U.S. House of Representatives
Committee on Energy and Commerce
Ranking Member Frank Pallone, Jr.

U.S. Senate
Committee on Health, Education, Labor, and Pensions
Ranking Member Patty Murray

Democratic Staff Report

A Manufactured Crisis: Trump Administration and Republican Sabotage of the Health Care System

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June 2017

*"The best thing **politically** is to let Obamacare **explode**."*
—President Donald Trump, interview with The Washington Post, 5/24/17

I. EXECUTIVE SUMMARY

The Trump Administration dedicated its first six months in office to sabotaging the health care system for partisan gain, threatening to reverse years of progress that have reduced the uninsured rate to historic lows.[1] These destructive efforts by the Administration are causing uncertainty for insurers, which is resulting in significantly higher premiums for consumers.

Perhaps even more egregiously, President Trump and Congressional Republicans are using this manufactured crisis to justify their efforts to pass Trumpcare, which will cut taxes for the wealthiest Americans and special interests while cutting nearly $1 trillion in funding from Medicare and Medicaid. Trumpcare will result in tens of millions more uninsured and impose higher costs on working families, including older adults and individuals with pre-existing conditions. Republicans claim that "Obamacare is in a total death spiral," as a justification for passing this tax cut bill masquerading as a health bill.[2] But they cannot pretend they are acting to improve the health care system while they are actively working to undermine it.

This report provides an overview of the emerging evidence of the damage that the Trump Administration and Congressional Republicans have inflicted on the individual market. It provides a preliminary analysis of the impact of the Trump Administration's actions and the impact of legislative uncertainty on premiums and stability in the marketplace, by analyzing the insurance rate filings to date. It will be updated as additional information becomes available.

II. THE TRUMP ADMINISTRATION'S EFFORTS TO UNDERMINE FAMILIES' HEALTH CARE

Since President Trump assumed office in January 2017, his Administration has repeatedly acted to sabotage the health care system. On his first day in office, President Trump signed an Executive Order that directed the Secretary of Health and Human Services and the heads of government agencies to defer, delay, or waive certain provisions of the Affordable Care Act (ACA), creating vast uncertainty in the marketplace.[3] Since then, his Administration has refused to commit to making cost-sharing reduction

> "Obamacare is dead next month if it doesn't get that money… What I think should happen and will happen is the Democrats will start calling me and negotiating."
>
> *—President Trump, 4/12/17*

[1] National Center for Health Statistics, Centers for Disease Control and Prevention, *Health Insurance Coverage: Early Release of Estimates for the National Health Interview Survey, 2016* (May 2017).

[2] *Trump says Obamacare in 'death spiral,' urges Congress to act*, Reuters (June 7, 2017).

[3] Exec. Order No. 13765, 82 Fed. Reg. 8351 (Jan. 20, 2017).

(CSR) payments and failed to commit to enforcing the individual mandate. These cynical attempts to manufacture a crisis have caused uncertainty in the marketplace and have prompted insurers to sharply increase premiums for the upcoming plan year.

Failure to Commit to Payment of Cost-Sharing Reductions

As of April 2017, approximately 7.1 million people, or 58 percent of marketplace enrollees, were enrolled in a plan with reduced cost-sharing.[4] For these individuals, CSR payments bring high-quality health coverage within reach by lowering deductibles and out-of-pocket costs. Yet, the Trump Administration refuses to commit to making these critical payments, even threatening to withhold payment for its own political gain:

> "Why the hell would we?"
>
> *—President Trump, on making CSR payments, 5/19/17*

- During an April 12, 2017 interview with *The Wall Street Journal*, President Trump threatened to withhold CSR payments to insurers as a tactic to force Democrats to negotiate on ACA repeal. President Trump said, "Obamacare is dead next month if it doesn't get that money… What I think should happen and will happen is the Democrats will start calling me and negotiating."[5]

- On April 30, 2017, President Trump tweeted: "You can't compare anything to ObamaCare because ObamaCare is dead. Dems want billions to go to Insurance Companies to bail out donors… New healthcare plan is on its way. Will have much lower premiums & deductibles while at the same time taking care of pre-existing conditions!"[6]

- According to a *Politico* report, President Trump told advisors that he wanted to end Administration payments to insurers because "he doesn't gain anything by continuing them." Regarding whether to continue the payments, President Trump reportedly said, "Why the hell would we?"[7]

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[4] Kaiser Family Foundation, *Estimates: Average ACA Marketplace Premiums for Silver Plans Would Need to Increase by 19% to Compensate for Lack of Funding for Cost-Sharing Subsidies* (Apr. 6, 2017).

[5] *Trump Threatens to Withhold Payments to Insurers to Press Democrats on Health Bill*, Wall Street Journal (Apr. 12, 2017).

[6] Donald J. Trump (@realDonaldTrump), Twitter (Apr. 30, 2017, 7:28 AM) (https://twitter.com/realDonaldTrump/status/858659215451271168); Donald J. Trump (@realDonaldTrump), Twitter (Apr. 30, 2017, 7:32 AM) (Apr. 30, 2017) (https://twitter.com/realdonaldtrump/status/858660413873025024).

[7] *Trump tells advisers he wants to end key Obamacare subsidies*, Politico (May 19, 2017).

- On May 22, 2017, the Trump Administration asked that the United States Court of Appeals for the District of Columbia Circuit delay for 90 days its ruling on a lawsuit filed by the Republican-led House of Representatives over the CSRs.[8] This action further prolonged the uncertainty over whether the CSRs will be paid, by failing to resolve the issue before insurers are required to file their rates for 2018.

- The Trump Administration has expanded its strategy of using CSRs as a political bargaining chip. On May 22, 2017, the *Los Angeles Times* reported that Centers for Medicare & Medicaid Services (CMS) Administrator Seema Verma suggested in a meeting with health insurance industry officials that the Trump Administration would make CSR payments if insurers expressed support for the Trumpcare bill.[9]

Enforcement of the Individual Mandate

In order to keep premiums low by ensuring a healthy risk pool, the ACA established the individual mandate, which requires that those who do not qualify for an exemption must either have health insurance coverage or pay a penalty.[10] The individual mandate is designed to work in conjunction with other market reforms, like new consumer protections and subsidies, which bring down the cost of coverage.[11]

The Trump Administration has conveyed contradictory information regarding its enforcement of the individual mandate, putting the stability of the risk pool and the affordability of coverage in jeopardy:

- Just two days after President Trump's inauguration and signing of his Executive Order, White House counselor Kellyanne Conway said the Order could help President Trump "get rid of that Obamacare penalty almost immediately."[12]

- On February 3, 2017, the Internal Revenue Service (IRS) told tax preparation companies that it would be accepting returns that did not indicate a filer's insurance status. This was a reversal of an earlier decision by the agency to reject such returns starting in 2017.[13]

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[8] *White House seeks 90-day delay in Obamacare subsidy suit*, Politico (May 22, 2017).

