

Legislate[®]

Key Legislative Developments Affecting Your Human Resources US

Volume 9 | Issue 12 | April 6, 2018

Will States Step in to Stabilize ACA Marketplaces?

With the repeal of the ACA’s individual mandate expected to cause some destabilization and rising premiums in the small and individual marketplaces, a number of states are considering their own actions to bolster the market. Some include state-based individual mandates that would require citizens to obtain health coverage or pay some type of tax or penalty. While destabilization of the individual market does not directly impact employers, these state-based efforts could translate to increased administrative costs in tracking state requirements as well as additional reporting responsibilities.

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State-based Individual Mandates

Beginning January 1, 2019, the Tax Cuts and Reform Act of 2017 nullifies the ACA’s individual mandate (see our [December 20, 2017 Legislate](#)). Concerned that healthy individuals will exit the marketplace, several states are examining the overall impact this repeal will have on premiums and concluding that a state-based individual mandate may help stabilize their markets.

Currently, several states, including Connecticut, Hawaii, Maryland, New Jersey, Vermont, Washington state, and Washington, D.C., are considering legislation that would establish an individual mandate. Massachusetts repealed its employer mandate, but has kept its individual mandate intact (see our [July 10, 2014 For Your Information](#)). While taking different forms, most states considering a state-based individual mandate also plan on an associated tax penalty or fine (although Maryland would allow the penalty funds to be used as a “down payment” toward the purchase of health coverage) for those who fail to have coverage.



Massachusetts Individual Mandate

The Massachusetts mandate has been in effect since 2007 and requires individuals to maintain a minimum level of coverage to avoid penalties. Annual employer reporting to the individual and the state of coverage information is also required.

The impact of such state mandates, if successful in helping to stabilize the marketplaces and attracting more competition among insurers, could spell significant differences in health insurance options and coverage from state to state. (One goal of the ACA was to make health insurance around the country more

uniform.) For large employers, among other things, a state-based individual mandate could mean additional administrative burdens, including reporting requirements.

Looking Ahead

While Congress has been unable to pass any federal healthcare legislation, will the states also consider reinsurance and other programs that would shore up the ACA marketplaces? We'll address that possibility in next week's *Legislate*.

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Produced by the Knowledge Resource Center of Conduent Human Resource Services

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