



Federal Policy Update

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Brief Policy Updates



CCA seeks to keep the Board of Directors apprised of developments and considerations stemming from the federal policy landscape.

- Federal activity and proposals to alter the Affordable Care Act (ACA) through regulation or administrative action continues, and in many instances require careful state response and reaction
- Today, we update the Board on four such topics:
 - CMS’s announcement last weekend to suspend Risk Adjustment payments for Benefit Year 2017
 - Open Enrollment 2019 Dates
 - The Department of Labor’s Final Association Health Plan (AHP) Rule
 - Federal Policy on the Horizon

Recent CMS Announcement on Risk Adjustment Payments for 2017



On Saturday, July 7, CMS announced via press release that they are suspending Risk Adjustment transfer payments for Benefit Year 2017.

- CMS claims that the suspension is necessary as a result of a ruling in a New Mexico district court on whether CMS's Risk Adjustment methodology for Benefit Years 2014-2018 was properly justified in federal rulemaking, which conflicts with a district court decision on Risk Adjustment methodology in Massachusetts
- CMS has filed a motion to reconsider and has noted that it is disappointed with the ruling, and maintains that it will be actively pursuing a resolution
- In the meantime, it is unclear how long 2017 payments will be suspended, and/or if other benefit years will be affected. (CMS maintains that they have addressed the issue for Benefit Year 2019 via its Notice of Benefit and Payment Parameter rulemaking for 2019.)
- 2017 is the first year of federal Risk Adjustment administration for Massachusetts carriers. Per federal data released by CMS on Monday morning, the amounts expected to be received by Massachusetts carriers range from <\$200K to \$56 million. Amounts expected to be paid from Massachusetts carriers range from \$1.1 million to \$61 million
- DOI and CCA are working closely with carriers to determine the best path forward for Massachusetts's market to ensure stability, and will keep the Board apprised of developments and new information from CMS

2019 Open Enrollment Dates



Massachusetts will again exercise its flexibility to ensure an extended Open Enrollment period, as it did in 2018, in contrast to a shortened federal OE period.

- Beginning in 2018, the federal government shortened the Open Enrollment period for individuals seeking coverage through Exchanges. Prior OE periods had run from November 1st through January 31st, but the 2018 federal OE was truncated at Dec. 15th
- For 2018, the Health Connector and DOI exercised state authority to hold its Open Enrollment period open for a longer duration: November 1st through January 23rd. (January 23rd is the last payment due date for February 1st coverage.)
- The Health Connector's experience with its enrolled population and the Massachusetts populations it is designed to serve suggested that a longer Open Enrollment period best served our state's needs, by allowing individuals a longer period of time to shop, compare options, and finalize enrollment in coverage
- As such, the Health Connector and DOI are formally announcing that we will again hold the upcoming 2019 Open Enrollment period from November 1st through January 23rd
- The lead-up to OE and OE itself will be complemented by a comprehensive outreach and marketing campaign, highlighting OE dates and the coverage options available to Massachusetts residents

Final Association Health Plan Rule



The US Department of Labor recently released their final Association Health Plan rule.

- On June 16th, the US Department of Labor issued its final federal regulation entitled “Definition of ‘Employer’ under Section 3(5) of ERISA – Association Health Plans”
- The final rule widens the definition of a small employer that could join an Association Health Plan (AHP), which could then not be subject to federal regulatory requirements and consumer protections required of small group coverage
- The final rule states that, while it effectuates changes to which employers may join AHPs at a federal level, it does not preempt state regulatory oversight of AHPs
- Importantly, Massachusetts’s existing state statutory authority to regulate AHPs is defined in MGL Ch. 176J. As such, coverage sold to small employers “inside” of an AHP continues to be subject to the benefits and rating rules of the merged market
- As a result, Massachusetts will continue to regulate and vigorously enforce the requirement that AHP coverage sold to Massachusetts small employers and their employees continues to meet our state’s important merged market rules and requirements, as has been Massachusetts’s practice for the last several decades
- The Health Connector, with DOI, will continue to work to maximize consumer and employer awareness of how AHP coverage interacts with Massachusetts laws and the Massachusetts individual mandate

Looking Forward

CCA Policy team continues to monitor the federal policy landscape and work to identify opportunities to protect and strengthen Massachusetts’s ongoing commitment to health reform, and will continue to keep the Board apprised.

- Short-term Limited Duration Plan rule: Final rule is expected to be released shortly
- Dept. of Homeland Security “Public Charge” rule: Draft rule is thought to remain at the Office of Management and Budget
- Forthcoming rulemaking on “Program Integrity”: Draft rule is at the Office of Management and Budget
- Ongoing impact of federal individual mandate changes: CCA ramping up its Stay Covered campaign this summer and into the pre-OE awareness raising phase, and working with stakeholders to ensure Massachusetts residents, employers, and brokers are informed about ongoing applicability of the state’s individual mandate
- Ongoing impact of continued CSR absence: Continuing to monitor residual impacts of continued CSR absence and take steps to protect our product shelf and market, and monitoring related lawsuits (e.g., Federal Court of Claims case on CSRs, and CA-based suit on CSRs)