Commissioner's Column

October 2016

The Affordable Care Act Marketplace in 2017

October is traditionally the month when the Department of Insurance reminds consumers of the opportunity to evaluate their Health Care Marketplace plan and start looking for a replacement if they are not satisfied with their coverage. As the Affordable Care Act (ACA) moves into its fifth year of enactment, there have been changes to rates and availability across the country. Louisiana is not immune from these market forces.

UnitedHealthcare announced in April that it would withdraw from most ACA exchanges in 2017 and Louisiana is one of the markets where United Healthcare Marketplace plans will not be available in the new year. Citing costs that were too high and a population that was less healthy than the average, UnitedHealthcare announced that it expects to lose $650 million on exchange plans in 2016. Other insurance companies have also expressed concerns about their futures on the exchanges. During a panel discussion at the Louisiana Department of Insurance's annual Health Care Conference, representatives from Louisiana health care issuers expressed concerns about the exceptions that are made for people to sign up for health insurance outside of Open Enrollment. This can make it possible for those who become sick to sign up for coverage, take advantage of services, and then drop coverage or stop paying premiums.

For 2017, health issuers in Louisiana are seeking an average approximate rate increase of 27 percent in the Individual Market. In 2016 the average rate increase in the individual market was about 13-14 percent. In the small group market the average proposed rate increase is six to nine percent which is higher than the average for the last three years of three to six percent. From coast to coast the trend of higher rates in 2017 is playing out across the country. In Alabama, the average rate increase is 39 percent on individual market plans offered through the Marketplace; Tennessee is seeing rate increases in the individual market range from 44-62 percent; Colorado's individual market has a statewide average increase of 20 percent; and Connecticut's average statewide increase in the individual market is 25 percent. While we don't have authority to approve or disapprove rates, our actuaries are in the process of determining if the rate increases for Louisiana plans are actuarially justified. Rates will be final November 1.

Among the factors contributing to the rate increases are some provisions of the ACA that have had unintended consequences. The "Three Rs" - reinsurance, risk corridors and risk adjustment - were created within the Affordable Care Act to assist insurers with the transition from a market where they could decline to cover individuals with expensive medical problems to a market where a potential policyholder cannot be turned down due to their illnesses. At the start of ACA implementation, it was believed that the new enrollees may not have had access to care in the past and may be very high-cost and drive up premiums. To smooth out the unpredictability of the new claims the legislation offered the Reinsurance and Risk Corridor programs for a limited amount of time. Both programs are set to expire this year.

The goal of the Reinsurance Program through the Affordable Care Act was to stabilize the individual market while the Marketplace was first rolled out. The Reinsurance Program transfers funds from insurers with lower-cost enrollees to insurers with higher-cost enrollees. In June of this year, the Centers for Medicare and Medicaid Services (CMS) announced that in 2015 contributions to the reinsurance program ($6.5 billion) were smaller than requests for payments ($14.3 billion). CMS estimates that it will make $7.8 billion in reinsurance payments to 497 of the 575 participating issuers nationwide.

The Risk Corridor Program was meant to make on-Exchange plans share their profits and losses with the government. However, Congress and the Administration both mandated that CMS could only pay out funds under the program that it had collected. Because of the revenue-neutral requirement and the enormous losses that most insurers had on the exchanges, the Risk Corridor Program was only able to pay out $0.13 per dollar and the unanticipated shortfall contributed to severe losses for many insurers, including a number of Co-Ops that became insolvent. Litigation is ongoing by some insurers who allege that the government violated its constitutional, statutory and contractual obligations by not guaranteeing full risk corridor payments.

Although the programs that were meant to mitigate losses during the first few years after the implementation of the ACA are coming to an end, the turbulence they were intended to calm seems not ready to make the same exit. The shakeout from rate increases, insurers pulling out of the Marketplace, and some of the largest financial mergers this country has ever seen will continue to affect the industry for years to come.