



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, the politics that compel them, and the important work of democracy.

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Insuring the Insurers: States Work to Lower Health Premiums | OAS Episode 54

Welcome to “Our American States,” a podcast of meaningful conversations that tell the story of America’s state legislatures, the people in them, the politics that compel them, and the important work of democracy. For the National Conference of State Legislatures, I’m your host, Gene Rose.

Thank you for joining us on our podcast today, which is being sponsored by Blue Cross Blue Shield. We thank them for their financial support of this episode.

Over the last decade health insurance has been a hot political issue, but in the last couple of years, state legislatures noticed that insurance companies needed to raise their individual market premiums in order to cover the cost of high insurance claims.

In 2016, the Alaska legislature approved the country’s first state reinsurance program, which is designed to lower insurance costs for individuals and protect insurance companies from financial disaster.

On this episode of “Our American States,” we are going to talk with two state legislators whose states have adopted reinsurance programs. Later in the program we will talk with Alaska Senator Cathy Giessel and Maryland State Senator Thomas Middleton.

But first, to give us an overview of this complex issue, we’re going to talk with Colleen Becker, a policy specialist in the Health Program at the National Conference of State Legislatures. Let’s go to our interview with her.

So, Colleen, what is reinsurance? Explain what the issue is to us.

Colleen: Sure, so reinsurance is a lot like insurance for insurers, so much like an individual goes and buys a health insurance policy to protect them from costly expenses, insurers buy reinsurance to protect them from costly claims. So health insurance companies typically pool clients to spread the risk and when a customer is diagnosed with cancer or another condition that’s really expensive to treat, the insurance company has to cover the high cost of those claims.

Too many customers with high costs can push a company out of the marketplace or sometimes even towards insolvency or bankruptcy. So reinsurance really helps buffer the insurance company from the costs of these high-need individuals. Usually the insurance

company buys a policy to cover the claims that exceed a certain threshold, or as in the case of Alaska, it covers some of the costs associated with certain medical conditions.

The upside for states to implement a program is that the primary insurer's risk of insolvency decreases, and that incentivizes companies to accept more policyholders and reenter the state marketplaces. But the downside is that reinsurance is usually expensive and many states can't afford the initial upfront cost.

Gene: So, Colleen, explain what the process is to initiate a reinsurance program in a state.

Colleen: So far states have been implementing reinsurance programs through 1332 innovation waivers, which are also now known as state empowerment and relief waivers.

One benefit to this is that the waiver enables the state to continue to receive federal funds. So states wanting to explore this mechanism must first receive approval from the Centers of Medicare and Medicaid Services or CMS.

A quick aside is that states looking to implement a reinsurance program on their own without using federal funds do not have to apply for a waiver. But that said, the states with reinsurance programs applied to CMS and received approval.

Currently states are required to enact legislation to authorize the state to apply for a 1332 waiver, but the Trump administration has proposed to suspend that provision so that enacting state legislation would no longer be a prerequisite.

There are four statutory guardrails that states must meet before they gain CMS approval. And so the proposal has to provide coverage that is at least as comprehensive as would be provided without the waiver; provide coverage that is at least as affordable for the state's residents as would be provided absence a waiver; provide coverage to at least a comparable number of state residents; and it will not increase the federal deficit.

Gene: So what states have reinsurance programs right now?

Colleen: So far seven states have reinsurance programs while several others have been considering it. But starting in 2017 Alaska was the first, followed by Minnesota and Oregon. Wisconsin, Maine, Maryland and New Jersey all followed in 2018.

Gene: And how are those programs structured right now?

Colleen: Well, as I mentioned earlier, the Alaska reinsurance program is designed to reinsure 100 percent of claims from policyholders that live with 33 different high-cost medical conditions. It was originally funded by the state general fund and an assessment on insurers, but the program is now supported with past refunding from the federal government that would have been used for premium tax credits.

Maine plans on using a similar structure by reinsuring claims for eight specific categories of high-cost claims. The other five states chose programs that work more like traditional reinsurance.

