HEALTH CARE NEWS
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Louisiana Joins Eight Other States Seeking MLR Waivers

Published In: Health Care News > June 2011
Publication date: 05/05/2011
Publisher: The Heartland Institute

Louisiana is the most recent state to seek a waiver from the medical loss ratio (MLR) requirements in President Obama's health care law from the U.S. Department of Health and Human Services.

The MLR is the amount of the premiums spent directly on medical costs. Under Obamacare, individuals and those in small group markets must have an MLR of 80 percent. If not, the insurer is required to reimburse the insured for the additional amount.

Devon Herrick, a senior fellow at the National Center for Policy Analysis, notes that the 80 percent MLR is higher than most insurance companies can afford. Some states are worried insurers will simply drop out of the market.

"Proponents of MLR regulations believe they can force insurers to spend premiums largely on medical care rather than executive salaries, marketing, and overhead," said Herrick. "The unanticipated result is insurers dropping out of certain markets and lessening of incentives to hold down medical spending. For instance, an insurer runs the risk of efficiently managing medical expenditures only to have to rebate premiums to policyholders."

"An example of this is efforts to reduce fraud. Fraud detection is considered overhead, while funds spend on fraudulent medical bills would be counted as medical care," Herrick noted.

Follows Other States

Louisiana's request notes the state's reading of Obamacare "raised concerns that there may be unintended yet harmful provisions included."

“These provisions will, if implemented as written, be disruptive and detrimental to Louisiana’s market,” the request stated in part. “As currently proposed, implementing the 80% loss ratio in the individual market will act to decrease consumer choice, make coverage more expensive and less readily available, and work to drive valuable trained producers out of the market just when they are needed most.”

The other states that have requested waivers include Maine, where a waiver to a 65 percent level was issued; New Hampshire, which is in the public comments stage; Nevada, Kentucky, Florida, Georgia, North Dakota, and Iowa—as well as the territory Guam—all of which are under review by HHS, with public comments pending.

Study Examiness Impact

The American Journal of Managed Care recently issued a report on impact of the MLR requirements on the individual health insurance market.

Under Obama’s new MLR definition, “we estimated that 29% of insurer-state observations in the individual market would have MLRs below the 80% minimum, corresponding to 32% of total enrollment” as of 2009, the report found.

“Nine states would have at least one-half of their health insurers below the threshold,” the study noted. “If insurers below the MLR threshold exit the market, major coverage disruption could occur for those in poor health; we estimated the range to be between 104,624 and 158,736 member-years.”

Waivers Make Sense

Kevin Kane, president of the Pelican Institute in Louisiana, says the waiver request makes sense.

“This is a good move in that it increases the likelihood that insurers will remain in Louisiana, providing consumers with a wider array of options,” Kane said. “The fact that states are requesting waivers puts the lie to President Obama's claim that people would be able to keep their current insurance policies. How do you keep your policy if the company you have been doing business with exits your state?”

“Fortunately, Louisiana policymakers have been pushing back against ObamaCare,” said Kane. “The state should aggressively seek opportunities to get more control over this costly failure.”

Herrick says it’s wise for Louisiana to pursue this course, but he notes it’s only a temporary fix.

“It makes sense for Louisiana and all states and companies to apply for waivers,” Herrick said. “But most waivers are only good for a year at a time, so the solution is only a temporary one. I don’t believe backers of Obamacare realized how much the new regulations would create upheaval in the insurance market. Without waivers, several million people could find themselves without health coverage. “

“The market does a better job of deciding how companies should allocate their resources than a group of Washington bureaucrats,” said Herrick.

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