Health Care Policy and Marketplace Review

A Health Care Reform Blog—Bob Laszewski's review of the latest developments in federal health policy, health care reform, and marketplace activities in the health care financing business.

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Will the Administration's Making Good on Billions of Dollars Due the Health Plans Solve Obamacare's Exchange Problems?

Amy Goldstein at the *Washington Post* is out with a story reporting that the Obama administration is looking to use an obscure federal law to pay billions of dollars in Obamacare risk corridor liabilities to participating insurance companies.

You might recall that the administration was only able to pay 12.5% of what insurers were owed for 2014 under the reinsurance program designed to protect health plans from losses in the insurance exchanges. It has been assumed that payments for 2015 losses would fare no better.

The fundamental problem was that carriers who lost money did so at a rate eight times greater than the level of carriers who made money in 2014—there just wasn't enough money coming from profitable carriers to pay the carriers losing money all that they were owed under the reinsurance scheme. When the administration said they would try to make up any deficit from other funds, Republicans put a provision in a budget bill that prohibited that.

Because these payments were not made, most insurance companies took a major hit to their bottom lines. The hit was so bad that many of the new Obamacare co-ops collapsed at least in part because of the incomplete payments.

Now, the administration apparently thinks it can use an obscure and bottomless "Judgement Fund" that is used to fund any legal liabilities the federal government incurs because of law suits—a number of insurers who didn't get paid have sued. The administration apparently thinks they can access this money simply by "settling" with the suing health plans and applying that "settlement" to all health plans owed money. The Congress does not have to approve such "settlements." If the administration now finds a way to pay the carriers all that they were due, I have to believe Republicans will challenge them in court just as they have done the administration's controversial interpretation of the health law that enabled them to pay insurance companies directly for the low income participants' out-of-pocket subsidies.
Will this prompt a turnaround for the Obamacare insurance exchanges that have been struggling with inadequate enrollment, very poor insurance company operating results and resulting big rate increases and health plan exits?

No.

What these payments would do is to help the health plans restore billions of dollars in lost surplus because of the lack of the promised payments in the first place. In that sense it is good news for the insurers that participated in 2014, and presumably 2015.

But the risk corridor reinsurance program will end at the end of this year by statute. There can't be such relief in 2017 and years beyond without the Congress and President agreeing to extend the reinsurance program.

This scheme would do nothing for health plans in 2017 and beyond. In that sense, what the administration apparently wants to do would have a retrospective impact only. It

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This money will help the six remaining co-ops that might otherwise join the 17 that have folded.

That aside, finding a way to pay this money does nothing to solve the fundamental problem that the Obamacare insurance exchanges face: The health insurance products the carriers are required to offer are so unattractive to the healthiest consumers (only about 40% of those eligible for subsidies have so far signed up) that the insurance risk pools are unstable.

The carriers will be very happy to get the money, including those that have already said they would exit the program.

But this does nothing to change the 2017 outlook or the pending rate increases or the pending exits.

Posted by ROBERT LASZEWSKI at 2:47 PM

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Health Policy and Strategy Associates, LLC (HPSA) is a Washington, DC based firm that specializes in keeping its clients abreast of the health policy debate in the nation's capital as well as developments in the health care marketplace.

HPSA is not a lobbying firm. Our niche is objective non-partisan information on what is happening in the federal health policy debate and in the market.

ROBERT LASZEWSKI, WASHINGTON, DC

Robert Laszewski is president of Health Policy and Strategy Associates, LLC (HPSA), a policy and marketplace consulting firm specializing in assisting its clients through the significant health policy and market change afoot. Before forming HPSA in 1992, Mr. Laszewski was chief operating officer for a health and group benefits insurer. The majority of Mr. Laszewski's time is spent being directly involved in the marketplace as it comes to grips with the health care cost and quality challenge.

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