For instance, the Minnesota Premium Security Plan covers 80 percent of claims for individuals up to \$250,000 once the attachment point of \$50,000 is passed. And to clarify, the attachment point is the threshold where the reinsurer will start to pay for claims. Much like Alaska, the program was initially financed by the state general fund and by imposing a 2 percent assessment on providers.

The Maryland reinsurance program mirrors that of the Minnesota plan, reimbursing insurers 80 percent of claims up to \$250,000. But the attachment point hasn't been determined. In most states, the State Insurance Commissioner sets the amount to make sure that the reinsurance company is financially capable of covering the risk. The Maryland plan is financed a little bit differently. It is financed through a 2.75 percent tax on carriers and Medicaid-managed care organizations.

Gene: Is it too early to know what the results of the outcomes are of these programs that have been implemented so far?

Colleen: We do have some data. So far the Alaskan program has generated about \$68 million in savings. The latest rate filings showed a 25 percent decrease in premiums since the program began, and many customers have seen a significant price drop in their premiums.

For 2019, Minnesota is going to receive over \$84 million in past refunding from the federal government, and premiums in the individual market are approximately 20 percent lower than they would have been without the reinsurance program.

It's estimated that premiums in Maryland for the 2019 plan year will be 30 percent lower than they would have been without the program, and the pass-through savings there is estimated to be about 65 million.

Gene: And what do you expect legislatures to do on this issue in 2019?

Colleen: Well, of course, it's really too early to tell, but it's very likely that reinsurance and 1332 waivers more broadly will be under consideration in many state houses, both red and blue.

By the end of 2018, approximately 20 states had considered applying for a 1332 waiver. However, seven states had gone as far as to enact legislation, but have not yet filed or received approval from CMS. So I think it's pretty likely we'll see more states interested in this process.

Gene: We've been talking with Colleen Becker, a policy specialist in the Health Program at the National Conference of State Legislatures. Colleen, thank you for your time today.

Colleen: I appreciate it. Thank you so much.

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Gene: Joining us for this episode of "Our American States" is Maryland Senator Thomas Middleton. Senator, welcome to the program.

Thomas: A pleasure to be with you, Gene.

Gene: What prompted your desire to pursue a reinsurance program? How does it benefit your state and your constituents?

Thomas: Well, first of all, I chair the Senate Finance Committee and we handle all the insurance and all the health care issues. So we have been monitoring ... you know, Maryland, if you look at our track record, we were trying to be as proactive with the implementation of the Affordable Care Act, and we did a great job except for the technology of the exchange which had some glitches.

But Maryland has always been at the forefront of making sure that we have a cesspool of affordable health care. And what we had recognized is the national news and everybody knows that the cost of health care on the individual market has just gone up astronomically.

I put a piece of legislation in that set up a mixed discipline commission to look at and monitor what was happening and so that, as things start unfolding, that we had a plan of attack. That commission last year looked at the rates in the individual market and what had happened is that that year the insurance rates in the individual market ... CareFirst is our only statewide provider—their rates went up almost 50 percent. And during the discourse of that commission, they warned that unless there was some type of relief, the way the trajectory was going was that they were likely to increase their rates by another 40 percent, and if they did that, they would exit the exchange market.

So that would have left Maryland without a single statewide insurer. So that left us with a dilemma: What are we going to do about it? And so we studied the issue and what was happening was that the reason our rates are going up is that as the rates go up, what people pay, as those go up, it becomes less affordable and people start dropping out of the exchange; and people that absolutely have to have insurance coverage, the so-called high-risk, stay in.

So as time was progressing we had a heavier concentration of very high-risk people. We were losing the low-risk and keeping the high-risk, and that's the wrong way to go, and that's what was driving the rates.

So we looked at a reinsurance market. I introduced an omnibus bill that would require the state of Maryland to file for a 1332 waiver that would allow us to set up a reinsurance market and provide some flexibility as to how we can use the federal subsidies. As you know, they're based on the federal poverty levels. So we looked at: How are we going to be able to afford it?

