Insurers' Efforts To Delay Health Law Compliance Could Affect Premiums, Benefits For Millions

By: Julie Appleby – April 5, 2013

Regulators in some states are trying to prevent insurers from getting around the health law by extending potentially cheaper, but more limited policies for another year, but other states are giving the firms leeway.

At issue are rules that take effect Jan. 1, which require insurers to cover a set package of benefits, such as prescription drugs, maternity care and hospitalizations, and which limit or bar their ability to vary premiums on age, illness or gender. To avoid those rules – and possibly, rate increases that could occur because of them -- some insurers are seeking to move up renewal dates for current policies to the end of December, so those policies could be extended through 2014.

How many insurers are pursuing the strategy is unknown. But if a significant number extend their old policies, it could affect the cost of health insurance and scope of benefits for millions of people who buy their own policies rather than getting them through their jobs. If enough relatively healthy people hold onto those policies, the practice also has the potential to drive up insurance costs for those buying coverage in new online insurance marketplaces beginning next year.

Those who support the renewal date changes, including some state officials, say they would protect beneficiaries, especially those who are younger and healthier, from potentially steep rate increases.

"People who don't qualify for a [federal] subsidy would be better off staying with their current plan for as long as can and paying the lower premiums," said Arkansas Deputy Insurance Commissioner Dan Honey.

The downside is that such consumers may have less generous benefits than if they were covered by the law, and they would also be ineligible for federal subsidies that will be available to those buying policies in the new marketplaces, if they earn up to 400 percent of the federal poverty level, or about $45,960 this year for an individual.

"It's not in the best interest of consumers and circumvents the intent of the law," said Stephen Finan, senior policy director of the American Cancer Society Cancer Action

Network. "The intent of the law is to have a wide variety of consumer protections in place beginning in 2014."

In addition, critics say that if healthier people hold onto their current policies, leaving older and sicker consumers to buy the new plans sold in the marketplaces, also called exchanges, they could push up insurance costs inside the exchanges.

"It undermines the spirit of the Affordable Care Act and will breed more consumer confusion," said Christine Monahan, senior health policy analyst at the Georgetown University Health Policy Institute.

Michael Cannon of the libertarian Cato Institute, an opponent of the law, agrees that if significant numbers of healthy people keep their current plans rather than buy new ones in the exchanges, that could drive up premiums for those who buy through the exchanges, "making sticker shock even greater for some people."

State regulators have lined up on both sides of the debate: New York passed legislation late last month to bar the practice, and Maryland officials say they have discouraged it. Arkansas, on the other hand, wrote insurers highlighting the renewal date change as one of several options they could consider. Oregon has taken a middle approach, saying any policy that renews after April 1 this year must terminate no later than March 31, 2014. That would allow consumers time to buy coverage through the new marketplaces before open enrollment ends March 31.

Insurers say they are not ruling out their options.

"We are working with customers and brokers to help them navigate through their options and select a benefit plan that best fits their needs," Aetna officials said in a written statement. UnitedHealthcare, which also sells individual policies under the Golden Rule label, made a similar response.

Alabama insurance regulator Robert Turner said "no one has asked," about changing the effective renewal dates to beat the Jan. 1 deadline. But if they did, "we probably would allow it," as long as policyholders said they wanted to continue their current plans.

For insurers who market policies that don't meet the law's requirements, discontinuation is one option. Policyholders must be given at least 90 days notice, and offered a new policy that meets the rules, or told they can buy one from another carrier.

Insurers could also add benefits, or make other changes so the existing policies conform to the law, which "could be quite cumbersome," said Arkansas' Honey, who added that his department has not seen any requests to do that.

He said there is more interest among insurers in changing the renewal dates.

"We know of at least one carrier that has done it, and another national carrier contacted me and said they were happy we had issued something because it is what they were planning on doing anyway," he said.

Arkansas' bulletin told insurers they must inform policyholders that they can choose whether to keep their current policies with a renewal date change – and that if they chose to do so, they would be disqualified from getting federal subsidies to help defray the cost of insurance.

In its February memo, meanwhile, Oregon limited the sales of non-conforming plans, saying they must expire by March 31, 2014, mainly because ‘the goal is to encourage as many people as possible to go into the exchange,” said Insurance Commissioner Lou Savage.