American Academy of Actuaries

Issue Brief

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KEY POINTS

- Allowing insurers to sell coverage across state lines has limited potential for premium savings, as premiums would continue to reflect local health care costs.
- Out-of-state insurers could have difficulty developing provider networks and negotiating provider payment discounts.
- Unintended consequences could result if states are given more flexibility regarding benefit requirements or issue and rating rules. Adverse selection would occur, threatening the viability of insurers licensed in states with more restrictive requirements. The ability for high-risk individuals to obtain coverage could be compromised as a result.

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Selling Insurance Across State Lines

Selling health insurance across state lines has been proposed as a way to increase competition in states with few competitors. For instance, in states using the federal marketplace, 21 percent of enrollees have only one participating insurer for 2017.[1] In addition, insurance premiums vary by state, sometimes considerably. Offering more affordable coverage in states with high premiums is another goal of proposals to allow cross-state insurance sales. The impact of allowing such sales on plan insurance availability and affordability depends on how they are regulated and whether other changes are made to insurance market rules.

Regardless of where an insurer is licensed, premiums would reflect the costs of health care in an individual's state of residence.

The ability to lower premiums by allowing cross-state sales of insurance is limited, because a key driver of health insurance premiums is local costs of health care. Individuals in a high-cost area would not necessarily enjoy lower premiums by purchasing coverage from an insurer licensed in a low-cost state. Premiums would reflect local health costs, regardless of where coverage is purchased.

1 Caroline F. Pearson, *2017 Open Enrollment Preview*, Avalere, October 25, 2016.

Out-of-state insurers, especially small or regional insurers, could have more difficulty developing provider networks and negotiating provider payment discounts.

In order for insurers to sell across state lines, they must develop provider networks by establishing reimbursement agreements with hospitals and physicians, or by purchasing access to an existing network. Any cost savings resulting from differences in benefit coverage requirements among states can be small compared to cost savings that can be accomplished through negotiating strong provider contracts. Unless they are able to achieve a large enrollment, out-of-state insurers may have difficulty in negotiating with providers. Small insurers, which may be able to achieve significant provider discounts in their local areas, may have particular difficulty achieving such discounts in other states. As a result, they could be at a competitive disadvantage relative to larger insurers and other insurers that may already have a presence in the state. Similarly, health maintenance organizations (HMOs) and other plans that limit out-of-network coverage would have more difficulty establishing in other states.

Regulatory authority and consumer protection laws would need to be clearly defined.

Governmental authority for regulating insurers would need to be clearly defined. Often ignored in discussions of selling insurance across state lines are the establishment and regulation of state-level consumer protection laws. These laws vary from requiring network adequacy to appeal processes for denied services. Absent any regulatory clarification, it is likely that no entity will bear the sole responsibility for regulating insurers or ensuring consumer protections. For example, it would be difficult for state regulators to regulate out-of-state provider networks.

If states are given more flexibility regarding benefit requirements, adverse selection will occur.

A key to the sustainability of health insurance markets is that health plans competing to enroll the same participants must operate under the same rules. Allowing insurers licensed to sell in any particular state to sell insurance under that state's rules in other states could violate that principle. The ACA harmonized many of the rules applying to the individual and small group markets. Although states have mandated benefits to varying degrees, the ACA's essential health benefit (EHB) requirements narrowed the differences in covered benefits across states. In addition, the metal tier actuarial value requirements set a floor for plan generosity. If those rules are relaxed and states are allowed more flexibility, benefit coverage requirements could again vary by state, potentially dramatically. If insurers licensed to operate in a state that permits less generous coverage are allowed to sell across state lines, adverse selection would result. Those insurers would attract the healthier residents of other states, whereas states with more required benefits or a greater floor on benefit generosity would attract less-healthy enrollees. Premiums for insurance licensed in states with the more comprehensive benefit requirements would increase, and the viability of those insurers would be threatened. As a result individuals with health problems could find it more difficult to obtain coverage.

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If states are given more flexibility regarding issue and rating rules, adverse selection will occur.

Similar to the adverse selection problems arising if states have flexibility regarding benefit requirements, adverse selection would occur if states have flexibility regarding issue and rating rules. The ACA harmonized issue and rating rules, which previously had varied by state. Medical underwriting, previously allowed in most but not all states, was prohibited by the ACA; insurers can no longer deny coverage or charge higher premiums to individuals with health conditions. The ACA also limited the extent to which premiums could vary by age; prior to the ACA, some states prohibited premium variations by age, whereas others allowed unlimited variations. If insurers are allowed to sell across state lines and states are again given flexibility regarding issue and rating rules, insurers licensed in states with less restrictive rules will attract younger and healthier enrollees, whereas states with more restrictive rules will attract older and less-healthy enrollees. Premiums for insurance licensed in states with the more restrictive rules would increase, and the viability of those insurers would be threatened. As a result, older individuals and those with health problems could find it more difficult to obtain coverage.

As high health costs persist, insurance affordability remains a challenge for many employers and individuals. However, allowing insurers to sell coverage across state lines could result in unintended consequences such as market segmentation that could threaten the viability of insurers licensed in states with strict benefit coverage, issue, or rating rules. The ability for high-risk individuals to obtain coverage could be compromised as a result. If rules governing insurance are consistent across the states, as they are under the ACA, market segmentation could be minimized. However, potential premium savings would also be minimal, as premiums would continue to reflect local health care costs, regardless of location of the insurer.

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