[9] *Health insurers plan big Obamacare rate hikes – and they blame Trump,* Los Angeles Times (May 22, 2017).

[10] Internal Revenue Service, *The Individual Shared Responsibility Payment – An Overview* (Mar. 20, 2014).

[11] Kaiser Family Foundation, *The Cost of the Individual Mandate Penalty for the Remaining Uninsured* (Dec. 9, 2015).

[12] *Trump still enforcing Obamacare mandate*, Politico (May 3, 2017).

[13] *Following Trump, IRS Takes First Shots At Obamacare's Individual Mandate*, Huffington Post (Feb. 15, 2017).

- On February 15, 2017, the IRS presented contradictory information to taxpayers within its own document. The document stated, "legislative provisions of the ACA law are still in force until changed by the Congress, and taxpayers remain required to follow the law and pay what they may owe."[14] However, the IRS also announced to taxpayers that it would "make changes that would continue to allow electronic and paper returns to be accepted for processing in instances where a taxpayer doesn't indicate their coverage status."[15]

III. THE TRUMP ADMINISTRATION AND CONGRESSIONAL REPUBLICANS HAVE CAUSED UNCERTAINTY THAT IS RAISING COSTS FOR CONSUMERS

Insurers and state insurance commissioners across the country have raised concerns about the effect of the Trump Administration's actions to undermine families' health care on their planning for the 2018 plan year. They have been forced to incorporate that uncertainty into their 2018 decision-making, which has resulted in rising premiums for consumers. Oliver Wyman Health projected that up to two-thirds of 2018 rate increases will be attributable to the uncertainty surrounding CSRs and the individual mandate.[16]

The Administration's failure to commit to paying CSRs has also contributed to insurers' decisions to exit the Marketplaces, resulting in reduced consumer choice, less competition, and increasing costs for consumers.[17] Additionally, as some insurers have made clear in their initial rate filings, participation in the marketplaces is contingent on continuation of CSR payments, and they will reevaluate participation in the Marketplaces if the subsidies are withdrawn or if uncertainty continues.[18]

> "There now is clear evidence that this uncertainty is undermining the individual insurance market for 2018 and stands to negatively impact millions of people."
>
> *—AHIP, BCBSA, et al., 5/19/17*

Premium spikes and insurer exits were by no means inevitable. In fact, they are a direct outgrowth of the Trump Administration's concerted efforts to undermine the marketplace and Republican efforts to repeal the ACA and pass Trumpcare. Experts have stated that the current individual market is stable in most parts of the country including S&P Global,[19]

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[14] Internal Revenue Service, *Individual Shared Responsibility Provision* (Feb. 15, 2017).

[15] *Id.*

[16] Oliver Wyman Health, *Analysis: Market Uncertainty Driving ACA Rate Increases* (June 14, 2017).

[17] *Anthem to leave Ohio's Obamacare insurance market in 2018*, Reuters (June 6, 2017).

[18] Letter from J. Mario Molina, Chief Executive Officer, Molina Healthcare, Inc., to the Honorable Paul Ryan, the Honorable Mitch McConnell et al. (Apr. 27, 2017); *Anthem could bolt from Obamacare exchange if subsidies are cut*, CNBC (Apr. 26, 2017).

[19] S&P Global, Inc., *The U.S. ACA Individual Market Showed Progress in 2016, But Still Needs Time To Mature* (Apr. 7, 2017).

the Kaiser Family Foundation,[20] and the Congressional Budget Office.[21] However, in S&P Global's April 2017 analysis, they warned that "[i]f insurers are uneasy regarding the future of the market, they may have to decide between adding an 'uncertainty buffer' to their pricing or—worst case—exiting the exchanges altogether."[22]

The following statements convey the uncertainty faced across the country by insurance company executives and state insurance commissioners as a result of the Trump Administration's actions and efforts to repeal the ACA and pass Trumpcare:

Uncertainty Stemming from Efforts to Undermine Families' Health Care and Pass Trumpcare

- **Covered California:** "There is great uncertainty about the federal policies that have been in place for the past four years and are critical to the stability of the nation's health care markets. Health plans across the country are making business decisions for 2018 that will affect the coverage of approximately 19 million Americans who get their insurance through these nongroup markets."[23]

- **Colorado Insurance Commissioner:** "As Colorado Insurance Commissioner, I am deeply committed to maintaining access to affordable quality coverage by preserving the stability of Colorado's individual health insurance market, but the continued uncertainty caused by fluctuating directions from Washington could have a disastrous impact on the individual health insurance market in 2018. I have met with health insurance carriers about their participation in 2018 and all have expressed deep concerns about the increasing political and regulatory uncertainty around the individual health care market."[24]

- **Oregon Department of Consumer and Business Services:** "Although there have been signs that the market is stabilizing, there is significant uncertainty about the future as repeal or changes to the Affordable Care Act are considered by Congress. Other examples of uncertainty include whether the individual mandate will be enforced and whether cost-sharing subsidies will continue to be paid to insurers. Changes to either of

[20] Kaiser Family Foundation, *Insurer Financial Performance in the Early Years of the Affordable Care Act* (Apr. 21, 2017).

[21] Congressional Budget Office, *H.R. 1628, American Health Care Act of 2017* (May 24, 2017).

[22] *See* note 19.

[23] Covered California, *Analysis of Impact to California's Individual Market If Federal Policy Changes Are Implemented: Effect on Premiums, Enrollment and Coverage in 2018* (Apr. 27, 2017).

