Inspire

A Look at Selling Health Insurance Across State Lines

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There has been considerable discussion from many on the Republican side of the aisle that enabling carriers to sell across state lines will have a positive impact on health care premium rates. Is this just a talking point or is there something more to this? This past summer President Trump stated that the ability to do this would lead to “a truly competitive national marketplace that will bring cost way down and provide far better care.[1] ”This article will discuss the across state lines issue and opine on its validity.

Why Can’t We Cross State Lines Today?

Historically, US health insurance has been regulated by individual State Insurance Commissioners. Prior to ACA there was significant variation between individual states as to how insurance companies were regulated and variation in regulations how premium rates were determined reasonable. Mandated benefits varied from one state to the next. Some states permitted medical underwriting, some didn’t. Some states required minimum loss ratios to be measured over a year, others required minimum loss ratios over the policy’s lifetime. Although there were model regulations promulgated by the National Association of Insurance Commissioners (i.e., the NAIC), the implementation varied considerably.

After ACA was implemented there were several standardizing regulations that minimized many of the differences between states, but the regulation of health products and premium rates is still built around the individual State Insurance Departments and their respective Insurance Commissioners.

In addition, the McCarran-Ferguson Act 15 U.S.C. §§ 1011-1015 exempts the “business of insurance” as long as the state regulates in that area, with the proviso that cases of boycott, coercion, and intimidation remain prohibited regardless of state regulation. By contrast, most other federal laws will not apply to insurance whether the states regulate in that area or not. Since the State Insurance Departments regulate health insurance products in their state and the carriers operating in their state it is difficult for a carrier in one state to cross state lines unless they comply with the regulations in the adjacent state.

What is the theory behind the savings?

Proponents of crossing state lines suggest that if an insurance company sell across state lines and abide by the rules of their originating state, they would be able to lower the price of their product in the adjacent state providing the public a significant benefit.

This theory suggests that a carrier operating in one state with lower rates would be able to offer those price advantages to the adjacent state where carriers had higher rates. The availability of lower priced products provides the benefit to the public.

What is the reality about this?

Premium rates are based upon the cost of care in the service area the products are being marketed to and the service area where patients receive health care services. Most health plans negotiate with providers in their markets and use the resulting information when setting the premium rates. From a practical perspective, when rates vary from one area to another it is the result of different provider charge levels between the two areas (i.e., one is cheaper than the other) or the underlying population has different utilization rates (i.e., people in one area use services at a different level than the other). The primary cause of premium rate differences isn't based upon some mystical difference or expense load difference but rather the projected cost of care in those regions. The higher the projected cost of care, the higher the premium rate.

If the rates in Nevada are lower than the rates in adjacent California locations. The only way that it would make sense to offer those lower rates to California members would be to require the Californians to seek their health care in Nevada not in California. If not, then the rates in Nevada would gradually have to be increased to reflect the higher costs of care for those in California using California providers under the Nevada program.

The American Academy of Actuaries issued a statement about this: "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."[2]

Some have opined that allowing insurance to be sold across state lines would eliminate the ability of insurance regulators to assist consumers with their concerns and problems about the health insurance product they have purchased. At a minimum, it appears that health plans unlicensed in a particular state would be able to operate without their license. In the past, this would be a criminal offense. Licensure is the tool that allows regulators to take actions to protect consumers. A regulator in one state has no authority to enforce the laws of another state. The consumer would be the injured party if the regulators are not able to protect the consumer from inappropriate behavior of a carrier in another state.

So why do we keep talking about this?

Professionals knowledgeable about the healthcare system and health plans and products offered by health plans seem to question or challenge the benefits about selling across state lines. Few accept the premise, but it continues to be a major talking point by some politicians. Why? This is quite confusing and demonstrates that some of the talking points by our politicians are out of date and based upon flawed assumptions.

What solution should we be talking about?

Everyone is concerned about the cost of health care especially health care plan premiums. It is true that premium rates have continued to escalate at a much higher rate than desired or expected. As affordability becomes a more serious issue everyone is searching for a solution.

Most of the health care solutions are fairly simple to define but challenging to implement. Premium rates can be lowered if:

- Underlying health care costs are reduced
    - ◊ Utilization is reduced
    - ◊ Health care costs (i.e., what providers charge) are reduced or the trend in increases is reduced
- Covered individuals are healthier and require fewer health care services
- Administrative costs are reduced

Tools which help reduce the cost of care include:

- Improvement in health care management processes
- Reduction in potentially avoidable care
- Higher quality of care (as quality increases, costs tend to decrease)
- Implementation of best practices across the entire system
- Minimization of variation in care patterns
- Holding providers accountable to set reasonable prices
- Introducing tools to help the patient make good health care and provider choices (e.g., transparency tools)

Conclusion

We need to move on from discussions about selling across state lines to more effective approaches to reduce the cost of care and favorably impacting premium rates for health care coverage. There is so much that can be done, let's stop wasting time on political talking points.

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[1] *https://www.whitehouse.gov/the-press-office/2017/02/28/remarks-president-trump-joint-address-congress.*

[2] *https://www.actuary.org/content/selling-insurance-across-state-lines-0.*

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