2020 VIRTUAL ANNUAL MEETING & EXHIBIT

OCTOBER 26–29, 2020
Session 6A: Presidential Candidates
Health Care Reform Proposals

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October 28, 2020
SOCIETY OF ACTUARIES
Antitrust Compliance Guidelines

Active participation in the Society of Actuaries is an important aspect of membership. While the positive contributions of professional societies and associations are well-recognized and encouraged, association activities are vulnerable to close antitrust scrutiny. By their very nature, associations bring together industry competitors and other market participants.

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- **Do not** discuss what you or other entities plan to do in a particular geographic or product markets or with particular customers.
- **Do not** speak on behalf of the SOA or any of its committees unless specifically authorized to do so.
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- **Do** consult with legal counsel before raising any matter or making a statement that may involve competitively sensitive information.

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TRUMP’S HEALTH POLICY ACCOMPLISHMENTS AND WHAT’S NEXT

Brian Blase, PhD
brian@blasepolicy.org
@brian_blase
OCTOBER 28, 2020
AN AMERICAN-FIRST HEALTH CARE PLAN

▪ Overarching Aim: Eliminating government-erected obstacles to patient control and medical professionals’ ability to best treat patients.

▪ More Choices

▪ Lower Costs

▪ Better Care
MORE CHOICES

- Elimination of Individual Mandate Tax Penalty
- Association Health Plans
- Short-Term Plans
- Expansion of plans that can be linked with Health Savings Accounts
- Telehealth
- Health Reimbursement Arrangements
VALUE OF GREATER HEALTH CARE CHOICE: $45 BILLION PER YEAR
HEALTH REIMBURSEMENT ARRANGEMENTS

- Provides employers another option to offer health insurance

- Employers provide contribution, perform some limited administrative functions, and exit the health insurance business

- Workers have greater choice and control over their insurance coverage

- Projection: 800,000 employers will offer HRAs by mid-2020s and more than 11 million people will be enrolled in individual market with an HRA

- Contrast to ACA: $50 billion in premium subsidies to increase individual market enrollment by ~ 2 million people, or $25,000 per new enrollee
LOWER COSTS

- Repeal of Obamacare taxes on insurance and medical innovation
- State waivers to improve individual market
- Price transparency requirements
- Limit/prevent surprise billing
- Encourage state-based reforms, like eliminating CON laws
- Using antitrust tools to combat consolidation
- Drug Pricing Reforms
MEDICARE REFORM

▪ Improving Medicare Advantage
  → 34% Decline in Medicare Advantage Premiums since 2017
  → 1,200 more plan options

▪ Moving to Site Neutral Payments
  → Reduced Medicare payments for evaluation and management services provided in a hospital outpatient department to match the payment received by a doctor’s office
  → Expanding services that can be provided in ASCs
BETTER CARE

- Pre-existing condition pledge
- Removing paperwork burdens and interference between doctors and patients (elimination of ~40 million hours of wasted time for providers and suppliers from 2017 to 2021)
- Personal control of medical records
- Kidney Care initiative
- VA Choice
- Right to Try
- Telehealth (Rural and Underserved)
BIDEN: BUILDING ON THE ACA

- Make the subsidies more generous
- Move eligibility above 400% of the federal poverty line
- Allow people with an offer of ‘affordable’ employer coverage to enroll
- Increase direct subsidies to insurers through a reinsurance program
- Establish a “public option”
- Allow low-income people in states that haven’t expanded Medicaid to enroll in a public option plan free of charge
YOUR COMPANY HEALTH PLAN ISN’T SAFE IN A BIDEN PRESIDENCY

(CHRIS JACOBS WSJ 9/21 OP-ED)

- 24 million losing employer coverage
- $2.2 trillion cost over 10 years
- Employer taxes of $481 billion over 10 years
- Estimated 2/3 of those who drop employer coverage are under 35—could cause death spiral in employer plan

- Avalere Health estimated 18 million would migrate to the exchanges voluntarily while another 14 million would be forced there because their employers stopped offering coverage
HEALTH CARE CHOICES PROPOSAL

Congress Can Slash the Cost of Health Care Premiums by as Much as a Third. Here’s How.