[24] Letter from Marguerite Salazar, Insurance Commissioner, State of Colorado, to Senator Michael Bennet, Senator Cory Gardner et al. (Apr. 20, 2017).

these programs would create significant challenges for Oregon's health insurance market."[25]

- **Pennsylvania Insurance Commissioner and five insurance companies**: "Putting aside the larger political debate over the ACA, we would like to more immediately address the threat of, and uncertainty related to, rapid changes and a lack of funding. Specifically, the most immediate drivers of instability are the weakening of the individual mandate, the uncertain status of funding for the cost sharing reductions and the absence of funding for overall market stabilization measures. Additional regulatory action should be designed to minimize disruption and instability. The absence of certainty regarding market parameters, and in particular those with direct financial consequence, magnify the risks of market participation in a way that issuers and regulators cannot ignore. This, we fear, could undermine the progress we have made, reduce coverage options and significantly increase prices for millions of vulnerable Pennsylvanians (and others throughout the nation)."[26]

- **Community Health Choice (Texas):** "The vast majority of this has been caused by the current administration and by Congress, not by the ACA. … We're doing the best we can. There is a tremendous amount of uncertainty."[27]

- **Washington Insurance Commissioner and Association of Washington Healthcare Plans: "**Uncertainty demands a more conservative pricing model for insurance, which means planning for the worst case scenario in terms of utilization and cost of care. Regulatory action should minimize unpredictability, uncertainty, and rapid change – factors that all contribute to instability in the insurance market. Currently, the most significant and immediate drivers of market uncertainty are the weakening of individual mandate enforcement, the uncertain status of cost-sharing reduction funding, and the lack of funding for broader market stabilization measures."[28]

[25] Oregon Department of Consumer and Business Services, *State begins review of 2018 proposed health insurance rates* (May 16, 2017).

[26] Letter from Teresa D. Miller, Commissioner, Pennsylvania Department of Insurance, et al., to Thomas E, Price, Secretary, U.S. Department of Health and Human Services, (Apr. 26, 2017).

[27] *Big insurance rate hikes coming – and they may get bigger*, Houston Chronicle (June 1, 2017).

[28] Letter from Mike Kreidler, Insurance Commissioner, State of Washington and Molli Robertson, Association of Washington Healthcare Plans, to Thomas E. Price, Secretary, U.S. Department of Health & Human Services (Apr. 8, 2017).

Cost-Sharing Reduction Payments

> "The information we've seen coming from the administration actually creates more uncertainty rather than creating greater certainty."
>
> *—Brad Wilson, President and CEO of Blue Cross Blue Shield North Carolina, 5/30/17*

America's Health Insurance Plans (AHIP), the Blue Cross Blue Shield Association (BCBSA), the American Medical Association (AMA), and others: "As providers of healthcare and coverage to hundreds of millions of Americans, we are writing again to you as leaders in Congress to express our serious concerns about the continued uncertainty around funding for cost-sharing reduction (CSR) payments. There now is clear evidence that this uncertainty is undermining the individual insurance market for 2018 and stands to negatively impact millions of people."[29]

- **Peter Adler, President of Molina Healthcare of Washington, Inc.:** "If the federal government's full CSR funding commitments are in jeopardy, we believe that the viability of the exchange market is in immediate jeopardy of failing."[30]

- **Brad Wilson, President and CEO of Blue Cross Blue Shield North Carolina:** "Let me start with the principle of certainty. The more certainty, the more guarantee there is that CSR money will continue for 2017 and also for 2018, the more predictability there is in the market, that puts us in a position to file a lower rate. The information we've seen coming from the administration actually creates more uncertainty rather than creating greater certainty."[31]

- **Eric A. Cioppa, Superintendent of Maine Bureau of Insurance:** "The uncertainty is extremely problematic… If they don't get a subsidy, I fully expect double-digit increases for three carriers on the exchanges here."[32]

- **Tu T. Nguyen, Director and Actuary, Anthem Blue Cross and Blue Shield of Connecticut**: "Unfortunately, the continuation of the funding for CSR subsidies for the 2018 calendar year is not certain. This uncertainty adds more unpredictability to the rate process and introduces an uneasy level of market volatility, compromising the ability to set adequate rates responsibly. It has been estimated that lack of CSR funding could

[29] Letter from AHIP, et al., to Senator Mitch McConnell, et al. (May 19, 2017).

[30] Letter from Peter Adler, President, Molina Healthcare of Washington, Inc., to Mike Kreidler, Insurance Commissioner, State of Washington (May 1, 2017).

[31] *Insurance CEO: I'm raising Obamacare premiums because of Trump,* Vox (May 30, 2017).

[32] *From Maine, a Call for More Measured Take on Healthcare,* New York Times (June 4, 2017).

increase premium rates for Silver plans some 20 percent over and above adjustments needed due to increases in medical costs, utilization and overall morbidity of the membership."[33]

- **Tanji Northrup, assistant commissioner of the Utah Department of Insurance:** "It's a lot of skepticism today… With the unknown of cost-sharing-reductions funding ... we have great uncertainty for what insurers will be participating in the market and where rates could land for 2018."[34]

Enforcement of the Individual Mandate

- **Chet Burrell, Chief Executive of CareFirst:** "[CareFirst] tacked an extra 15 percent onto its premiums because it does not expect the Trump administration to enforce the individual mandate. 'The current approach at the federal level has been to say they're not going to enforce it,' he says. 'We think the effect of that is to encourage healthy people not to enroll.'"[35]

- **Blue Cross Blue Shield of North Carolina**: "We believe the Individual ACA market will contract in 2017 and 2018, and that this will have a deteriorating effect on the overall market risk. We believe this is the result of … [c]onsistent messaging from Federal policymakers stating their intent to abolish the ACA coverage mandates. We believe this will embolden many healthier individuals to drop coverage, no longer fearing enforcement of the mandate penalty."[36]

- **Harvard Pilgrim Health Care (Maine)**: "HPHC expects to see higher morbidity in the individual market in 2018 due to the lack of penalties associated with the individual mandate. Without enforcement of the coverage mandate, membership is expected to drop, with the healthier individuals more likely to forego coverage. This will drive up the average cost of health care for the individual market. Therefore an adjustment is needed to account for the higher expected claims costs."[37]

- **Teresa Miller, Pennsylvania Insurance Commissioner**: "Commissioner Miller warned of the significant impact that action from the federal government to change the Affordable Care Act would have on insurers' aggregate proposed rate increases. If the

[33] Letter from Tu T. Nguyen, Director & Actuary III, Anthem Blue Cross and Blue Shield, to Paul Lombardo, Actuary, Life & Health Division, State of Connecticut Insurance Department (May 1, 2017).

[34] *Health premiums could spike, Utah officials say*, Salt Lake Tribune (June 8, 2017).

[35] *The Trump administration is making Obamacare more expensive*, Vox (May 8, 2017).

[36] Blue Cross Blue Shield of North Carolina, *Federal Part III, Actuarial Memorandum, 2018 Individual ACA Single-Risk-Pool Rate Filing* (May 18, 2017).