Gene: This does seem like a complicated issue. Was it difficult to convince your legislative colleagues to recognize the importance of this legislation?

Thomas: No. Just going into it, we set the table, the political awareness of that: We can't afford to do nothing—the consequences for us if we did nothing, it would have had a dramatic impact on all of our health care delivery systems.

Maryland is the only state in the country that has a hospital all-payer system, meaning that everybody pays the same amount for hospitalization. And that waiver that we have is a federal waiver; the federal government pays the same thing as an insurance company would pay or a group insurance would pay. So we have that all-insurance rate. But our waiver requires that our rates have to stay below the national average.

So if the health care exchange blew up and people could not find insurance, guess what happens? They end up at the emergency room and the hospitalization that is maybe required. And because Maryland has a rate-setting entity that sets a rate and we can embed uncompensated care, that care that hospitals give that they're not able to collect reimbursement for, they can make up for it with an adjustment in the rates.

So any time more people are showing up at a hospital emergency room or hospitalization without insurance, the more those rates go up and it puts our federal waiver, and all the estimates indicate to us that that waiver is worth over \$2 billion a year that's coming into our hospitals and into the state of Maryland. So it would have had a dramatic impact on our whole entire health care delivery system and that's why we had to do that.

And so we developed this political awareness and I will say to you, it's a model way. We have a Republican governor and we have a Democrat-controlled House and Senate, so we have maybe the presiding officers aware that this is probably the most important thing that we had to address in last year's legislative session. The governor agreed. So we rolled up our sleeves and got down to work: How do we solve this problem?

Gene: And what about the federal government—did you have to work with them on this as well?

Thomas: One of the things that we had to do was understand: What are the dynamics of the federal tax act? And that's where we found the solution. In addition to a state premium tax on health care policies, there is a federal premium tax on health care policies that states have to pay, that the carriers have to pay into the federal government.

Under the federal tax act, there was a reprieve; there was a suspension of that premium tax for one year. So that meant that those insurance companies would not have to pay that premium tax into the federal government. But our rates had already been set. But the best thing of all is insurance companies knew that this is probably the best source of revenue in order to get a viable reinsurance program up. So they were very willing.

There was no opposition whatsoever from our two insurance carriers to continue with that premium tax, but instead of the companies paying it to the federal government, they would be paying it into the state of Maryland. It was estimated that when we first started talking that it was in excess of about \$300 million as the details of the federal tax law started unfolding. What it amounted to was closer to a half billion dollars of money that the state would be taking.

With the 1332 waiver we got a match, so instead of having close to a half billion dollars, we ended up with almost a billion dollars that can be used over three years in order to put into the exchange.

Gene: So Senator, you've done an excellent job walking us through the issue and through the process. What haven't I asked you that would be important for your colleagues across the country to know about?

Thomas: Not only did the rates not go up, they actually decreased. That 50 percent increase that was made the prior year was actually reduced by an average of 13.2 percent. So the consumer really and truly benefitted from this.

So I guess the only thing that we haven't talked about, Gene, is: Where do we go from here? We've got the waiver; we've got close to a billion dollars that can be committed over the next three years. So where do we go? Maryland is going to take this nearly billion dollars and we're going to put it upfront; we're going to frontload it in order to get those rates down.

And the reason for that is the way to do the long-term sustainability of exchange is that you've got to grow your pool. You've got to grow your pool in numbers to make more efficiency, and you've got to grow your pool that has less risk, that takes a lot of the risk out. That's how you've got to stabilize it.

So how do you get your numbers? There are a number of ways you can do it as I mentioned, you know, about getting more people in the pool. We have local governments that have their insurance pools a lot. There's a possibility there.

And I'm going to emphasize caution here about where Maryland is going. Maryland hasn't decided yet how it's going to do it. So if somebody says we're going to make local government join us, that's a possibility that we could do to look at.

