COMMUNITY CATALYST

The Advocate's Guide to:

REINSURANCE

MARCH 2019

Problem: Affordability

The Affordable Care Act (ACA) has brought about historic coverage gains.[1] Despite this success, many consumers still have difficulty accessing health coverage. One of the biggest barriers is affordability, particularly for those who receive little or no federal subsidies to purchase a health plan. In 2019, the average monthly premium for the "Benchmark Plan" is $477 for an individual.[2] In addition to out-of-pocket costs from deductibles and other cost-sharing mechanisms, consumers faced with the full sticker price or insufficiently subsidized health insurance may be priced out and forgo coverage, or face difficult trade-offs to pay for their health plans. Proponents of making non-ACA-compliant products more widely available point to affordability concerns for those ineligible for federal subsidies. Where available, consumers priced out of ACA coverage may choose skimpier products with lower monthly premiums but also significant coverage limitations.

Potential Solution: Reinsurance

Amid affordability concerns, policymakers are looking for ways to drive down premiums in their states' marketplaces and improve market stability. Reinsurance has emerged as a popular option to lower premiums for those ineligible for federal subsidies, finding bipartisan footing in red and blue states alike, as well as support from the past and current presidential administrations.

What is reinsurance?

When insuring people's health care use, there is one inescapable fact that actuaries keep in mind: a small share of covered individuals account for the majority of health care spending. Research has shown that just 5 percent of the population accounts for roughly 50 percent of health care spending.[3] Reinsurance is a mechanism that reduces insurers' risk of getting unpredictably high claims. It can mitigate rate increases by subsidizing insurers for such claims so that insurers don't pass the cost onto consumers through higher premiums.

Reinsurance was one part of the ACA's three-part premium stabilization program; when the ACA's reinsurance program ended in January 2017, rate increases were partially attributed to the program's sunset.[4] State officials have called upon Congress to enact a federally funded reinsurance program, and the simplest way to do that would be to reinstate the ACA's program, with the same funding mechanism. In 2017, Congress considered bipartisan legislation to reinstate federal reinsurance, a policy that the Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) estimated would have lowered premiums by 10 percent in 2019.[5] Even though reinsurance has emerged as a bipartisan solution, reaching consensus in Congress to reinstate the federal reinsurance program in the next two years is unlikely.

In the absence of federal action, states can pursue state-run programs, funded in part with federal assistance, through a Section 1332 Waiver. In 2017, the Trump Administration released a checklist for states pursuing reinsurance waivers.[6] More recently, the Centers for Medicare & Medicaid Services (CMS) released new guidance on 1332 Waivers giving states greater flexibility to develop waiver applications.[7] In a companion document, CMS has promoted reinsurance, as well as high-risk pools, among the viable options under the new guidance.[8]

How does reinsurance differ from high-risk pools? From a consumer perspective, reinsurance is a far better approach to mitigating high-cost claims than high-risk pools. Prior to the ACA, 35 states operated high-risk pools. Premiums were at least 150 percent of the standard rate in the individual market, and coverage was poor, with waiting periods for pre-existing conditions and annual and lifetime dollar limits on benefits.[9] In contrast, reinsurance is invisible to the consumer whose claims are paid in full or in part under the program. The consumer remains enrolled in a plan that must comply with the ACA's rules on premiums, benefit standards, out-of-pocket costs and prohibition on discrimination based on health status.

State Reinsurance Programs Show Promising Results

Three states (Alaska, Minnesota and Oregon) currently have operational reinsurance programs, while a handful of states (Maine, Maryland, New Jersey and Wisconsin) received federal approval to launch their own reinsurance programs beginning in 2019. Current programs in Alaska, Minnesota and Oregon have produced premium reductions, improved individual market enrollment and helped to maintain insurer participation.

