Alexander-Murray Bill on Cost-Sharing Reduction Funding and Section 1332 Waivers
October 18, 2017
AMA Summary

On October 17, 2017, the Chairman and Ranking Minority Member of the Senate Health, Education, Labor & Pensions Committee, Senators Lamar Alexander (R-TN) and Patty Murray (D-WA), released bipartisan legislation to provide funding for the Affordable Care Act’s (ACA) cost-sharing reduction (CSR) subsidies, which will help stabilize the individual health insurance market. The other major component of the bill would allow more state flexibility in applying the ACA section 1332 innovation waivers. The following is a top-line summary of the proposal.

- Funds CSR subsidies for 2018 and 2019, as well as the remainder of 2017. CSR subsidies lower out-of-pocket costs for individuals enrolled in an ACA silver plan with incomes between 100 and 250 percent of the federal poverty level. This is consistent with Policy H-165.846, which states that provisions must be made to assist individuals with low-incomes or unusually high medical costs in obtaining health insurance coverage and meeting cost-sharing obligations.
- Provides $106 million in funding for outreach and ACA enrollment assistance for 2018 and 2019. Consistent with Policy H-165.846, which states that mechanisms must be in place to educate patients and assist them in making informed choices; Policy H-290.982, which supports educational and outreach activities aimed at Medicaid-eligible and CHIP-eligible children; and H-165.828, which supports additional education regarding deductibles and cost-sharing at the time of health plan enrollment.
- Expands access to catastrophic coverage plans, known as copper plans, to individuals over 30 years old and without the need to show an economic hardship. These plans do not qualify for an ACA premium subsidy, but enrollees (presumably those with less need for health care services) would be in the same risk pool as others in the Exchanges (which will presumably help to balance the costs of enrollees with higher health care needs). Consistent with Policy H-165.839, which states that health insurance exchanges should maximize health plan choice for individuals and families purchasing coverage, and that health plans participating in the exchange should provide an array of choices, in terms of benefits covered, cost-sharing levels, and other features. Also consistent with Policies H-165.846, H-165.865, and H-165.848 addressing meaningful coverage.
- Increases flexibility to states seeking ACA section 1332 waivers:
  - Allows “comparable affordability” instead of the current requirement that a state proposal be “as affordable as” ACA coverage.
  - Maintains current ACA essential health benefits and protections for individuals with preexisting conditions.
  - Streamlines the section 1332 waiver approval process by reducing the CMS waiver review time from 180 to 90 days, creating a new 45-day fast-track emergency approval pathway, extending the waiver period from five to six years, and allowing waivers that match a previously approved waiver (“me-too waiver”) to be automatically approved.
  - Modifies the requirements for how a waiver would affect the federal deficit, allowing it to show no effect over the life of the waiver rather than for each year.
  - Facilitates state reinsurance or invisible high-risk pool arrangements.
Policy D-165.942 supports that state governments be given the freedom to develop and test different models for covering the uninsured, provided that their proposed alternatives a) meet or exceed the projected percentage of individuals covered under an individual responsibility requirement while maintaining or improving upon established levels of quality of care, b) ensure and maximize patient choice of physician and private health plan, and c) include reforms that eliminate denials for pre-existing conditions. Policy H-165.845 addressing the evaluation of state health system reform proposals states that health insurance coverage should be equitable, affordable, and sustainable. Policy H-165.842 supports health insurance coverage of high-risk patients being subsidized through direct risk-based subsidies such as high-risk pools and reinsurance.

- Requires CMS to promulgate regulations to implement ACA section 1333, which allows a state to voluntarily enter into a compact with other states to sell insurance across state lines while maintaining state oversight of consumer protection, unfair trade practices, and network adequacy laws, among others. Consistent with H-180.946, which offers policy guidance relating to the sale of health insurance across state lines.

Comments
The AMA supports key components of this proposal—funding for the ACA CSR subsidies, increased funding for outreach, and enabling additional patient choice of health plans in the exchanges. Without CSR funding, the Congressional Budget Office estimated that insurance premiums in the individual market would increase by 20 percent in 2018, and the federal deficit would increase by $194 billion over ten years (because higher premiums would mean higher premium subsidies for low-income individuals in the Exchanges, greater than the amount that would be spent on CSR subsidies). The impact on the proposed change to the affordability guardrail that section 1332 waivers currently have to meet is unclear.