

House Energy and Commerce Committee, Subcommittee on Health

"Strengthening Our Health Care System: Legislation to Lower Consumer Costs and Expand Access"

March 6, 2019

10:00 AM, 2123 Rayburn

Purpose

The purpose of this hearing was to consider three bills: H.R. 1425, the State Health Care Premium Reduction Act, H.R. 1386, the Expand Navigators' Resources for Outreach, Learning, and Longevity (ENROLL) Act, and H.R. 1385, the State Allowance for a Variety of Exchanges (SAVE) Act.

Members Present

Chairman Eshoo, Ranking Member Burgess, Representatives Lujan, Pallone, Peters, Matsui, Upton, Castor, Shimkus, Schrader, Guthrie, Kuster, Griffith, Kelly, Brooks, Ruiz, Carter, Blunt Rochester, Long, Cardenas, Bucshon, Gianforte, Soto, and Bilirakis

Witnesses

Mr. Peter Lee, Executive Director, Covered California

Ms. Audrey Morse Gasteier, Chief of Policy, Massachusetts Health Connector

Mr. J.P. Wieske, Vice President, State Affairs, Council for Affordable Health Coverage

Opening Statements

Chairman Eshoo said that the legislation before the committee is intended to drive down costs and increase options in the individual insurance market. Democrats are delivering on their promise to undo the sabotage of the Affordable Care Act (ACA) carried out by the Trump Administration. The bills give states the funding and flexibility to improve the private marketplaces created by the ACA. Proposals like the H.R. 1425 will bring the cost of coverage down. The bipartisan SAVE Act will help states create their own exchanges, the way the ACA did. Finally, the ENROLL Act provides funding for necessary navigators.

Rep. Lujan said that the American people expect Congress to take action to lower health care costs. H.R. 1425 is a strong bill that should have bipartisan support. But he is concerned that Republicans will insist on injecting a fight over abortion into this discussion.

Ranking Member Burgess said that he is disappointed in the legislation being considered today. There has been no effort to work in a bipartisan way. While the language of H.R. 1425 is similar to proposals Republicans have supported before, there are some critical portions missing. The bill is restrictive, and does not give states the flexibility they need. It also does not include important Hyde protections. He has introduced H.R. 1510 which includes a responsible reinsurance policy. The ENROLL Act is unnecessary. Navigators have been only minimally effective. And finally, the SAVE Act would double down on a program that has wasted taxpayer dollars. 17 States have spent a total of \$4.5 billion to establish exchanges, many of which have failed. None of these accurately address the affordability of

health care. He is disappointed that there was no attempt at bipartisanship, and he was not asked for his input on any of the bills.

Rep. Pallone said that the bills being considered represent Democrats' continued commitment to lower health care costs and reverse the Trump Administration's sabotage of the ACA. One of the most important ways to help consumers is to give them all the information they need to make an informed decision. That is why Democrats have put forth legislation to restore funding to the navigator program. State-based exchanges are also incredibly important. Since passage of the ACA, enrollment in the state exchanges has surpassed enrollment in the federal exchange. The SAVE Act will help more people get covered while giving states the flexibility they need. Finally, H.R. 1425 will fund reinsurance programs that have been shown to make coverage more affordable. Reinsurance should be a permanent part of the individual market, and a federally financed responsibility.

Rep. Peters said that he is grateful for the committee's consideration of H.R. 1425. It is widely acknowledged by both Republicans and Democrats that one of the most effective ways to lower premiums is to provide funding for state-based reinsurance programs.

Testimony

Mr. Lee said that the ACA has had significant benefits across the country, but recent Administration policy actions have had negative effects on millions of Americans. Covered California has used all the tools available through the ACA to increase coverage. But recent actions by the Administration are presenting challenges, including elimination of the individual mandate, promotion of limited benefit plans, and significant reductions in funding for marketing and outreach. States that are leaning in to help their consumers have insulated them from some of this damage, but the Administration's actions are harming millions of Americans who participate in the federal exchange. H.R. 1425 is a good proposal. Reinsurance can have a profound effect on coverage and affordability. But importantly, the bill also allows states to use the funds in other ways to lower premiums if creating a reinsurance program would not work for them. The SAVE Act and ENROLL Act are also necessary pieces of legislation, though it is important to combine a strong navigator program with a vigorous marketing effort, as California has done.

Mr. Wiese said that the individual market has remained small. Premium increases have lowered, but premiums are still too high. The ACA has done many good things, but it has also created problems. It is critical to stabilize the insurance market, increase outreach, and increase state flexibility. While reinsurance can lower premiums, it doesn't address the underlying issue of lowering costs. The navigators have been useful to some individuals, but have had an overall minimal impact. More should be done in the areas of marketing and outreach. Finally, beyond state exchanges, private exchanges and web-based alternatives should also be allowed.