[37] Harvard Pilgrim Health Care, Inc., *Actuarial Memorandum and Certification* (June 2, 2017).

individual mandate is repealed, insurers estimate that they would seek a 23.3 percent rate increase statewide."[38]

- **Covered California:** "Failure to enforce the penalty for not having health insurance could result in total premium increases of more than 28 percent, and up to 350,000 consumers who would otherwise get coverage likely going uninsured in 2018."[39]

Appendix A contains additional statements that convey the uncertainty states face as a result of the Trump Administration's actions and efforts to repeal the ACA and pass Trumpcare.

IV. CONCLUSION

Republicans are undertaking concerted efforts to sabotage the health care system by introducing instability into the individual insurance market. By choosing not to make CSR payments, providing unclear direction about enforcement of the individual mandate, and generally creating uncertainty about the future of our health care system, the Trump Administration is forcing insurers to raise premiums for the 2018 plan year. These actions are threatening to make health care inaccessible and unaffordable for millions of Americans.

In defending Republicans' attempts to jam Trumpcare through Congress, Senate Majority Leader Mitch McConnell recently said, "Doing nothing is not an option."[40] Yet independent experts agree that the individual market would be stable if not for the Trump Administration's sabotage.

President Trump and Congressional Republicans are manufacturing instability in the marketplace as a false pretense for passing a major tax cut for the wealthy and special interests. This cynical effort is being paid for with draconian cuts to the health care system, and on the backs of millions who need access to affordable coverage. Both President Trump and Congressional Republicans should be held responsible for these cynical and destructive actions.

[38] Pennsylvania Pressroom, *Insurance Commissioner Announces Single-Digit Aggregate 2018 Individual and Small Group Market Rate Requests, Confirming Move Toward Stability Unless Congress or the Trump Administration Act to Disrupt Individual Market* (June 1, 2017).

[39] *See* note 23.

[40] *Mitch McConnell promises healthcare vote 'in the near future,'* Washington Examiner (June 6, 2017).

APPENDIX A: QUOTES BY STATE

California

- **Dave Jones, California Insurance Commissioner:** "Today, the Trump Administration took additional steps to destabilize the health insurance market. The misnamed 'market stabilization' rules sabotage the Affordable Care Act by significantly reducing the open enrollment time period and creating other conflicts with state laws. Like President Trump's threats to eliminate cost-sharing subsidies, his new regulations will destabilize, rather than strengthen, the health insurance market."[41]
- **Covered California:** "*Millions Affected by Uncertainty*: There is great uncertainty about the federal policies that have been in place for the past four years and are critical to the stability of the nation's health care markets. Health plans across the country are making business decisions for 2018 that will affect the coverage of approximately 19 million Americans who get their insurance through these nongroup markets. California has about 2.4 million individuals in this market, with 1.3 million getting their insurance through Covered California and 1.1 million purchasing directly from insurers 'off exchange.'"[42]
- **Covered California:** "Failure to directly fund cost-sharing reductions and enforce the mandate could result in an estimated premium rate increase of 42 percent on average in California for 2018, and as high as 49 percent for enrollees in Silver plans, with over 1.2 million on and off the exchange receiving no federal subsidy to soften the impact of the large increase. Failure to enforce the penalty for not having health insurance could result in total premium increases of more than 28 percent, and up to 350,000 consumers who would otherwise get coverage likely going uninsured in 2018."[43]

Colorado

- **Marguerite Salazar, Colorado Insurance Commissioner:** "As Colorado Insurance Commissioner, I am deeply committed to maintaining access to affordable quality coverage by preserving the stability of Colorado's individual health insurance market, but the continued uncertainty caused by fluctuating directions from Washington could have a disastrous impact on the individual health insurance market in 2018. I have met with health insurance carriers about their participation in 2018 and all have expressed deep concerns about the increasing political and regulatory uncertainty around the individual health care market. Carriers must submit their proposed plans and premiums

[41] California Department of Insurance, *Insurance Commissioner condemns Trump Administration actions destabilizing health insurance markets* (Apr. 13, 2017) (press release).

[42] *See* note 23.

[43] *Id*.

for 2018 in the next few weeks, and do not have the luxury to wait for a clear picture to emerge later this year."[44]

- **Marguerite Salazar, Colorado Insurance Commissioner:** "The uncertainty surrounding the payment and funding of the Cost Sharing Reductions (CSR) provided by the Affordable Care Act could have a significant and detrimental impact on the individual market in Colorado. If the CSRs are not funded, at a minimum, Coloradans are estimated to see a 12-19% rate increase for that alone. At the worst, carriers could decide to forgo the increased risk and simply exit the individual market in Colorado, leaving consumers with fewer choices in carriers and plans. Using the CSRs as a bargaining chip is tantamount to gambling with Coloradans access to healthcare."[45]

Connecticut

- **ConnectiCare, Inc.**: "In light of current legislative efforts at the federal level, and the ongoing litigation over CSR payments, the federal and state regulatory environment has been and remains fluid. Given the uncertainties of the current regulatory environment, CBI reserves the right to withdraw its products from the individual market or request a change to all, or any portion, of these rate filings, if it determines, in its sole discretion, that a change in the current regulatory environment is likely to pose an actual or potential material adverse risk to CBI's business."[46]
- **Tu T. Nguyen, Director and Actuary, Anthem Blue Cross and Blue Shield of Connecticut**: "We are facing some significant uncertainties going into 2018. This letter will serve to confirm our discussions with the Department regarding the uncertainty of greatest concern – i.e., continued funding of the Cost Sharing Reduction (CSR) subsidies."[47]
- **Tu T. Nguyen, Director and Actuary, Anthem Blue Cross and Blue Shield of Connecticut**: "Consistent with the Department's guidance, Anthem is filing its 2018 rates with the assumption that CSR subsidies will be funded throughout the entire 2018 calendar year. Unfortunately, the continuation of the funding for CSR subsidies for the 2018 calendar year is not certain. This uncertainty adds more unpredictability to the rate process and introduces an uneasy level of market volatility, compromising the ability to set adequate rates responsibly. It has been estimated that lack of CSR funding could increase premium rates for Silver plans some 20 percent over and above adjustments needed due to increases in medical costs, utilization and overall morbidity of the membership."[48]

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[44] *See* note 24.

[45] *Id*.

[46] Letter from Neil S. Kelsey, Vice President, Actuarial Services, ConnectiCare, Inc. & Affiliates to Paul Lombardo, Actuary, Life & Health Division, State of Connecticut Insurance Department (May 1, 2017).