We could also look at taking and combining a small group with our individual market. Some states have already done that. Massachusetts is the leader and has that already in place. The Supreme Court just ruled that the individual mandate is illegal. If you look at Massachusetts, Massachusetts has an individual mandate.

One of the things that we looked at as a possibility is we had a piece of legislation that would require anybody that didn't have insurance to get coverage or else pay a fee. Another way is also to create competition. Competition always drives efficiency. So only having two providers in the market, there's not a whole lot of competition. But if you can get these rates down, what you'll find is you'll find insurance companies coming back into the Maryland market and helping to keep those prices down through competition.

Gene: We've been talking with Maryland Senator Thomas Middleton. Senator, we really appreciate your expertise and your work on this issue.

Thomas: You're certainly welcome.

MUSIC

Gene: We're talking with Alaska Senator Cathy Giessel who will share information about her state's reinsurance program. Senator, welcome to the program.

Cathy: Well, thanks for having me.

Gene: So tell us: What prompted Alaska's desire to pursue a reinsurance program in the state?

Cathy: Alaska pursued the reinsurance program because we were in a crisis. We had only one insurer left in the individual market in 2016, and with that one insurer, we were facing a projected 40 percent increase in premiums. We already have very high insurance premiums. This would move them even higher. So something had to be done.

Gene: How does this benefit the constituents by developing a reinsurance program for your state?

Cathy: Well, the reinsurance program is a partnership between obviously the state and the federal government. It's a 1332 waiver. It has resulted in a decrease in premiums for the individual market and the ability for folks with those significantly costly preconditions to actually get insurance at an affordable price.

So it has been very beneficial to our citizens and to the federal government; it's actually resulted in savings for the federal government as well.

Gene: So talk to us about what were the obstacles that you had to face in order for your colleagues to develop this program.

Cathy: Well, the legislature was pretty skeptical at first. We were concerned; we were already facing budget shortfalls, as many states were in 2016. And so we were pretty concerned about committing money into this reinsurance program.

But ultimately we agreed to appropriate \$55 million in 2016 and another \$55 million in 2017 to fund the program, and we instructed the Department of Health and Human Services to find another way to fund this. They assured us that this was something that could be possibly funded through a 1332 waiver, and so they were instructed to pursue all of that.

Gene: So tell us about the various external partners that you had to work with to develop this reinsurance program.

Cathy: Obviously, we had to work with the department, the legislature. We hired an actuarial firm that had worked in the state of Hawaii. They had gotten the first approved 1332 waiver and so we thought their actuarial firm was probably experienced in doing this, and so they helped us draft the application, the enabling legislation, and get the application in.

Gene: And you mentioned you were down to one insurance provider at the time. Has the state seen benefits of this reinsurance program? Do you have more people at the table now?

Cathy: We still have only one insurer at the table for the individual market, but premiums were lowered by 22 percent in 2018 in that market, and 6.5 percent for 2019 projected. So that's a big benefit for our citizens.

And, of course, I mentioned that the federal government had saved money as well. They actually saved \$58.5 million in 2018. So all around, this has been a very successful approach.

Gene: And when talking to your colleagues across the country, what advice do you give them if they are considering such a similar program?

Cathy: It's important to know your state demographics. Look closely at who your subsidized populations are, what kind of funding might be required from the state for initial capital to fund that first year. So that's important to know going into it. Some states don't have the size of subsidized population that Alaska does. So their federal share of a program like this might be much lower.

Hiring a good actuary, of course, is really important. They can help you know your demographic and strategize how best to meet the needs.

Gene: Senator, again, thank you so much for taking time to call in and talking with us this afternoon.

Cathy: You're very welcome.

Music and Gene VO:

And that concludes this edition of "Our American States." Again, our thanks to the sponsor of this episode, Blue Cross Blue Shield.

For more information on this topic, we encourage you to go to www.ncsl.org and search for reinsurance. For the National Conference of State Legislatures, this is Gene Rose. Thanks for listening.