Doug Badger / @Doughsbriefcase / October 03, 2018 / 12 Comments
SECOND TERM TRUMP AGENDA

▪ Codify actions on expanded coverage options and price transparency

▪ Permit every American to have a health savings account

▪ Battle anticompetitive mergers and consolidation

▪ Ensure Americans have access to telehealth and other emerging technologies

▪ Give state tools and resources to improve their individual markets

▪ Reform federal health programs, including equalizing federal payments rates for Medicaid enrollees so traditional beneficiaries, such as low-income pregnant women, children, and the disabled, are not disadvantaged.
Research

- *Health Reform Progress Beyond Repeal and Replace*, Galen Institute, September 2019
- *Transparent Prices Will Help Consumers and Employers Reduce Health Spending*, Galen Institute and TPPF, September 2019
- *The ACA’s Medicaid Expansion: A Review of Ineligible Enrollees and Improper Payments*, Mercatus Center, November 2019
- *A Targeted Approach to Surprise Medical Billing* (co-authored with Doug Badger), Galen Institute, December 2019
- *Affordable Care Act at Ten: Huge Expansion of Welfare and Injury to Individual Insurance Market* (co-authored with Doug Badger and Grace-Marie Turner), Galen Institute, March 2020
- *The Importance of the Medicaid Fiscal Accountability Rule*, Health Affairs, April 2020.
- *Funnelling Coronavirus Relief to the States through Medicaid Will Aggravate Problems with the Program and Delay the Economic Recovery*, Galen Institute, May 2020.
- *Make Transparent Health Care Prices a Price of Any Future Aid to the Health Care Industry*, Health Affairs, June 2020
- *Getting America Back to Work and Hastening the Recovery* (co-authored with Casey Mulligan and Doug Badger), Galen Institute, July 2020
- *The ACA’s Risk-Adjustment Program Needs Adjusting*, Galen Institute, July 2020
- *The Value of Short-Term Health Plans: Rebutting the Energy and Commerce Democratic Staff Report*, Health Affairs, August 2020
Presidential Candidates Health Care Reform Proposals

10/28/2020

Greg Fann, FSA, FCA, MAAA – greg.fann@axenehp.com
Policy Role of Health Actuaries

• 20th Century
  • Number crunchers
  • Insurance/product/regulatory knowledge
  • State approvals
  • Implement rather than shape policy changes

• 21st Century
  • 2000s – More interaction with federal government
  • 2010s – ACA unknowns
    • “toughest job in corporate America”
    • “chief actuary estimates that 80% of his time these days is spent talking to lawmakers, journalists and others outside the company about the law, rather than on typical actuarial work”
      • [https://www.wsj.com/articles/is-this-the-hardest-job-in-america-1398901700](https://www.wsj.com/articles/is-this-the-hardest-job-in-america-1398901700)
  • 2020s – More personal opportunity to inform policy
### Significant/Monumental Health Legislation/Action

<table>
<thead>
<tr>
<th>Years</th>
<th>Branch Control (House-Senate-WH)</th>
<th>Significant Federal Legislation</th>
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<tbody>
<tr>
<td>1961-1969</td>
<td>Democrats</td>
<td>Medicare and Medicaid</td>
</tr>
<tr>
<td>1969-1977</td>
<td>Split</td>
<td>Federal HMO Act</td>
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<tr>
<td>1977-1981</td>
<td>Democrats</td>
<td>National health reform efforts stalled in the face of economic recession</td>
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<tr>
<td>1981-1993</td>
<td>Split</td>
<td>EMTALA, COBRA, <em>NAIC Small Group Model Law</em></td>
</tr>
<tr>
<td>1993-1995</td>
<td>Democrats</td>
<td>Clinton’s failed Health Security Act</td>
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<tr>
<td>1995-2003</td>
<td>Split</td>
<td>HIPAA, State Children’s Health Insurance Program</td>
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<tr>
<td>2003-2007</td>
<td>Republicans</td>
<td>Medicare Modernization / Part D</td>
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<tr>
<td>2007-2009</td>
<td>Split</td>
<td></td>
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<tr>
<td>2009-2011</td>
<td>Democrats</td>
<td>HITECH, Affordable Care Act</td>
</tr>
<tr>
<td>2011-2017</td>
<td>Split</td>
<td></td>
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<tr>
<td>2017-2019</td>
<td>Republicans</td>
<td>Failed ACA Repeal, Tax Cuts and Jobs Act (struck ACA Shared Responsibility penalty)</td>
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<tr>
<td>2019-2021</td>
<td>Split</td>
<td></td>
</tr>
<tr>
<td>2021-</td>
<td>Split</td>
<td>No significant legislation, framework developed by administrations’ actions and state responses, much like 2011-2020</td>
</tr>
<tr>
<td>2021-</td>
<td>Democrats</td>
<td>‘Medicare for All’ long-term</td>
</tr>
<tr>
<td>2021-</td>
<td>Republicans</td>
<td>Market-based solutions with equity &amp; aligned incentives</td>
</tr>
</tbody>
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Actuary of 2020s: Shaping Policy, Not Implementing It