Ms. Gasteier said that Massachusetts enjoys a strong health insurance market. Three key building blocks have been critical to its success. First, the Connector Care Program provides

additional state subsidies on top of ACA subsidies for low-income enrollees. Second, the market features the basic protections that people expect, such as protection for preexisting conditions. Third, Massachusetts has strong outreach and consumer engagement. Health Connector runs a robust navigator program that has been very successful. The result is the lowest premiums in the nation. Massachusetts Health Connector supports each of the proposals being considered today.

Questions and Answers

Chairman Eshoo asked the witnesses if they support the three bills. **Mr. Lee** said Covered California doesn't take positions on legislation, but he believes in the value of reinsurance and navigators. **Mr. Wieske** said he has some concerns with the navigator proposal. Insurance agents are often more helpful. **Ms. Gasteier** said that the tools being promoted here are valuable.

Chairman Eshoo asked what the most effective tool would be to increase affordability in the individual market. **Mr. Lee** said that those who do not get federal subsidies but who still make very little money have been hit the hardest. One of the most effective tools is reinsurance, which lowers premiums for everybody. State subsidies to fill the gap of federal subsidies and marketing and outreach are also needed. **Mr. Wieske** said there also has to be an effort to improve the risk pool. **Ms. Gasteier** said reinsurance, outreach, and keeping the risk pool stable and broad can be very powerful tools.

Ranking Member Burgess asked how much money California collected from individual mandate penalties. **Mr. Lee** said it was about \$500 million last year. Since its elimination, California estimates that 300,000 have lost coverage and premiums have increased about 9%.

Ranking Member Burgess asked how increased employment will impact the individual market. **Mr. Wieske** said he doesn't know exactly, because there is about a two year lag with the data.

Ranking Member Burgess asked how Congress can address the issue of "silver loading," where insurance companies raise premiums on just silver level plans. **Mr. Wieske** said that was caused by the decision not to make cost-sharing reduction (CSR) payments.

Rep. Matsui asked if California's navigator program helps people enroll in short-term limited-duration (STLDI) plans. **Mr. Lee** said no. Those plans are banned in California. **Rep. Matsui** asked how Massachusetts reaches underserved populations. **Ms. Gasteier** said that they use demographic data to target populations and assign navigators specifically to them. **Rep. Matsui** asked why Covered California and Massachusetts Health Connector have been so effective. **Mr. Lee** said the biggest elements have been a focus on outreach, having patient-centered benefit designs, and focusing on the underlying costs of care. **Ms. Gasteier** said her state has made an effort to keep markets stable.

Rep. Upton said that states have used 1332 waivers to lower premiums and stabilize their markets. He asked if the legislation recently introduced by Ranking Member Burgess would benefit states. **Mr. Wieske** said yes, states need flexibility.

Rep. Castor said her bill, the ENROLL Act, will restore the integrity of the navigator program. She asked why it is so important to have a broad risk pool, and how navigators help with that. **Ms. Gasteier** said that navigators have been shown to help draw people into

the market, especially healthy people who might think they don't need insurance. And having everyone in the same risk pool is what brings costs down.

Rep. Shimkus asked what happened to the 300,000 people in California who no longer have insurance after the individual mandate was removed. **Mr. Lee** said those people are going without insurance, which is unfortunate. **Rep. Shimkus** asked if it is helpful to have open enrollment periods. **Ms. Gasteier** said yes. An expectation that everyone will always be in the pool helps keep markets stable.

Rep. Schrader said he is a proud cosponsor of H.R. 1425. He also signed a letter along with the other members of the New Democrat Coalition asking committee leadership to make stabilizing the ACA a priority. **Rep. Schrader** asked how H.R. 1425 will help states that already have reinsurance programs. **Mr. Lee** said that a lot of states are facing budget uncertainty. Even those that already have programs will benefit from increased federal funding.

Rep. Guthrie asked how states might use federal dollars if they had adequate flexibility. **Mr. Wieske** said that one of the things Wisconsin wanted to do was create "single-door entry" for both the state exchange and the Medicaid program, but the federal restrictions didn't allow it. **Rep. Guthrie** asked what tools encourage continuous enrollment. **Ms. Gasteier** said that the allure of affordability is important. Maintaining low premiums and strong subsidies incentive coverage.

Rep. Kuster asked why states would want to establish their own reinsurance programs. **Mr. Lee** said that if there was a national reinsurance program, states would most likely opt for that. But the money provided in H.R. 1425 can be used in other ways by states, and that will benefit them. **Rep. Kuster** asked if there is a point at which a market can become too risky even for reinsurance. **Mr. Lee** said yes. It is dangerous to price healthy people out of the market. **Rep. Kuster** asked if the actions taken by the administration could push the market to that point. **Mr. Lee** said he's not sure, but encouraging people to buy junk plans is bad for the market.

Rep. Griffith asked if the navigator program is a good investment for taxpayers. **Mr. Wieske** said that navigators have value in some communities, but insurance agents are much more effective. **Rep. Griffith** asked if the ENROLL Act is a wise bill. **Mr. Wieske** said he hopes there will be more flexibility in the way consumers can buy coverage.