[47] *See* note 33.

[48] *Id*.

Delaware

- **Delaware Insurance Commissioner:** "'Highmark's proposed rate increase reflects the fact that the Federal Government could cut funding for the ACA by discontinuing cost-sharing reduction subsidies,' says Delaware Insurance Commissioner Trinidad Navarro. 'Cost-sharing reduction subsidies are passed on to insurers to assist lower income individuals and families. In addition, it is unclear whether the ACA individual mandate will be enforced next year. If the Federal Government fails to live up to its obligations under the law, insurers will likely continue to exit the Marketplace. … Without competition from other companies and with the Affordable Care Act's fate left up to members of the federal government who appear to oppose it, we are in a difficult position.'"[49]

Maine

- **Eric Cioppa, Superintendent of Maine Bureau of Insurance:** "'The uncertainty is extremely problematic,' said Eric A. Cioppa, the superintendent of the Maine Bureau of Insurance, who said carriers could not fix their rates without knowing the fate of those subsidies. 'If they don't get a subsidy, I fully expect double-digit increases for three carriers on the exchanges here.'"[50]
- **Harvard Pilgrim Health Care (Maine)**: "HPHC expects to see higher morbidity in the individual market in 2018 due to the lack of penalties associated with the individual mandate. Without enforcement of the coverage mandate, membership is expected to drop, with the healthier individuals more likely to forego coverage. This will drive up the average cost of health care for the individual market. Therefore an adjustment is needed to account for the higher expected claims costs."[51]
- **Maine Community Health Options (Maine)**: "We expect that a weak individual mandate combined with higher premiums in the individual market will lead to increased market contraction in 2018. Healthier people and those whose premiums are unsubsidized will be more likely to not continue to purchase health coverage. We have applied a 15% increase to the 2016 experience to reflect this increased morbidity anticipated in the single risk pool."[52]
- **Anthem Health Plans of Maine, Inc.:** "This rate filing and all supporting assumptions are contingent upon the current Individual market regulatory framework and operating environment whereby-cost share reduction subsidies (CSRs) will continue to be fully funded by the Federal Government through 2018. Should that change or remain uncertain, the proposed rates will no longer be appropriate at which time Anthem will

[49] State of Delaware, *Highmark Requests 2018 Health Insurance Rate Increase of 33.6%* (June 14, 2017).

[50] *See* note 32.

[51] *See* note 37.

[52] Maine Community Health Options, *HIOS Part II Preliminary Justification – Written Explanation of Rate* (June 1, 2017).

withdraw and reevaluate the current 2018 rate filing and market participation in light of the increased uncertainty or volatility in the market. Such adjustments could include: reducing service area participation, requesting additional rate increases, eliminating certain product offerings or exiting certain Individual ACA compliant markets altogether."[53]

Maryland

- **Evergreen Health, Inc. (Maryland)**: "The primary drivers of the components of the proposed rate increases are uncertainty in 2018 market morbidity as a result of potential regulatory changes such as repeal of the CSR subsidies and individual mandate."[54]

Michigan

- **Blue Cross Blue Shield Michigan**: "Mandate Enforcement: We have included a factor of 5.0% to account for regulatory risk that encompasses known changes to enforcement of the Affordable Care Act's individual mandate as well as member behavior given the uncertainty of the market."[55]
- **Bulletin, State of Michigan Department of Insurance and Financial Services**: "As issuers are likely aware, the federal government has not confirmed that it will fund cost-sharing reductions (CSRs) for plans covering individuals up to 250% of the federal poverty level and eligible American Indians. CSR payments to Michigan issuers were approximately $166 million in 2016. If CSRs are not funded by the federal government, issuers offering individual silver plans on the Marketplace will need to fund them. If rates do not account for such expenditures, these issuers could suffer significant financial losses. Unfortunately this means higher premiums will be charged… Due to this uncertainty and the need to encourage issuers to participate in the Marketplace, DIFS is requiring issuers to submit two premium rate filings as follows: 1) A rate submission assuming no CSR payments will be made…; 2) A rate submission assuming CSR payments will be made similar to existing payments."[56]

New Mexico

- **Martin Hickey, Chief Executive of New Mexico Health Connections**: "There is 'pretty massive confusion,' said Hickey, whose 45,000-member plan is one of the few

[53] Anthem Health Plans of Maine, *Part II – Written description justifying the rate increase*.

[54] Evergreen Health, Inc., *Preliminary Rate Justification 2018 Individual Commercial Products*.

[55] Blue Cross Blue Shield Michigan, *BCBSM 2018 Individual Rate Filing Actuarial Memorandum Rate Submission I* (June 12, 2017).

[56] State of Michigan Department of Insurance and Financial Services, *Bulletin 2017-09-INS* (June 1, 2017).

nonprofit insurance co-ops created by the ACA to still be in business. 'The more uncertainty they create, the higher the rates' will be for 2018, he said."[57]

- **Martin Hickey, Chief Executive of New Mexico Health Connections:** "Uncertainty breeds higher costs… We have to plan for the worst case scenario until it finally gets decided. We have a lot of things to focus on, we're grinding out hours over rates, and it doesn't help that people are running around with zombie bills."[58]

New York

- **New York State Department of Financial Services**: "[the Department of Financial Services] requested that insurers provide estimates as to how the impact of a potential repeal of the individual mandate and the loss of Cost Share Reduction (CSR) funding would affect rates. Of those that provided numerical estimates, on average, insurers estimated that a full repeal of the federal individual mandate would increase rates by an additional 32.6% and the loss of CSR funding would increase rates an additional 1.3%."[59]

North Carolina

- **Blue Cross Blue Shield of North Carolina**: "We believe the Individual ACA market will contract in 2017 and 2018, and that this will have a deteriorating effect on the overall market risk. We believe this is the result of: The elimination of Federal funding of CSR payments, which will significantly increase rates for many members that do not receive APTC premium subsidies. This will drive many healthier individuals to exit the market."[60]
- **Brian Tajlili, Director of Actuarial and Pricing Services for Blue Cross NC:** "We're seeing the market begin to stabilize after three years of coverage… Unfortunately, the lack of CSR funding significantly increases the rates for all ACA customers. We are still required to offer the additional CSR benefits to participate in the Exchange, so covering these costs without CSR funding will drive up our average rate for next year."[61]
- **Brad Wilson, President and CEO of Blue Cross Blue Shield North Carolina:** "The biggest single reason for that rate increase is the lack of the federal funding for CSRs in 2018. We cannot assume nor should we that the money is going to be there based on what we know today. The president and the administration have made several statements about CSRs that don't give any comfort that they will be available. If we'd had those

[57] *Health Insurers Face 'Massive Confusion' As GOP Wavers On Obamacare,* NPR (Feb. 9, 2017).

