The Need to Fund Cost-Sharing Reduction (CSR) Subsidies

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The Affordable Care Act (ACA) helps individuals with limited incomes afford their health care coverage by providing cost-sharing subsidies (like deductibles, coinsurance, and copayments) for silver-level plans purchased on the health insurance marketplaces. On October 12, 2017, the Administration announced it will immediately stop funding the cost-sharing reduction subsidies (CSRs). Discontinuing CSR funding could increase health care costs for all marketplace enrollees – regardless of whether the enrollee qualifies for the CSRs.

What are Cost-Sharing Reduction Subsidies?

Under the ACA, individuals with incomes between 100 to 250 percent of the federal poverty level (FPL) may qualify for cost-sharing reduction subsidies, which help reduce their out-of-pocket costs. Individuals with high health care costs – like those in active cancer treatment – often have significant out-of-pocket costs; these subsidies significantly reduce an individual's out-of-pocket costs. The subsidies are applied to Silver-level marketplace plans that have low deductibles, copays and coinsurance amounts – standards of which are determined by HHS. These CSR plans work in tandem with the Advance Premium Tax Credits (APTCs), which reduce the cost of premiums for individuals with incomes between 100 and 400 percent of the Federal Poverty Level (FPL).

In 2017, approximately 7 million people (58 percent of the enrollees in Marketplace plans) receive CSR subsidies.[1] According to the Congressional Budget Office (CBO) funding for the CSRs is expected to be $7 billion in 2017, increasing to $16 billion in 2027.

Litigation

Since 2014, the Administration has provided reimbursement to health insurance issuers for providing the CSRs. In 2014, the House of Representatives sued the Department of Health and Human Services (HHS) alleging that the payments to health issuers for the CSRs were illegal because Congress never appropriated the funds to pay for them.[2] In May 2016, a federal judge ruled in favor of the House of Representatives but put its decision on hold (thus allowing HHS to continue to fund the CSRs so the reimbursement and plans could continue). The previous administration appealed the case. Currently the case is pending at the appellate level.[3] Since February 2017 the Administration has been making a determination on a month-by-month basis whether to provide funding for CSRs. CSR payments have not been congressionally appropriated for fiscal years 2017 or 2018.

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[1] Centers for Medicare & Medicaid Services, Health Insurance Marketplaces 2017 Open Enrollment Period Final Enrollment Report: November 1, 2016 – January 31, 2017, Mar. 15, 2017, available at https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-03-15.html.

[2] In July 2014, the House of Representatives voted largely along party line to file suit against the Administration over the funding of CSRs. The case, House v. Burwell, alleges that HHS' payments to health insurers to reimburse them for the CSRs constituted an unconstitutional payment because Congress never appropriated these funds.

[3] With the change in Administration as a result of the election, the case is now titled House v. Price.

What is the impact of failing to fund the CSRs?

Failure to provide CSR payments to insurers will not end qualified enrollees' ability to obtain reduced cost sharing, but health insurers will no longer receive any federal payments to reimburse them for the cost of providing these subsidies. In order to make up for the lack of federal funding, it is estimated that health issuers will increase their premiums for silver-level plans by an average of 20 percent in year 2018 and 25 percent higher in 2025.[4]

Non-payment of CSRs will also impact individuals who are not enrolled in CSR plans. Many issuers addressed the uncertainty regarding permanent CSR funding as part of their 2018 rate filings. In some states, issuers proposed to increase premiums only for Silver-level plans, as a result individuals who are enrolled in these plans who do not qualify for CSRs and/or APTCs would see significant premium increases. In other states insurers decided to spread the cost among all plans offered by the insurer, thus individuals who do not qualify for APTCs would see their premiums increase, regardless of the level of plan in which they are enrolled.

In addition, by not paying the CSRs the federal government will actually incur higher costs, because the amount the federal government pays in APTCs is determined by the premium rates of silver level plans in a given market – if premiums go up, the federal government has to pay more subsidies. The Congressional Budget Office estimates that not funding the CSRs will cost the federal government $6 billion in 2018, $21 billion in 2020, and $26 billion in 2026 – cumulatively $194 billion during the period 2017 to 2026

ACS CAN Position

ACS CAN supports continued, permanent funding for the CSRs. Many cancer patients in active treatment and survivors with high health care costs rely on these subsidies to make their health care more affordable.

[4] Congressional Budget Office, "The Effects of Terminating Payments for Cost-Sharing Reductions," Aug. 2017, available at https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/53009-costsharingreductions.pdf.