

Federal Health Care Rollbacks: Washington Legal Strategies

Jane Beyer, Senior Health Policy Advisor



Individual Health Plan Rates

OIC reviews and <u>must approve</u> individual health plan rates before plans can be sold.

- By law, must approve rates if they are "actuarially sound"
- Average approved individual market rate increase for PY 2026: 21%
- Factors driving rate increases:
 - Up to 6% of the rate increase is due to expiration of ARPA ePTC's
 - Rising health care prices for prescription drugs, providers, and hospitals
 - Increased use of health services
 - Hospital/health system consolidation

<u>Key concern</u> – younger, healthier people drop coverage due to affordability challenges. Older, sicker risk pool further increases rates each year. Threatens market stability.



NoHLA CLE September 25, 2025

"Cost sharing reductions" & "Silver loading"

ACA "cost sharing reductions":

 Lower deductibles and point of service cost sharing for Exchange consumers with income at or below 250% FPL who choose a silver plan

2017:

 Federal government ends funding appropriated to compensate insurers for their costs of ACA "cost sharing reduction" (CSR)

2018 to today:

 Response – "silver loading" - Costs of CSRs built into rates for silver plans



"Cost sharing reductions" & "Silver loading"

2026:

 OIC adopts premium alignment rule to standardize CSR factor in silver health plan rates & help reduce enrollment loss.

Resulting rate change 2025-2026:

• Bronze: 19%

• Silver: 40%

• Gold: 2%

2027 and beyond:

- OIC rulemaking ongoing
- Uncertainty regarding the 2027 federal NBPP rule



Gender Affirming Care

Final Marketplace Rule prohibits inclusion of "sex trait modification procedures" in state Essential Health Benefits Benchmark Plan (EHB-BP) beginning PY 2026.

• "Sex trait modification procedure" means any pharmaceutical or surgical intervention that is provided for the purpose of attempting to align a person's physical appearance or body with an asserted identity that differs from the individual's sex.... 45 CFR § 156.400.

Under Washington state law, gender affirming care must be covered by commercial health plans, including individual health plans.



Gender Affirming Care

- If not an "essential health benefit", consumers lose annual/lifetime limit protections for these services; costsharing won't apply toward deductible or maximum outof-pocket (MOOP).
- Washington is <u>one of six states</u> with gender affirming care in our EHB-BP.
 - Several other states require coverage of these services via their health care nondiscrimination laws.
- States likely need to defray the cost of sex trait modification procedures.
- Awaiting decision in <u>California v. Kennedy</u>



Access to Preventive Services

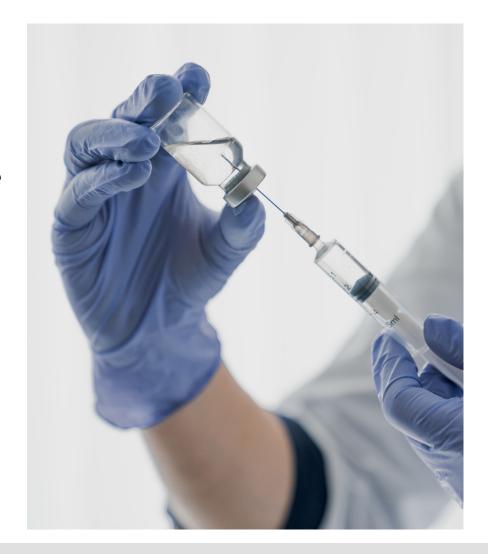
- ACA Preventive Services coverage requirements (<u>Sec. 2713</u>)
 - Tied to ACIP, USPSTF, and HRSA guidelines.
 - Must be covered without cost-sharing if provided by an in-network provider.
- Washington state coverage requirements (<u>RCW 48.43.047</u>)
 - Tied to ACIP, USPSTF, and HRSA guidelines as of January 8, 2024, but insurer may modify if changes are made.
 - Must be covered without cost-sharing if provided by an in-network provider.



Access to Preventive Services

OIC response to adopted or potential federal changes to ACIP immunization schedule or USPSTF recommendations:

- Individual and small group health plans for 2026: must cover preventive services in effect on May 15, 2025, when plans were filed with OIC.
- Large group health plans for 2026, depends upon when the plan was filed with OIC.
- Working with Dept. of Health on proposed legislation for 2026 to preserve access to and coverage of immunizations and other preventive services.





Health Care Affordability



- Cannot lose sight of core affordability concerns for all consumers.
- OIC supports Sen. Robinson's Corporate Practice of Health Care bill (2SSB 5387) – anticipates continued discussion on this legislation in the 2026 session.
- OIC Affordability Report noted lack of information on private equity investment in Washington.
 - OIC private equity research project to inform policy discussions.



Questions?

Jane Beyer
Senior Health Policy Advisor
Jane.Beyer@oic.wa.gov

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