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# Federal Policy Update

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# CCA Closely Monitoring a Number of Federal Policy Topics



***Massachusetts maintains a robust state health reform framework regardless of potential federal changes. However, the Health Connector is closely monitoring federal health reform discussions to gauge impact.***

- As a state-based marketplace operationalizing key components of the Affordable Care Act, the Health Connector is significantly affected by federal policy-making
- Massachusetts continues to closely monitor federal health care discussions, legislation, and administrative actions that could impact funding for populations covered through the Health Connector (and MassHealth)
- Broad market behavior and dynamics in Massachusetts and across the country depend on clear and stable “rules of the road” – if and as such rules shift, Massachusetts will need to carefully evaluate and react
- Massachusetts’s pre-ACA health reform policy framework does not insulate us from the effects of change, but provides us with additional tools to chart our path forward

# Federal Administration Activity: Cost-Sharing Reductions

***The federal government recently ceased Cost Sharing Reductions (CSRs) payments to carriers, ending a funding stream that was critical to ensuring affordable health plans for ConnectorCare members.***

- **Abrupt federal cessation of CSR payments:**
  - On Oct. 12, 2017, the federal government abruptly announced it would no longer make CSR payments to carriers
  - While the Health Connector and DOI crafted a rate-related strategy to hold the ConnectorCare population relatively harmless and the Commonwealth acted to backfill immediate costs, issues remain and it may not be a permanent solution
- **Unknown legislative outlook for CSRs:**
  - Alexander-Murray bill, which proposed to fund CSRs for 2018 and 2019, among other state flexibility changes, appears stalled
- **Unknown legal outlook for CSRs:** Ongoing lawsuit filed by multiple Attorneys General, including Attorney General Healey:
  - The D.C. Circuit Court of Appeals case, *House v. Hargan*, (previously *House v. Price*) remains on hold.
  - In *California v. Trump*, following the denial of states' request for a preliminary injunction last month, the Court has set a schedule for making a final ruling (through cross-motions for summary judgment). The sides will file briefs beginning in January. (First brief is due 1/16 and the hearing is set for 3/21/18 in San Francisco before Judge Chhabria.)
- Amidst this uncertain landscape, CCA preparing for multiple contingencies again for 2019, and will discuss with Board at upcoming meetings

# Federal Administrative Activity: Market Rules



***The Health Connector is closely monitoring potential regulatory changes that could impact the stability of the Massachusetts insurance market.***

- In mid-October, a federal Executive Order outlined regulatory priorities:
  - Promotion of Association Health Plans
  - Promotion of Short-term Limited-Duration Plans
  - Promotion of Health Reimbursement Arrangements
- Depending on how these policies are implemented, regulations in this area could impact the stability of the merged market for individuals and small businesses by drawing younger and healthier residents out of the merged market risk pool, and/or also leaving consumers with reduced protections
- The Health Connector and other agencies are prepared to rapidly analyze any regulations closely, and can collectively determine appropriate steps to protect its unique market structure, consumers, and against premium volatility

# Federal Flexibility Update

## *Massachusetts has received three responses to ACA-related federal flexibility requests this fall.*

- **Section 1332 on Premium Stabilization Fund:**
  - Request: Permit Massachusetts to establish a premium stabilization fund, instead of increasing premiums to offset the loss of CSRs
  - Response: Application was “deemed incomplete” because federal reviewing agencies did not act to review on requested timeline, rendering the time-sensitive request moot
- **Section 1321(e) Request on State-Based Rating Factors:**
  - Request: Permit Massachusetts to continue its existing use of small group rating factors to prevent premium instability
  - Response: Request granted, permitting Massachusetts issuers to continue to use one-third of the original magnitude of the state rating factors in effect in July 2013, until Dec. 31, 2019
- **Code Section 7805(a) Request on Relief from ACA Employer Mandate:**
  - Request: Extend transition relief to Massachusetts employers from the federal employer shared responsibility provisions
  - Response: This fall, the Department of Treasury began enforcing federal employer shared responsibility penalties and has not authorized additional transitional relief

# Congressional Activity: Potential Repeal of Federal Individual Mandate



## *Congress continues to consider significant changes to the Affordable Care Act, most recently with repeal of the federal individual mandate in tax bill.*

- The US Senate recently passed a tax bill that effectively repealed the federal individual mandate by setting the penalty to zero. The Senate and House versions of the bill will go to conference and, if passed by both chambers, likely onward to the President's signature
- MA maintains its own individual mandate, which continues to require all adults carry comprehensive coverage that meets standards established by the Commonwealth – largely insulating Massachusetts from the direct repercussions of federal mandate repeal
- However, the destabilizing impacts of federal individual mandate repeal could have ripple effects that reach Massachusetts in various ways:
  - **Unpredictable federal policy.** The CBO has estimated that repeal would cause 4 million individuals to lose coverage by 2018 and 13 million by 2025. Given a shift of this size, there could be responsive federal policy that could potentially impact MA
  - **Carrier instability.** The American Academy of Actuaries has noted, repeal of the mandate could increase the risk assumed by insurers, causing more to leave the individual market. This could impact MA carriers that participate in other markets, destabilizing their finances

# Congressional Activity: Uncertainty Surrounding CHIP Funding

***The Commonwealth is closely monitoring the continued delay in Congressional action to authorize funding for the Children's Health Insurance Program (CHIP), with Governor Baker leading with other Governors in advocating for immediate action.***

- Congress missed its September 30 deadline to authorize funding for CHIP
- Massachusetts, like other states, are closely monitoring this inaction and preparing for how the Commonwealth would respond
- Governor Baker joined with three other Governors to author an op-ed in the New York Times last week, explaining the potential impact if CHIP is not reauthorized:  
[www.nytimes.com/2017/12/07/opinion/governors-children-healthcare-congress.html](http://www.nytimes.com/2017/12/07/opinion/governors-children-healthcare-congress.html)

# Proposed Next Steps

***The Health Connector and its sister agencies continue to monitor the federal landscape – both legislative and administrative – closely to anticipate impacts to which the Commonwealth may need to react.***

- CCA will continue to keep the Board of Directors apprised of key changes that affect core Health Connector functions and the populations served by the Health Connector
- Further, CCA will continue to engage Board as it relates to strategies to help maximize continued stability and success for our programs, despite uncertainty