[58] *See* note 35.

[59] New York State Department of Insurance, *Rate Applications by Company Introduction*.

[60] *See* note 36.

[61] *Blue Cross wants 23 percent rate increase for North Carolina Obamacare insurance plans*, ABC 11 WTVD Raleigh (May 25, 2017).

assurances [that the subsidies would be paid], our rate would have been 8.8 percent. You can do the math and see the delta there."[62]

- **Brad Wilson, President and CEO of Blue Cross Blue Shield North Carolina:** "Let me start with the principle of certainty. The more certainty, the more guarantee there is that CSR money will continue for 2017 and also for 2018, the more predictability there is in the market, which puts us in a position to file a lower rate. The information we've seen coming from the administration actually creates more uncertainty rather than creating greater certainty."[63]
- **Brad Wilson, President and CEO of Blue Cross Blue Shield North Carolina:** "The effect will be the same across the country… Rates will be materially higher if CSRs aren't funded."[64]

Ohio

- **Anthem's announcement not to participate in the Ohio marketplace:** "The individual market remains volatile, and the lack of certainty of funding for cost-sharing reduction subsidies, the restoration of taxes on fully insured coverage, and an increasing lack of overall predictability simply does not provide a sustainable path forward to provide affordable plan choices for consumers."[65]
- **Anthem:** In a statement, Anthem announced: "Continual changes in federal operations, rules, and guidance" as its primary reason for exiting the marketplaces.[66]

Oregon

- **Oregon Department of Consumer and Business Services**: "The individual health insurance market has undergone significant challenges since the Affordable Care Act (ACA) took effect in 2014. Medical claims for the influx of new enrollees have been higher than expected, and federal programs aimed at limiting risk for insurers are ending. Those factors have made it necessary for insurers to raise premium rates significantly in 2016 and 2017. Also, many insurers have chosen to shrink their presence in some areas of the state. Looking ahead, there is significant uncertainty about the future as repeal or changes to the ACA are considered."[67]

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[62] *See* note 31.

[63] *Id*.

[64] *Trump's latest tantrum will hurt hundreds of thousands of people. Here's how.,* Washington Post (May 26, 2017).

[65] *An insurer just made Obamacare's nightmare scenario worse, and it could be 'the tip of the iceberg,'* Business Insider (June 6, 2017).

[66] *Id*.

[67] Oregon Department of Consumer and Business Services, *Oregon Health Insurance Rate Review – Plan Year 2018* (Apr. 2017).

- **Oregon Department of Consumer and Business Services:** "Although there have been signs that the market is stabilizing, there is significant uncertainty about the future as repeal or changes to the Affordable Care Act are considered by Congress. Other examples of uncertainty include whether the individual mandate will be enforced and whether cost-sharing subsidies will continue to be paid to insurers. Changes to either of these programs would create significant challenges for Oregon's health insurance market. Insurance companies are required to file rates assuming that cost-sharing subsidies will be paid and that the Affordable Care Act will continue to be in place in its current form in 2018. In the event of changes to these programs or the law, the division will work with companies to make adjustments as needed."[68]

Pennsylvania

- **Teresa Miller, Pennsylvania Insurance Commissioner, and five insurance companies**: "Putting aside the larger political debate over the ACA, we would like to more immediately address the threat of, and uncertainty related to, rapid changes and a lack of funding. Specifically, the most immediate drivers of instability are the weakening of the individual mandate, the uncertain status of funding for the cost sharing reductions and the absence of funding for overall market stabilization measures. Additional regulatory action should be designed to minimize disruption and instability. The absence of certainty regarding market parameters, and in particular those with direct financial consequence, magnify the risks of market participation in a way that issuers and regulators cannot ignore. This, we fear, could undermine the progress we have made, reduce coverage options and significantly increase prices for millions of vulnerable Pennsylvanians (and others throughout the nation)."[69]
- **Teresa Miller, Pennsylvania Insurance Commissioner, and five insurance companies**: "We ask you and your Department to work with us to further stabilize our market. Specifically, we ask that you continue to make cost-sharing subsidies available to help low-income Americans pay for out-of-pocket costs; ensure that the federal government continues to enforce the individual mandate to protect and improve our risk pools; and make all of the payments owed to insurers to stem any further exodus from these markets. Time is of the essence since insurers will be filing 2018 products just a few short weeks after Congress addresses the government funding deadline. With the added certainty these actions will create, we believe rate increases in the individual market will be moderated and consumer coverage options will be preserved."[70]
- **Teresa Miller, Pennsylvania Insurance Commissioner**: "Information provided by insurers shows the extent to which instability and changes would impact Pennsylvania's 2018 health insurance rates. This proves what we already know – instability caused by adverse action from the federal government will do nothing but hurt consumers who are stuck in the middle. … The 506,000 Pennsylvanians with Affordable Care Act-compliant plans in the individual market deserve single-digit rate increases like the ones most

[68] *See* note 25.

[69] *See* note 26.

[70] *Id*.

people will see if Congress and the Trump Administration choose not to risk consumers' health and financial well-being by jeopardizing the stability of these markets."[71]

- **Teresa Miller, Pennsylvania Insurance Commissioner**: "Commissioner Miller warned of the significant impact that action from the federal government to change the Affordable Care Act would have on insurers' aggregate proposed rate increases. If the individual mandate is repealed, insurers estimate that they would seek a 23.3 percent rate increase statewide. If cost-sharing reductions are not paid to insurers, the companies would request a 20.3 percent rate increase statewide. If both changes occurred, insurers estimate they would seek an increase of 36.3 percent."[72]

Tennessee

- **Blue Cross Blue Shield of Tennessee:** "Given the potential negative effects of federal legislative and/or regulatory changes, we believe it will be necessary to price-in those downside risks, even at the prospect of a higher-than-average margin for the short term, or until stability can be achieved. These risks include but are not limited to the elimination of Cost Sharing Reduction subsidies (CSRs), the removal of the individual mandate and the collection of the health insurer tax."[73]

Texas

- **Alex Janda, CEO, Community Health Choice (Texas):** "The vast majority of this has been caused by the current administration and by Congress, not by the ACA. … We're doing the best we can. There is a tremendous amount of uncertainty."[74]

Utah

- **Tanji Northrup, assistant commissioner of the Utah Department of Insurance:** "It's a lot of skepticism today…. With the unknown of cost-sharing-reductions funding ... we have great uncertainty for what insurers will be participating in the market and where rates could land for 2018."[75]
- **Jason Stevenson, the Utah Health Policy Project:** "The ability to use insurance is based on deductibles and copays, and this program has been reducing those for tens of thousands of Utah families," …. "Now, based on uncertainty from the Trump

[71] *See* note 38.