Premiums[10]

- Alaska: The sole insurer on the ACA marketplace in Alaska initially discussed a rate increase of up to 42.0 percent in 2017; after reinsurance was implemented, final rates increased an average 7.3 percent. In 2018, rates declined an average 26.0 percent, and further declined by an average 6.5 percent in 2019.
- Minnesota: Rates rose from an average of 50 to 66.8 percent in 2017 before approval of the reinsurance program. In 2018, after the program was implemented, average rate changes ranged from 2.8 percent increase to a 38 percent decrease, and further decreased from an average 7.4 percent to 27.7 percent in 2019.
- Oregon: Rates climbed between an average 9.8 percent and 32.0 percent in 2017 before approval of the reinsurance program. In 2018, rate increases ranged from an average 1.6 percent decrease to a 14.8 percent increase and ranged from an average 9.6 percent decrease to a 10.1 percent increase for 2019 plans.

Enrollment[11]

- Alaska: Anticipated enrollment increase of 1,650 lives in 2018; the state exceeded this goal by more than 100%, with enrollment increasing by 3,612.
- Minnesota: Anticipated enrollment increase of 20,000 lives in 2018; enrollment fell short of this projection, increasing by 16,346.[12]
- Oregon: Anticipated enrollment increase of 1.7 percent in 2018; the state exceeded this goal, with enrollment increasing by nearly 4.3 percent.

Insurer Participation[13]

- All three states maintained the same number of insurers in the individual marketplace between 2017 and 2018, despite the trend of insurers exiting marketplaces across the country at this time.[14]
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Policy Considerations

State Considerations

States considering whether to pursue a reinsurance program should first assess how reinsurance fits into longer-term policy goals and whether or not reinsurance has the potential to have a substantial enough impact on premiums, plan participation and enrollment. States with relatively stable premiums and robust carrier participation may not see sufficient savings to warrant state spending on reinsurance, particularly where there may be competing priorities for state spending, such as direct premium subsidies. Additionally, some states might be considering longer-term policy goals, like a public option or Medicaid buy-in, which could depend on pass-through funding under a 1332 waiver. As such, implementing a reinsurance program to lower premiums now might result in less savings for future waiver proposals. States that have or are considering a Basic Health Program (BHP) should also consider the impact of reinsurance on such a program; the current funding formula for a BHP is tied to marketplace premiums, and the federal government has excluded this impact from federal pass-through funding. Because reinsurance is designed to lower premiums, states with a BHP may experience lower federal funding for the BHP.[15]

States that decide to pursue reinsurance will have a long list of considerations when designing a reinsurance program and applying for a 1332 waiver. Below are some of the major decisions states will have to make.

Design: There are multiple ways to construct a reinsurance program. The most popular models include providing payments for claims in a range of dollar amounts, or providing payments for the claims of enrollees with at least one of a list of conditions that are known to generate high costs. The various options are discussed below.[16]

> Attachment Point: Reinsurance can be designed to make payments to insurers once claims reach a specified dollar threshold (known as the attachment point), then providing reimbursement for a share of the claims above that threshold (known as the coinsurance) and up to specified dollar limit. The ACA's reinsurance program was designed in this way, becoming less generous over time, with payments in the final year of the program made once claims reached $90,000, then paying 50 percent of claims up to a cap of $250,000.[17] The parameters can be designed like the ACA, phasing in higher attachment points and requiring greater coinsurance, or states may base dollar and coinsurance amounts on a particular stabilization goal, such as a targeted reduction in premiums. Maryland, Minnesota, New Jersey, Oregon, and Wisconsin opted for an attachment point model for their reinsurance programs.
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> A reinsurance program designed in this manner can cause some inequities among participating insurers. For example, insurers that are able to negotiate lower reimbursement rates with participating providers or that are better at managing care and costs will receive less in reinsurance payments. Similarly, insurers operating in low cost areas will get less help from a reinsurance program.[18]
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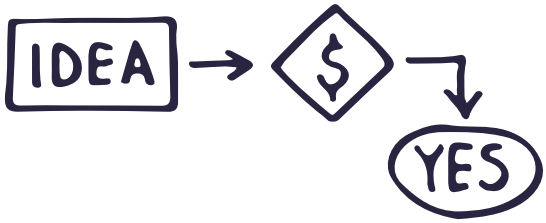
> List of Conditions: Alternatively, a reinsurance program can be designed to cover all claims associated with plan enrollees who have one of the conditions eligible for reinsurance.

Alaska's state-run reinsurance program uses this approach, covering the claims for individuals with 33 different high-cost conditions.[19] Under this model, an insurer "cedes" or sends the premiums and claims associated with a plan enrollee that has one of the conditions eligible for reinsurance.

