National Conference of State Legislatures
Capital Forum
Changes Affecting the Private Health Insurance Market

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Nationally recognized team of private insurance experts

- Legal & policy analysis
- 50-state surveys
  - Supported by Commonwealth Fund
- Published reports, studies, blog posts
- Technical assistance
Where is Health Insurance Policy Going? Watch the States

How are states responding to:

- Individual mandate penalty repeal?
- Short-term plan rule?
- AHP* rule?
- Market uncertainty?

* Association Health Plans
State Individual Mandates

- Requires individuals to maintain coverage
- Does not require individuals to maintain coverage

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Short-term Plan Regulation

- States with stricter limits than federal government:
  - CA, NV, AZ, CO, MN, ND, SD, IL, IN, MI, NY, NH, MA, CT, NJ, SC

- States that do not have stricter limits than federal government:
  - WA, OR, WA, ID, UT, MT, WY, NE, IA, KS, MO, AR, LA, MS, AL, GA, TN, KY, WV, VA, WV, MD, DE, DC, NJ, RI, VT, ME, AK, HI
Association Health Plan Final Rule: Early State Responses

Nearly ½ of states have responded to AHP rule

- **Key objectives:**
  - Reduce risk of fraud, insolvency
  - Maintain level playing field

- **Key policies**
  - Prohibition
  - Formation, licensure standards
  - “Look through” requirement
  - Limit enrollment of individuals
State Reinsurance Programs

The map shows the states that operate a reinsurance program (2018–2019) and those that do not. The states color-coded in blue operate a reinsurance program, while the gray states do not. The states include:

- Oregon (OR)
- Maine (ME)

Other states are gray, indicating they do not operate a reinsurance program.

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States Leaning In: Stabilizing Markets, Protecting Consumers

State-based Marketplaces: How to control your own destiny

- FFM to SBM* conversions
  - NV, NM, OR, other?
- Investing in consumer education, assistance
  - Outspending FFM 26:1
- Better, more timely access to data
- Greater policy, operational flexibility

* Federally Facilitated Marketplace to State-Based Marketplace
Protecting People with Pre-existing Conditions

Where do states stand if Texas court invalidates ACA?

• Three key protections:
  1. Guaranteed availability
  2. Modified community rating
  3. Ban on pre-existing condition exclusions

• Four states have all 3 protections “baked in”
  • CO, MA, NY, VA

• 14 states have partially adopted the protections
• 9 states + D.C. have invalidating clauses
The Small Business Insurance Market: Key Trends

Relatively stable, but risks on horizon

- Offer rates holding steady
  - Migration back to group market from individual?
- Average premiums tracking medical trend
- But: ongoing, increasing segmentation
  - Grandfathering, grandmothering
  - Level funded products (self-insurance + stop-loss)
  - Association Health Plans
  - Health Reimbursement Arrangements?
- Role of Medicaid
  - Close to 2M small business employees have gained coverage due to Medicaid expansion
Questions?

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