premium costs available for everyone else.

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6 "Is a single-payer health care system right for American?," by Roger Stark, MD, Policy Note, Washington Policy Center, May, 2017, at https://www.washingtonpolicy.org/library/doclib/Stark-Single-Payer-Health-Care-System-5.22.2017.pdf.