Vermont Legislative Joint Fiscal Office

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ISSUE BRIEF

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Potential Impact of Silver-Loading on the Employer Assessment

Background

On October 12, 2017, the Trump administration announced that the federal government would no longer reimburse insurers for cost-sharing reductions (CSR), which lower co-payments and deductibles for eligible beneficiaries with incomes up to 250% of the federal poverty level (FPL).[1] Under the Affordable Care Act (ACA), insurers are still legally required to offer CSRs despite the loss of federal funding. This action resulted in premium increases for exchange plans. Rather than simply spreading the increased costs across all the plans in the exchange, insurers in many states began doing what is known as "silver-loading," whereby insurers load the increased costs into silver-level exchange plans only. This strategy is intended to mitigate the impact related specifically to these federal actions on premiums for nonsubsidized individuals and employees of small businesses. At the same time, eligible beneficiaries (up to 400% FPL) would likely pay no more in premium than they would have paid in the absence of this federal action, since federal advanced premium tax credits (APTC) cap the amount of premium-eligible beneficiaries' pay based on income. Stated another way, the cost increase due to silver-loading the plan is offset by the federal tax credit on a dollar-for-dollar basis for beneficiaries eligible for these subsidies.

Through 2018, all individual and small group plans in Vermont have been qualified health plans (QHPs) offered only through the exchange. Act 88 of 2018 allows health insurers to offer silver-level plans outside of the Vermont Health Benefit Exchange beginning 2019. These "reflective" silver plans must be similar to, but contain at least one variation from, silver-level qualified health benefit plans offered through the Exchange. Under Act 88, individuals and employees of small businesses who are not eligible for tax credit subsidies can now buy a lower-cost reflective plan that does not have the premium increase related to the elimination of the federal CSR payments, while beneficiaries who are eligible for the tax credits can continue to buy plans on the exchange and receive their subsidy.[2]

For the 2019 plan year, the Trump Administration took no actions to limit or prohibit silver-loading, in large part because there was not enough time for them to respond with new regulations. It is unclear if the federal government will take actions related to silver-loading in the future.[3]

Employer Assessment Impact

The Health Care Fund Contribution Assessment – commonly referred to as the employer assessment – is a quarterly assessment paid by employers who do not offer health insurance, have

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[1] For 2018, 250% of the federal poverty level (FPL) was $30,350 for an individual and $62,750 for a family of four.
[2] Eligible beneficiaries must purchase QHPs through the exchange in order to receive a subsidy.
[3] *Insurers Can Continue Silver Loading for 2019*. Health Affairs, June 13, 2018. https://www.healthaffairs.org/do/10.1377/hblog20180613.293356/full/

employees who remain uninsured (even if offered insurance by the employer), or have employees on Medicaid or in the individual market. Under 32 V.S.A. § 10503, the amount of the assessment is "adjusted by a percentage equal to any percentage change in premiums for the second lowest-cost silver-level plan in the Vermont Health Benefit Exchange."[4] On average, approximately 2,600 employers report paying the assessment on approximately 31,000 full-time equivalents (FTEs) per quarter.

Because the assessment is indexed to a silver-level plan <u>in the exchange</u>, it would appear to be tied to a silver-loaded plan rather than the less expensive equivalent reflective silver plan, which is <u>not in the exchange</u>. Under this scenario, the employer assessment will increase by 23% in 2019. However, since this increase will not be collected until the fourth quarter of FY 2019 (April 2019), the impact will not be fully realized until FY 2020. Estimated revenues will be approximately $945,000 and $4 million above the Emergency Board (E-Board) estimates for FY 2019 and FY 2020 respectively, which assumed modest growth of 3%.[5] If the employer assessment were instead to be indexed to the equivalent less expensive reflective silver plan sold off the exchange, the estimated revenues would be consistent with the current FY 2019 and FY 2020 E-Board revenue estimates.

EMPLOYER ASSESSMENT ESTIMATES & ACT 88 of 2018

		Quarterly		State Fiscal Year	
	Year	% Δ for 2nd Lowest Cost Silver Plan Premium (Index)	Health Care Contribution Rate (Quarterly)	Revenue Actuals and E-Board *Estimates**	
	2016	7.3%	$151.12	$17,896,335	
	2017	5.1%	$158.77	$19,159,000	
	2018	2.8%	$163.20	*$19,843,461*	
Est.	*2019*	*3.0%*	*$168.10*	*$19,900,000*	
Est.	*2020*	*2.5%*	*$172.30*	*$20,500,000*	
Revised 2019 - 2020 Estimates Assuming Act 88 Changes					Est. Δ Compared to E-Board est.*
Est.	2019	***23.0%***	***$200.74***	***20,845,000***	***945,000***
Est.	2020	***2.5%***	***$205.76***	***24,539,000***	***4,039,000***

** NOTE: Estimated revenues are based on the January 2018 E-Board Estimates*

Further Considerations

Whether to address the increase in the employer assessment specifically related to silver-loading is a policy decision that may be addressed during the 2019 Legislative Session. Policy makers should also be mindful of potential actions by the federal government to limit or prohibit silver-loading and how that could also affect thinking on this subject.

[4] https://legislature.vermont.gov/statutes/section/32/245/10503

[5] E-Board estimates presented January 2019