Federal Health Care Rollbacks: Washington Legal Strategies

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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.

“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 <u>must be covered</u> 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; cost-sharing won't apply toward deductible or maximum out-of-pocket (MOOP).

- Washington is one of six states 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 *California v. Kennedy*

Access to Preventive Services

- ACA Preventive Services coverage requirements (Sec. 2713)
  - Tied to ACIP, USPSTF, and HRSA guidelines.
  - Must be covered without cost-sharing if provided by an in-network provider.

- Washington state coverage requirements (RCW 48.43.047)
  - 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?

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