Condition-based reinsurance programs also come with certain complications and limitations. They won't capture costs associated with people who incur unpredictably large claims, for example, those who have very rare conditions. In addition, as high-cost conditions change over time, with changes in treatment options and costs, the list of qualifying conditions may also need to change. The qualifying conditions should not be susceptible to coding discretion, or "upcoding," which would allow insurers to submit claims for less serious conditions by taking advantage of coding discretion. Further, a program that allows insurers to wait until the end of the plan year to decide which enrollees' claims to submit is susceptible to gaming, as insurers can choose to hold back those claims that cost less than expected (and less than the premiums collected on the enrollee).[20] States can prevent some of this "gaming" by leaving less to the insurer's discretion; Alaska, for example, requires insurers to cede risk and premiums for individuals with the specified conditions based on claims experience, and the reinsurance program reimburses all claims for those individuals (pending available funds) regardless of whether the claim is for a condition-related health service.

Hybrid Model: Maine received approval from the federal government to implement a reinsurance program that operates as a hybrid of the attachment point and condition-based model, sometimes called an "invisible risk pool." Maine's Guaranteed Access Reinsurance Association (MGARA), previously in operation from July 2012 until the ACA program began in 2014, requires insurers to cede enrollees with one or more of eight identified conditions. The program will reimburse 90 percent of a ceded enrollee's claims between $47,000 and $77,000 and 100 percent of claims beyond that (claims above $1 million will be reimbursed at 100 percent, taking into account the federal risk adjustment program's payments for such claims). In exchange, insurers are required to cede 90 percent of premiums for reinsured individuals. Insurers may voluntarily cede enrollees beyond those with the eight designated conditions, along with 90 percent of applicable premiums.[21]



Funding: The effect on premiums will depend on the amount of funding available for the program. Actuaries note that reinsurance programs that lower premiums require external funding. That is, a program that transfers funding between insurers – from the insurers who enrolled lower-than-expected risk to those that enrolled higher-than-expected risk – will have little impact on premiums.[22]

States seeking to establish a reinsurance program through a 1332 waiver can receive federal funding to implement the program. Because the program saves the government money by reducing the amount of federal premium tax credits based on the lower premiums, states can draw down the federal savings (also called federal pass-through funding) to fund their program. If the projected reduction isn't substantial, the savings to the federal government in reduced premium tax credits may be too little to provide much assistance to a state seeking funding for a state-run program.[23] Note, however, that the amount obtained through federal savings may fluctuate based on enrollment and actual premium savings, making it difficult for states to predict with certainty federal payments

year-to-year.[24]

States are required to contribute their own funding for reinsurance programs as well. Options for funding include general revenue, assessments on insurers and/or providers, or other state funds. For example, Alaska funds their program through a premium tax on all lines of insurance business in the state. Minnesota, in contrast, currently funds their program with money from a state health care access fund, financed predominately by a provider assessment, along with a premium tax and other revenue sources supplemented by the state general revenue fund.[25] New Jersey, on the other hand, plans to fund its reinsurance program through penalties collected for noncompliance with their state individual mandate, along with state general funds.[26]

Application: To establish a reinsurance program, states must apply for a 1332 waiver. The process may take a number of months, and there are myriad requirements, including actuarial analysis of the impact of the program. The Center for Consumer Information and Insurance Oversight (CCIIO) has released guidance to states inviting waiver applications, particularly for state-run reinsurance programs that follow the Alaska model, and a checklist to guide states in preparing a waiver application that complies with federal law and regulations.[27]

Administration: States must identify a mechanism to administer the program. Alaska, Minnesota and Oregon turned to their former high-risk pool to administer their reinsurance programs. Doing so allowed the states to simply repurpose their legislative authority to operate a high-risk pool rather than create a new entity. Maryland, on the other hand, is using its state-based marketplace, the Maryland Health Benefit Exchange, to administer the program.[28]

Advocacy Considerations

Advocates working with state officials to evaluate the feasibility and potential implications of developing a state-run reinsurance program may have additional considerations.