- Risk Adjustment Stabilizing Mechanisms
- Migration Impact (Group <-> Individual <-> Medicaid)
  

- Regulatory Comments
- Rate Review Methodology  https://axenehp.com/focused-aca-rate-review/
- Strategic State Decisions/Funding to Reduce Uninsured Rates

- Legislative Drafting
- Research Leading to Policy Initiatives
My Policy Discussion is Related to ACA Market Dynamics

• Every Individual Market Policy Proposal This Century has Three Commonalities
  https://axenehp.com/acas-changing-coverage-goals-obama-biden-trump/

• They aren’t all the same (Heritage Foundation, Romney Care, ACA)

• Common Elements:
  • (1) Private Market Structure Undisturbed
  • (2) Premium rates are restricted/regulated to be “actuarially unfair”
    • ACA regulations refer to “actuarially fair” coverage as insurance that “is priced so that the premium paid by an individual reflects the risks associated with insuring the particular individual or individuals covered by that policy”.  https://www.federalregister.gov/documents/full_text/xml/2018/02/21/2018-03208.xml
  • (3) Third party subsidies are provided to offset risk selection concerns created by “actuarial unfair” premiums http://actuarialstandardsboard.org/wp-content/uploads/2014/07/asop012_101.pdf

• Decision to buy insurance? “price of insurance more attractive relative to the expected benefits such insurance provides”

• (1) N/A, (2) requires legislation to change, (3) Limited Section 1332 opportunities
Fundamental “Coverage Goal” Differences

- “What is Trump's healthcare plan? It looks a lot like Obamacare.”

- Myth: Republicans have been relentlessly trying to repeal the ACA for 10 years.

- Summer of 2017
  - AHCA – “age-based tax credits” like 2016 Republican proposals (Empowering Patients First Act– EPFA)
  - BCRA – “Obamacare-lite”, ACA style income-based model with less federal funding

- ACA – focus on underserved populations rather than broad coverage, redistribution

- There were fewer people with private insurance in 2018 than 2009 despite $54 billion in subsidy spending in 2018. 20 million more people had Medicaid.

- Hypothetical Republican Plan – incentives for broader coverage
  - “(EPFA) increases the overall number of people with coverage, but older people end up falling out of the market as premiums rise” -Christine Eibner, RAND
  - “This worries some Obamacare supporters, who say the goal of insurance reform isn’t just expanding coverage — it’s expanding coverage for people who really need health care.” - Sarah Kliff, Vox (now New York Times)

https://axenehp.com/acas-changing-coverage-goals-obama-biden-trump/
ACA market dynamics involves math, but it isn’t as “complicated” as we make it out to be.
Full Disclosure

• “The ACA should be left alone until its makeover is complete—not because the law is good or bad, but because any legislative adjustments would be based upon nontechnical professionals’ surface-level understanding of a convoluted, fluid law.”
  • https://theactuarymagazine.org/the-temptuous-crisis-invitation/

• We have spent the last four years talking about what will happen if unlikely legislation is passed or if a court rules on a case in a certain way.
• We have ignored the implications of the more likely scenario.
• What happens if things are left alone?
• It’s a question worth asking because:
  • 1. It is more likely.
  • 2. It is more interesting.
  • 3. We haven’t heard the answer 1,000 times already.
  • https://www.linkedin.com/pulse/two-weeks-notice-greg-fann/
Actuarial Advocacy

• Involve Actuaries
• Congress should clarify intent
• Be patient, understand policy
• Respond, don’t retaliate
• Inaction is not endorsement
• Leave the ACA alone until we understand it
Current Litigation

• California v. Texas
  • ‘Individual Mandate’ Severability/Essentiality, Congressional Intent
  • Is it essential?
  • Did Congress believe it was essential?
    • “The individual health insurance coverage mandate is such a vital component of the year-old health reform law that, if removed, alternatives would be needed.”
    https://www.actuary.org/content/actuaries-removing-individual-coverage-mandate-would-require-alternatives-0
  • Congress can legislate to express current intent or allow Supreme Court to discern prior intent; Joe Biden wants to bring back the mandate penalty.
  • "Obviously if the Affordable Care Act is struck down, we will be ready. If it is not, then we're going to continue to improve the current system.“ -The White House
President Trump’s Health Care Policy

New flexibility (ACA and other markets can play nice)

Consumers aren’t locked into one risk pool
https://www.linkedin.com/pulse/tail-two-risk-pools-greg-fann/

State flexibility

Blank notebook?
https://www.promiseskept.com/achievement/overview/healthcare/

Criticisms
Impact to ACA Risk Pool
Consumer Understanding
Why Do We Need “More Choices”?

