What’s Ahead for the ACA?

Presidential Executive Order-October 12

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NCSL Capital Forum
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Executive Order: Provisions, Impact, State Options

• Association Health Plans (AHPs)
• Short-term Limited Duration Plans (STLDPs)
• Health Reimbursement Arrangements (HRAs)
Association Health Plans: What’s Old is New Again

- **Executive Order:**
  - Dept. of Labor reg's within 60 days
  - Allow more employers to form AHPs
  - Potentially – include individuals/self-employed
  - Potentially – preempt state regulation of self-funded MEWAs (multi-employer welfare arrangements)

- AHPs treated as large-group plans exempt from ACA rating rules, EHB (essential health benefits)
  - Ability to cherry pick healthy groups/individuals
  - History of fraud, insolvency
  - De-stabilize regulated small-group, individual markets

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Association Health Plans: What’s Old is New Again

- **State options?**
  - Assess current regulatory framework for in-state & out-of-state MEWAs

- **Preempted?**
  - Litigation
  - Financial regulation

- **Not preempted?**
  - Require compliance with small-group, individual market rules
Not Your Grandma’s STLD Plan

• Executive Order:
  • Tri-agency regs within 60 days
  • Expand availability of STLD plans
  • Longer duration, renewable
  • Exempt from ACA market rules
    • Ability to cherry pick healthy individuals
    • De-stabilize regulated individual market

Not Your Grandma’s STLD Plan: State Options

• Ban STLD plans
• Require compliance with some/all individual market rules
• Risk payments to regulated market
• Marketing oversight, consumer disclosures
• Post-marketing oversight
For Employers: the HRA

• Executive Order:
  • Tri-agency rules within 120 days
  • Increase usability of HRAs, expand ability of employers to offer
  • Use in conjunction with individual insurance

• Impact on individual market unknown
  • Improve risk pool OR
  • Employer dumping of poor risk?