[72] *Id*.

[73] Letter from JD Hickey, President & CEO, Blue Cross Blue Shield of Tennessee, to Julie Mix McPeak, Commissioner, Tennessee Department of Commerce & Insurance (May 9, 2017).

[74] *See* note 27.

[75] *See* note 34.

administration, insurers and families don't know if (those subsidies) are going to be there, making the market unstable."[76]

Vermont

- **Blue Cross Blue Shield of Vermont:** "While the expected CSR funding needed for 2018 is $8.7 million, the funding of this program for calendar year 2018 is uncertain. In the event that this program is not funded by the federal government, Vermont will need to react in one of a number of ways, including but not limited to state funding of the CSR program, discontinuing enrollment in CSR plans, or allowing issuers to modify rates to charge the entire or a portion of the combined risk pool for the difference in claims costs between CSR plans and the standard Silver plan. In the event that federal government stops funding the CSR program, BCBSVT will work with all of the applicable state regulators, and stakeholders, to develop a solution."[77]
- **Blue Cross Blue Shield of Vermont:** "On May 4, 2017, the U.S. House of Representatives passed the American Health Care Act (AHCA), proposing many changes to the current health care laws. AHCA is currently under consideration by the U.S. Senate. This filing does not include any adjustment for provisions in the AHCA. In the event that the AHCA or any other health care law is approved and contains provisions that materially impact plan year 2018, we will amend this filing, or any subsequently approved rates, to reflect such new laws."[78]
- **MVP Health Plan, Inc. (Vermont):** "Because of the magnitude of these CSR payments as a percentage of MVP's total claim liability, any potential State or Federal regulations defunding these payments would leave MVP's proposed premium rates inadequate to cover the benefits of the proposed plans. Should these payments be defunded between the current date and the beginning of the coverage effective date, MVP will pursue modifications to its premium rates to cover this potential shortfall."[79]

Virginia

- **CareFirst Blue Cross Blue Shield**: "We have assumed that the coverage mandate introduced by ACA will not be enforced in 2018 and that this will have the same impact as repeal. Based on industry and government estimates as well as actuarial judgement, we have projected that this will cause morbidity to increase by an additional 20%."[80]
- **CareFirst Blue Cross Blue Shield:** "Our proposed rate increases reflect a number of factors including rising medical costs, members in these products that have proven to be

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[76] *Id.*

[77] Blue Cross Blue Shield of Vermont, *BCBSVT 2018 Vermont Qualified Health Plans Rate Filing* (May 12. 2017).

[78] *Id*.

[79] MVP Health Plan, Inc. *VT 2018 Exchange Rate Filings* (May 12, 2017).

[80] CareFirst Blue Cross Blue Shield, *Part III Actuarial Memorandum*.

older and less healthy than expected, and uncertainty surrounding certain provisions of the Affordable Care Act."[81]

- **Optima Health Insurance Company**: "The premium rates developed are based upon regulatory and legislative provisions in effect at the time of this filing, including, but not limited to, the funding of Cost-Sharing Reduction (CSR) payments and continuation and enforcement of the individual mandate. If these provisions materially change, then these rates may no longer be appropriate and will need to be withdrawn and refiled."[82]
- **Piedmont Community Healthcare HMO, Inc.:** "The projected rate index assumes that members are eligible to receive federal subsidies and the individual mandate is still enacted and enforced. As of the date below, the United States House of Representatives is considering substantial overhauls to the Affordable Care Act that could affect the subsidies and the mandate. I would not be able to certify that the proposed rates are adequate if these proposed changes substantially alter the Affordable Care Act."[83]

Washington State

- **Washington Insurance Commissioner and Association of Washington Healthcare Plans: "**Uncertainty demands a more conservative pricing model for insurance, which means planning for the worst case scenario in terms of utilization and cost of care. Regulatory action should minimize unpredictability, uncertainty, and rapid change – factors that all contribute to instability in the insurance market. Currently, the most significant and immediate drivers of market uncertainty are the weakening of individual mandate enforcement, the uncertain status of cost-sharing reduction funding, and the lack of funding for broader market stabilization measures."[84]
- **Peter Adler, President of Molina Healthcare of Washington, Inc.:** "As you know, Congress and the new Administration in Washington DC are threatening to cease and/or reduce CSR funding – a reneging on a fundamental commitment upon which carriers and members entered the Exchanges. The uncertainty generated by these threats has already caused a number of carriers to withdraw from the Exchanges, including in Washington State. … This uncertainty, coupled with any further undermining of the individual mandate, which ensures that insurance pools continue to include younger and healthier people along with those with high healthcare needs, places the Washington Exchange market in general - and Molina's participation in specific - in serious jeopardy."[85]
- **Peter Adler, President of Molina Healthcare of Washington, Inc.:** "If the Federal government's full CSR funding commitments are in jeopardy, we believe that the

[81] CareFirst Blue Cross Blue Shield, *2018 ACA Filings – Maryland, Virginia and the District of Columbia* (May 5, 2017).

[82] Milliman, Inc., *Part III Actuarial Memorandum, Optima Health Insurance Company, Individual Medical Rate Filing, Effective January 1, 2018* (Apr. 28, 2017).

[83] *Id*.

[84] *See* note 28.

