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Health Policy in Transit

A Purchaser Viewpoint

National Alliance of Healthcare Purchaser Coalitions
Driving Innovation, Health and Value

Proposed Regulation Would Expand Non ACA-Compliant Short-Term Health Plans

United States Departments of Health and Human Services, Labor, and Treasury recently issued proposed regulations to expand the availability of short-term, limited-duration insurance plans by amending the definition of short-term, limited-duration insurance. The proposal would allow short-term limited-duration plans to be offered for time periods of up to 12 months. Historically, the maximum time for short-term, limited-duration plans was less than 12 months, but was changed to 90 days under regulations issued in 2016.

Originally designed to help fill short-term gaps in coverage, the current administration has made it a priority to allow these plans as a means of avoiding ACA regulations that impose significant regulatory requirements on plans, and require them to cover any applicant. These short-term plans will theoretically have lower premiums for those who choose to forego the consumer protections required for ACA-compliant plans. Short-term plans don't have to offer comprehensive coverage (eg could exclude "essential health benefits" such as maternity or mental health benefits) but would be subject to any state-imposed coverage requirements. They can also impose annual or lifetime limits, and they don't have to abide by the out-of-pocket maximums for cost-sharing.

Those with short-term policies are not considered insured under the Affordable Care Act and are subject to the penalty for not having coverage. But this will not be an issue after this year since Congress effectively eliminated the individual mandate (which requires nearly all Americans to be insured or pay a penalty) starting in 2019 as part of its tax overhaul bill.

Implications for Purchasers

- Although these changes are primarily aimed at the individual insurance markets rather than group plans, the definition of short-term, limited-duration insurance is relevant to group health plans and group health insurance issuers, including ERISA-governed plans. For example, an individual who loses coverage due to moving out of an HMO service area in the individual market triggers a special enrollment into a group health plan. Also, a group health plan that wraps around individual health insurance coverage is an excepted benefit if certain conditions are satisfied. It is unclear how these short-term non ACA compliant plans would be treated under these circumstances.

- These plans will be most attractive to (and more affordable for) individuals who lose their group coverage, are in good health and are not eligible for subsidies in the public health exchanges. This will likely mean fewer of these individuals with temporary health coverage needs will elect COBRA coverage or buy individual insurance through the public health exchanges. Conversely, the per capita claim experience under COBRA and the public health exchanges will likely be negatively impacted by greater adverse selection due to the availability of these lower cost, more limited coverage plans.

If you are interested in commenting on these proposed rules, public comments are due April 23, 2018. https://www.regulations.gov/document?D=IRS_FRDOC_0001-1627

National Alliance of Healthcare Purchaser Coalitions is a national, non-profit, membership association of employer led coalitions across the country collectively serving 12,000 purchasers and 41 million Americans.