- **ACA markets are not a universal solution**
- October 2017 action reduced net premiums, primarily for 200-400% of FPL individuals
- Flexibility for Consumers and States rather than rigid mandates
- Better allocation of federal funds
- Policies: 1332 Changes, ICHRAs


“Lower Costs”

- **ACA subsidy dynamics**
- 10/12/17 CSR Action - Converted federal funds from ‘claim reimbursement to insurers’ to ‘increased premiums subsidies’ beginning in 2018
- Subsidized (federal) exchange enrollees with access to <=$10 net monthly premium
- As more states/insurers/consumers respond, when will Silver and Gold lines cross?
  - [https://www.linkedin.com/pulse/cheaper-dozen-12-years-affordable-care-act-greg-fann/](https://www.linkedin.com/pulse/cheaper-dozen-12-years-affordable-care-act-greg-fann/)

<table>
<thead>
<tr>
<th>Metal Level</th>
<th>Net Premium</th>
<th>PY17</th>
<th>PY18</th>
<th>PY19</th>
<th>PY20</th>
<th>PY21</th>
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<tr>
<td>Bronze</td>
<td>&lt;=$10</td>
<td>54%</td>
<td>79%</td>
<td>78%</td>
<td>77%</td>
<td>76%</td>
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<tr>
<td>Silver</td>
<td>&lt;=$10</td>
<td>18%</td>
<td>23%</td>
<td>24%</td>
<td>19%</td>
<td>14%</td>
</tr>
<tr>
<td>Gold</td>
<td>&lt;=$10</td>
<td>0%</td>
<td>5%</td>
<td>8%</td>
<td>6%</td>
<td>9%</td>
</tr>
</tbody>
</table>

- Flexibility to purchase lower cost non-ACA compliant products (e.g. “60% lower”)
- ACA on-exchange unsubsidized enrollment increased in 2020
Passive Second Term?

• President Trump has been active on regulatory front
• Downstream stakeholders continue to implement new regulations:
  • Consumers
    • Smarter Benefit Choices
  • Employers – ICHRAs (primarily small employers)
    • https://axenehp.com/health-reimbursement-arrangements-will-employers-fund-individual-market-coverage/
  • States – Section 1332 Waivers (reallocate subsidies)
    • https://axenehp.com/new-section-1332-flexibility-state-relief-empowerment-waiver-opportunities/
  • States – Focused Rate Review (aligns metal slopes)
    • https://axenehp.com/focused-aca-rate-review/
Progression on the ACA Makeover: the 2020 Map

State Specific Actions – Addressing Lionfish and Metalball

• **Rhode Island** – In 10/2017, two proposed plans were approved by the state insurance commissioner but not by the state exchange. “The exchange was concerned that the additional low-cost plans would have reduced the subsidies available to all exchange enrollees, making coverage less affordable if people chose plans other than the new low-cost options.” [https://axenehp.com/impressions-of-the-aca-10-years-30-voices/](https://axenehp.com/impressions-of-the-aca-10-years-30-voices/)

• **Virginia** – “The Bureau will only allow the use of the induced demand factors established by CMS and used in the Federal Risk Adjustment program.” [https://scc.virginia.gov/boi/co/health/check/SERFFInstr.pdf](https://scc.virginia.gov/boi/co/health/check/SERFFInstr.pdf)

• **Pennsylvania** – “The induced demand factors which are used in calculating the normalized factors in Column L should be based on the HHS induced demand factors utilized in the risk transfer formula...”

• **Colorado** – “**THE COMMISSIONER MAY ADOPT RULES DESIGNED TO:**


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Other Potential Actions Related to Metalball

• **CSR Litigation** — A win for insurers, but beginning in 2018, damages are “by the amount of additional premium tax credit payments that each insurer received as a result of the government’s termination of cost-sharing reduction payments”.
  - Opens the door for litigation-funded forensic examination of insurer’s premium rates

• **Presidential Executive Order** — “It has been and will continue to be the policy of the United States to give Americans seeking healthcare more choice, lower costs, and better care and to ensure that Americans with pre-existing conditions can obtain the insurance of their choice at affordable rates.”