[85] *See* note 30.

viability of the Exchange market is in immediate jeopardy of failing. That risk, if not remedied by Congress or the Administration in advance of June 7 (the Washington State 2018 filing deadline), will present a major challenge for Molina to financially sustain the costs or risks associated with the ensuing instability of the Exchange Marketplaces."[86]

- **Peter Adler, President of Molina Healthcare of Washington, Inc.:** "We wish to continue our commitment to Washingtonians who select the Exchange for their health coverage. However, to do so, we need the Federal Government to keep its commitment to continue and fully fund the promised CSR payments from May 1 through December 31, 2017, and we need an equally firm commitment that the CSRs will be fully funded throughout the entirety of calendar year 2018. Without those commitments, Molina will have to very seriously consider its ability to remain on the Exchange."[87]
- **Molina Healthcare of Washington, Inc.:** "The preliminary rates Molina Healthcare filed in Washington take into consideration uncertainties around the individual marketplace as well as increasing costs. Molina is constantly looking for ways to improve access to affordable, high quality health care for people receiving government assistance. We will continue to work closely with our state and federal partners on innovative solutions to achieve that."[88]
- **Molina Healthcare of Washington, Inc.:** "The individual mandate may be more weakly enforced than in prior years, resulting in younger and healthier members dropping coverage…. In addition to the acuity factor, we applied an adjustment to the experience period to reflect the anticipated change in morbidity of the market-wide risk pool due to weaker enforcement of the individual mandate and/or the perception of weaker enforcement. We anticipate a smaller overall population in the Washington Marketplace with a higher average morbidity compared to the experience period. We modeled the impact of a subset of our population dropping coverage, which included a fraction of our members with low claims in the previous year, higher member premiums, and those who are younger. We expect a smaller market-wide risk pool together with higher average morbidity to increase the experience period allowed claims by 1.054. The results of the study are shown in the table below."[89]
- **Premera:** "The proposed rate increases are due primarily to rising medical and pharmacy costs, as well as to uncertainty around the stability of the individual market with the anticipated loss of subsidized care through cost sharing reductions (CSRs) and weakening of incentives to purchase coverage. We believe approval of these rates will allow us to continue to serve customers in more counties than any other carrier on the Exchange, and achieve our goal of serving our individual market customers for many years to come."[90]

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[86] *Id.*

[87] *Id*.

[88] *Health insurers propose 2018 rate increase in Washington,* NBC K5 News (June 19, 2017).

[89] Molina Healthcare of Washington, Inc., *Actuarial Memorandum and Certification Effective January 1, 2018*.

[90] *See* note 88.

- **Asuris Northwest Health:** "A key driver of the expected morbidity change between the base period and projection period is the expected contraction of the ACA Individual market in Washington. The reduction in market size is driven by a weakened federal mandate to have health insurance coverage and the relative cost of purchasing coverage. The combination of these factors means that relatively younger and lower morbidity individual members who are not eligible for material premium or cost-sharing subsidies are more likely to drop insurance coverage during 2017 and 2018."[91]

Nationwide

- **Joseph Swedish, Chairman and CEO, Anthem:** "'We are notifying our states that if we do not have certainty that CSRs will be funded for 2018 by early June, we will need to evaluate appropriate adjustments to our filing,' … Those adjustments could include resubmitting higher rates increases, 'or exiting certain individual ACA-compliant markets altogether.'"[92]
- **Joseph Swedish, Chairman and CEO, Anthem on an April 2017 earnings call with shareholders:** "There's still significant uncertainty around some key funding components. For example, we do not yet have certainty that funding of the cost sharing reduction subsidies will be continued. Additionally, under current law, the health insurance tax will be reinstated in 2018, negatively impacting the affordability of fully-insured products, including Medicaid and Medicare. It's estimated that before accounting for any other issues, rates could increase by an additional 20% or more if CSR subsidies are not funded… At this point, we plan to file preliminary 2018 rates with the assumption that the cost sharing reduction subsidies will be funded. However, we are notifying to our states that, if we do not have certainty that CSRs will be funded for 2018 by early June, we will need to evaluate appropriate adjustments to our filing. Such adjustments could include reducing service area participation, requesting additional rate increases, eliminating certain product offerings or exiting certain individual ACA-compliant markets altogether. Funding CSRs in 2018 and eliminating the health insurance tax going forward are only some of the steps necessary to ensure that the individual ACA-compliant marketplace is not further de-stabilized."[93]
- **Kaiser Family Foundation:** "Mixed signals from the Administration and Congress over the direction and timing of ACA repeal efforts, and a lack of clarity on individual mandate enforcement and payments for cost-sharing subsidies, could make insurers hesitant to continue to participate, even if the market is showing signs of improving otherwise."[94]

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[91] Asuris Northwest Health, *Individual Actuarial Memorandum and Certification Part III*.

[92] *Anthem could bolt from Obamacare exchange if subsidies are cut*, CNBC (Apr. 26, 2017).

[93] Seeking Alpha, *Anthem (ANTM) Q1 2017 Results - Earnings Call Transcript* (Apr. 26, 2017) (www.seekingalpha.com/article/4065724-anthem-antm-q1-2017-results-earnings-call-transcript).

[94] *See* note 20.

- **America's Health Insurance Plans (AHIP), the Blue Cross Blue Shield Association (BCBSA), the American Medical Association (AMA), and others:** "As providers of healthcare and coverage to hundreds of millions of Americans, we are writing again to you as leaders in Congress to express our serious concerns about the continued uncertainty around funding for cost-sharing reduction (CSR) payments. There now is clear evidence that this uncertainty is undermining the individual insurance market for 2018 and stands to negatively impact millions of people."[95]
- **Joseph White, CEO and CFO, Molina Healthcare, Inc.:** "I think everyone is well aware of the variables in play here, funding of the cost sharing rebates for both 2017 and 2018, continuation and enforcement of the individual mandate and risks of adverse selection all create uncertainty around the future of the marketplace."[96]
- **Chet Burrell, Chief Executive of CareFirst:** "'We were hoping for more stability this year,' says Chet Burrell, chief executive of Carefirst, a Blue Cross Blue Shield Plan in the D.C. metro area. 'But these factors have lead [sic] to instability, and the beginning of a death spiral.'… Burrell says that his plans would have had hikes this year anyway, because it has lost money during its three years on the Obamacare marketplaces. But it tacked an extra 15 percent onto its premiums because it does not expect the Trump administration to enforce the individual mandate. 'The current approach at the federal level has been to say they're not going to enforce it,' he says. 'We think the effect of that is to encourage healthy people not to enroll.'"[97]
- **CareFirst**: "Failure to enforce the Individual Mandate makes it far more likely that healthier, younger individuals will drop coverage and drive up the cost for everyone else."[98]

[95] *See* note 29.

[96] Seeking Alpha, *Molina Healthcare (MOH) Q1 2017 Results - Earnings Call Transcript* (May 2, 2017) (www.seekingalpha.com/article/4068189-molina-healthcare-moh-q1-2017-results-earnings-call-transcript).

[97] *See* note 35.

[98] *ObamaCare uncertainty driving premium hikes*, The Hill (May 10, 2017).