Rep. Kelly asked how the additional subsidies in Massachusetts help lower premiums for everyone. **Ms. Gasteier** said that the program incentivizes carriers to lower premiums because demand for affordable plans is increased. **Rep. Kelly** asked what challenges other states face in offering such subsidies. **Ms. Gasteier** said the biggest challenge is funding.

Rep. Brooks asked why insurers are leaving the individual market. **Mr. Wieske** said that in Wisconsin, insurers just lost too much money to continue to offer coverage. **Rep. Brooks** asked how 1332 waivers have increased access to care. **Mr. Wieske** said that the state

reinsurance program that Wisconsin developed expanded coverage and lowered premiums. **Rep. Brooks** asked how the federal government can better increase enrollment. **Mr. Wieske** said that there should be more flexibility for states to develop individual approaches, including different models of exchanges. **Mr. Lee** said that patient-centered benefit designs and subsidies draw people into the market.

Rep. Ruiz asked what happened to premiums in California when the Administration stopped making CSR payments. **Mr. Lee** said premiums rose by double what they would have if the CSR payments remained. In many other states, there was silver-loading. **Rep. Ruiz** asked how this has impacted people's access to care. **Mr. Lee** said the removal of CSR payments led to uncertainty in the market. The cuts to marketing also resulted in fewer people getting insured.

Rep. Carter asked how states can use stability funds, beyond reinsurance. **Mr. Wieske** said there are ways to design more affordable benefit options with increased flexibility. **Rep. Carter** asked if private exchanges would be a good option. **Mr. Wieske** said yes, he thinks alternative methods of enrollment are a good idea. **Rep. Carter** said that he is disappointed that the E&C Health Subcommittee has not had a hearing on drug pricing. **Rep. Ruiz** said the first drug pricing hearing for the subcommittee will be next week.

Rep. Blunt Rochester asked if uninsured Americans are often unaware of the options available to them. **Ms. Gasteier** said yes. And navigators are key to informing those people about their options.

Rep. Long asked how insurance agents operate as compared to navigators. **Mr. Wieske** said that it is valuable for people with experience in the insurance industry to help consumers navigate the market. Insurance agents are required to have much more expertise. **Rep. Long** asked how the medical loss ratio is inhibiting agents. **Mr. Wieske** said that loss ratios in Wisconsin are too high; they have made it unaffordable for insurance companies to continue employing as many agents. **Rep. Long** asked if Congress should consider changing the medical loss ratio to increase people's access to insurance agents. **Mr. Wieske** said that would make sense.

Rep. Cardenas asked how navigators have been successful in California. **Mr. Lee** said that California employs insurance agents for outreach, but they use targeted navigators in addition to agents to reach underserved communities. **Rep. Cardenas** asked if navigators help consumers make a better choice. **Mr. Lee** said yes. Working with navigators helps people get insured, and helps them choose the right plan.

Rep. Bucshon asked if navigator grant recipients have to meet their enrollment goals or face a penalty if they don't. **Mr. Wieske** said he is not aware of any such requirements. **Rep. Bucshon** asked if California has increased the number of people in its individual market by marketing. **Mr. Lee** said the overall number is about the same, but the marketing is necessary to keep that number constant. Without it, it would fall drastically. **Rep. Bucshon** asked if there is anyone in America who isn't aware that they can get health care through

the ACA. **Mr. Lee** said yes. **Rep. Bucshon** said he doesn't think there's anyone who doesn't know about the ACA.

Rep. Pallone asked if the exchanges should be privatized. **Mr. Lee** said Covered California partners closely with the private sector. But private companies are motivated by maximizing profit. That shouldn't be the sole motivation of groups helping people get insured. **Ms. Gasteier** agreed. People in Massachusetts know they are getting high quality coverage when they go to the state exchange. **Rep. Pallone** asked what risks consumers would face if the market was privatized. **Mr. Lee** said web-based brokers could promote junk plans if it maximizes their profit. **Ms. Gasteier** said that it is important for the exchange to be publically accountable.

Rep. Gianforte asked why the navigator program is less effective in rural areas. **Mr. Wieske** said that navigators go where there is demand, and rural areas simply don't have enough people. **Rep. Gianforte** asked if resources should be shifted away from the navigator program to other areas. **Mr. Wieske** said there are areas where resources could be better spent.

Rep. Soto asked if eliminating CSRs, limiting the enrollment period, and eliminating the individual mandate have reduced access to care. **Mr. Lee** and **Ms. Gasteier** said yes.

Rep. Bilirakis asked if 1332 waivers are still available for states to use. **Mr. Wieske** said yes. **Rep. Bilirakis** asked if Congress should be focused on reforming an improving the 1332 waiver process. **Mr. Wieske** said broader 1332 waivers would have benefits for states. **Rep. Bilirakis** asked if it would make more sense for private entities to run the exchanges rather than states. **Mr. Wieske** said that could be helpful. Many states cannot afford to run their own exchange.