• **Could this increase enforcement of rating compliance?**

• **Will Colorado legislation have an extrapolated impact?**
  [https://axenehp.com/metalball/](https://axenehp.com/metalball/)
Market Status (2016 vs. 2020)

• 2016: “Obamacare Marketplaces Are in Trouble. What Can Be Done?”
  

• 2020: “Obamacare Marketplaces Were in Trouble. What Did We Do?”
  
  https://axenehp.com/obamacare-marketplaces-trouble/

• Measures:
  • Insurer Participation/Profitability
  • Consumer Popularity
  • Net Premium Levels
  • Options Available
  • “More helped, Fewer hurt”
    https://www.kff.org/other/slide/since-2016-more-people-say-the-aca-has-helped-them-or-their-families-fewer-say-it-has-hurt/

https://www.linkedin.com/pulse/cheaper-dozen-12-years-affordable-care-act-greg-fann/?published=t
Joe Biden’s Health Care Plan

ACA Subsidy Boost, remove 400% cliff
Tax Increase (purportedly includes mandate penalty reinstatement, reversal of TJCA)
$750-$850B over ten years
Calibrate on “more generous” Gold rather than Silver
“Public Option”
Medicare Eligibility at Age 60

Criticisms
From Left: ‘More of the same’ private market, not ‘universal coverage’
From Right: Throwing more money to “prop up” a failed system
Biden’s plan would more than double ACA individual market spending

Annual Federal Health Insurance Subsidies to Under 65 Population
(Billions of Dollars)

- Support for Employment-Based Coverage
- Medicaid and CHIP
- Nongroup Coverage and Basic Health Program
- Medicare

Is Gold more “generous” than Silver?

“Biden will increase the size of tax credits by calculating them based on the cost of a more generous gold plan, rather than a silver plan.”

https://www.linkedin.com/pulse/cheaper-dozen-12-years-affordable-care-act-greg-fann
Public Option – Part I of II

• Three Varieties
  • Lionfish - https://axenehp.com/lionfish-aca-markets/
  • Platinum - https://axenehp.com/platinum-public-option/
  • Poaching - https://joebiden.com/healthcare/

• Directional shift to government-centric system

• Less direct attention to solving a serious problem
  • “Congress should continue its work to ensure all Americans have access to affordable health coverage by adding a public option to the exchange marketplace in counties lacking competition”. –President Obama in 2016
  • “If your insurance company isn’t doing right by you, you should have another, better choice.” –Biden’s campaign website
• Automatic Enrollment in Medicaid Coverage Gap
• Medicaid Expansion Uninsured Population
  • 7% in Expansion States
  • 11% in Nonexpansion States
• In expansion states,
  • Medicaid to 138% of FPL
  • Marketplace subsidies from 138%-400% of FPL
• In nonexpansion states,
  • Medicaid qualification also based on non-income measures
  • Marketplace subsidies from 100%-400% of FPL
Medicare Eligibility at Age 60

- **Age Curves are Self-Fulfilling**

- **ACA age curve is 3:1, but subsidy eligible is <1:1 at similar income levels**
  - [https://theactuariymagazine.org/putting-the-aca-back-together-again/](https://theactuariymagazine.org/putting-the-aca-back-together-again/)

- **Enrollment is broad mix of older enrollees, unhealthy mix of younger enrollees**

- **Example: Lose half of older enrollees, average premium drop 12%, but age-based premiums rise 2%**

<table>
<thead>
<tr>
<th>Enrollment</th>
<th>Healthy</th>
<th>Unhealthy</th>
<th>Total</th>
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<tbody>
<tr>
<td>Young</td>
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<td>Old</td>
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<td>Old/Young</td>
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<td>2.00</td>
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<th>Claims PMPM</th>
<th>Healthy</th>
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<td>Young</td>
<td>100</td>
<td>1000</td>
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<td>Old</td>
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<td>Old/Young</td>
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<td>Young</td>
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<td>Old</td>
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<td>Old</td>
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Summary

- ACA markets are stronger than ever and will continue to strengthen if uninterrupted
- Disruptive changes without actuarial understanding could create unintended consequences
- President Trump’s first term was light on ACA legislation but very heavy on regulation
- Stakeholders have been slow to respond, majority of impact will be realized in second term
- Second term would likely be less active
- Joe Biden would like be more activist
  - Promote legislation for more funding
  - Government-centric options not necessarily targeting a population for a specific solution (exception is Medicaid coverage gap)
  - Subsidy changes/unintended consequences
Questions/Discussion