Design: Like state regulators, advocates will need to consider various program design options. Each of the two main approaches has benefits and drawbacks, but the condition-based program raises the question of how to identify the list of eligible conditions – whether through legislation or regulation. Certain high-cost conditions are likely to be on any list, but adding other conditions will broaden the scope of protection for high-cost individuals, which requires greater funding.

Broader market dynamics: A state that has not limited or prohibited coverage options that can discriminate based on health status will exacerbate the problem reinsurance is designed to address. Short-term plans and other coverage options exempt from the ACA's consumer protections and coverage standards can cherry pick the healthiest individuals and leave those with high-cost conditions for the marketplace. Implementing a reinsurance program to shore up marketplace premiums while also allowing skimpy coverage options outside the marketplace is akin to putting water in a leaky bucket.

Stakeholder dynamics: Reinsurance is a policy option that has garnered both bipartisan and industry support. However, states that have tried unsuccessfully to pass a reinsurance program have noted that funding the program through an assessment can present a political obstacle. For example, taxing third party administrators (TPAs) could create opposition from the business community.

Within the advocacy community, reinsurance can be perceived as a "bailout" to insurance companies. While the intent behind the program is to lower premiums for consumers, providing direct payments to insurers has drawn some criticism. Advocates might consider using the strong industry support for reinsurance to bargain for additional consumer protections, such as state-funded premium assistance, restrictions on non-ACA-compliant plans, and increased outreach and enrollment funding.

Rate review: Advocates may want to ask regulators to use their rate review authority to ensure funds received under a reinsurance program will directly benefit consumers through lower premiums and not used for other purposes of little or no benefit to consumers, such as increasing company reserves. Advocates may also ask regulators to use their rate review authority to smooth transitions between premiums across metal levels, to protect against much greater premium reductions for the silver benchmark plan compared to those for bronze and gold plans.

Alternatives to reinsurance: Depending on the policy goals of a state-based reinsurance program, state advocates may consider alternatives to reinsurance. For example, if the goal is to reduce premiums and out-of-pocket costs for individuals who don't qualify for marketplace subsidies, a program that allows individuals to buy into other coverage (e.g., Medicaid or a state-run program) or a state-funded premium assistance program may provide greater affordability relief at a lower cost. Further, states that have or are considering a BHP may find that reinsurance is not a good fit based on the federal government's decision to exclude the impact of reinsurance on federal BHP funding from federal pass-through funding.[29] If the goal is to lower premiums and out-of-pockets costs for those who receive too little help from federal subsidies, a better approach may be to directly subsidize low and moderate income individuals with state-funded subsidies. However, some alternatives will not be as politically feasible as reinsurance, which may be more likely to have bipartisan support and support from insurers and other stakeholders.

Conclusion

Reinsurance is a policy option to address affordability concerns, particularly for those with incomes too high to qualify for federal subsidies. It has been adopted in seven states using 1332 waivers and proven successful in lowering premiums. That said, it may not be the best option for every state. Depending on market dynamics and the particular policy goals, other policy options may produce better outcomes from an investment of state funding. However, while there may be other policy options to consider, now or in the future, reinsurance has the benefit of demonstrated support from the current administration and offers a way for more states to address the affordability of premiums now, given the support from a broad range of stakeholders.

In states that opt to pursue reinsurance, policymakers and advocates will need to bear in mind that reinsurance requires a state investment, whether through an assessment or some other means, and that pass-through savings could fluctuate from year-to-year, depending on actual enrollment and premiums, making it difficult to predict with certainty federal funding available. Finally, advocates can ask regulators to hold insurers accountable for using reinsurance funds to directly benefit consumers and may seek to leverage their support for reinsurance to achieve other policy goals such as limiting the availability of non-ACA compliant coverage options.

This policy brief was developed with the support of JoAnn Volk and Rachel Schwab of Georgetown University's Center on Health Insurance Reforms. For questions please contact Ashley Blackburn, Policy Manager, at ablackburn@communitycatalyst.org

Endnotes

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Endnotes Continued

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[12] Minnesota is the only state that runs a reinsurance program as well as a Basic Health Program (BHP), MinnesotaCare, which provides coverage for low-income residents (incomes between 138-200 percent of the Federal Poverty Level) through plans offered off-exchange.
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