Centene, Molina Would Be Heaviest Hit by Obamacare Unraveling (1)

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Centene Corp. and Molina Health Inc. are the health insurers that would be hurt the most if a Dec. 14 federal court ruling overturning Obamacare stands, a health-care investment analyst said.

Both Centene, which is St. Louis-based, and Molina, based in Long Beach, Calif., "have low double digit revenue exposure to the [Obamacare] exchanges and double digit Medicaid expansion exposure," Leerink health-care analyst Ana Gupte wrote in ananalysis.

When it comes to Medicaid, these companies could lose significantly if people slightly above the federal poverty level are no longer able to qualify for Medicaid, as current law allows.

Centene, the largest Medicaid managed care organization in the U.S., also has the largest enrollment in the Affordable Care Act marketplaces with 1.65 million members at its peak in 2018. The company announced Dec. 17 that it expects 2019 peak enrollment for its marketplace products to be 150,000 to 200,000 above 2018.

"We believe the courts will uphold the ACA," Centene chairman and chief executive officer Michael Neidorff said in a statement to Bloomberg Law Dec. 15. In the "unlikely event" they do not, the company will offer new health insurance plans, he said. Centene members could enroll in the new plans "without health underwriting and irrespective of pre-existing conditions," Neidorff said.

Molina Healthcare issued a statement Dec. 17 saying the ruling "is a first step in what will be a lengthy appeals process. Regardless, the ACA will remain in effect for 2019, and we are optimistic that it will remain in effect thereafter."

People enrolling for Obamacare plans may be confused about whether the ACA continues to be in effect. Accordingly, California and Connecticut, which operate their own marketplaces, extended their open enrollment deadlines to ensure people have to understand the impact.

Covered California, the state's exchange, announced Dec. 15 that residents would have until Dec. 21 to sign up for a plan with an Jan. 1, 2019, effective date. Access Health CT also announced a one-month extension for 2019 enrollment until Jan. 15, 2019, for coverage effective Feb. 1. The exchange had planned to end enrollment on Dec. 15.

"If this is upheld by higher courts, the impact is significant," Deep Banerjee, director of insurance ratings at New York-based S&P Global Ratings, told Bloomberg Law Dec. 15.

"This will impact the individual market as well as Medicaid expansion," Banerjee said. "If federal dollars are unavailable to fund the individual market or Medicaid expansion, then the insured rates in both will drop meaningfully."

More Uncertainty

The Dec. 14 ruling that the ACA is unconstitutional, by U.S. District Judge Reed O'Connor in Fort Worth, Texas, is on hold while it is appealed. President Donald Trump tweeted that Congress needs to enact a new law to replace it.

Nevertheless, the ruling throws the health insurance market into new uncertainty just as 2019 marketplace premiums are coming down for the first time and new health insurers are entering the markets.

About 4.1 million people signed up for health plans for 2019 from Nov. 1 through Dec. 8 in the 39 states that use the federal HealthCare.gov exchange, the Centers for Medicare & Medicaid Services reported. That was a nearly 12 percent drop from the equivalent period of the 2018 open enrollment. There could be many reasons for the drop. Some people may be buying coverage that meets ACA requirements (like covering pre-existing conditions) outside of the marketplaces.

Judge O'Connor agreed with Texas and an alliance of 19 states, who argued that when Congress in 2017 repealed the law's tax penalty for being uninsured, it eliminated the U.S. Supreme Court's rationale for finding the ACA constitutional in 2012. The ACA originally required people to pay a penalty for not having health insurance that met certain standards. The provision was called the individual mandate.

Reversal Predicted

"The decision is highly likely to be reversed on appeal," Joel Ario, a managing director with health-care policy consulting firm Manatt Health Solutions, told Bloomberg Law in an email Dec. 15. Ario was the first head of the office that ran the ACA marketplaces under the Obama administration.

"There will be a lot of unnecessary commotion," he added, calling O'Connor" "an activist judge" that didn't follow lawmakers' intent to repeal the individual mandate and leave the rest of the law intact.

The two major trade associations representing health insurers expressed disappointment with the court decision.

"While we are extremely disappointed in the court's ruling, we will continue to work with lawmakers on a bipartisan basis to ensure that all Americans can access the consistent, quality health coverage they need and deserve," Blue Cross Blue Shield Association President and chief executive officer Scott Serota said in a statement Dec. 15.

Matt Eyles, president and CEO of America's Health Insurance Plans (AHIP), said the district court's decision "is misguided and wrong."

“This decision denies coverage to more than 100 million Americans, including seniors, veterans, children, people with disabilities, hardworking Americans with low-incomes, young adults on their parents’ plans until age 26, and millions of Americans with pre-existing conditions,” Eyles said.

Obamacare Will ‘Proceed Apace’

Without a court injunction halting the ACA, “Obamacare will proceed apace,” Michael Cannon, director of health policy studies at the libertarian Cato Institute, told Bloomberg Law Dec. 15. Cannon has argued against the ACA and was instrumental in helping a previous legal challenge to the law’s marketplaces.

However, Cannon said, “The media coverage of the ruling will nevertheless lead some low-information consumers to think Obamacare no longer exists, which could reduce enrollment.”

Cannon said that people with pre-existing medical conditions, who are protected by the ACA, may need subsidies. States could enact special “high-risk” pools to cover people who have medical problems, he said.

Cannon also argued that guaranteed renewability of short-term medical plans, which the Trump administration has boosted through regulations, also could protect many people who develop medical problems.

Short-term plans normally don’t cover people with pre-existing conditions, but the administration’s rules would allow insurers to renew their customers’ plans for up to three years. Insurers could also include provisions guaranteeing that people could renew the plans. That would protect people who develop medical problems after they have bought the plans, Cannon said.