

FACT SHEET

August 14, 2020

The Trump administration's 2019 Rule governing the implementation of the Affordable Care Act Exchanges unlawfully:

- 1. Allows individuals to be stripped of the subsidies they need to purchase insurance without receiving notification from their state's Exchange**
 - Violates the Affordable Care Act and due process by taking essential medical benefits away without fair notice
 - CMS has previously called the direct notification requirement "essential"
- 2. Abandons the federal government's responsibility to ensure that insurance plans offer adequate provider networks**
 - Violates the ACA's mandate that HHS "shall, by regulation, establish criteria for the certification of health plans as qualified health plans"
 - Many groups, including the American Medical Association, the American College of Physicians, and the Federation of American Hospitals expressed concern about leaving it to the states to pick up the slack
- 3. Permits brokers to choose their own auditors without requiring HHS to approve them**
 - Puts the fox in charge of the henhouse
 - Increases the odds consumers will be given incorrect information and pushed to non-ACA-compliant junk plans

4. Eliminates “standardized option” plans designed to make it easy for consumers to make informed choices

- CMS supported so-called “standardized options” in its 2017 and 2018 rules, concluding that “standardized options will provide these consumers the opportunity to make simpler comparisons of plans,” while relieving consumers from having “to make complex tradeoffs among cost-sharing differences.”
- As the American Medical Association explained in a comment on the proposed rule, standardized options “help consumers navigate the wide range of health options available on the marketplace.”

5. Slashes the standards set for Navigators, which provide consumers with critical help in selecting and enrolling in health plans

- As commenters on the administration’s change noted extensively, the Navigators play an indispensable role in providing guidance to a diverse swath of consumers. Accordingly, they stated, standards should not be watered down.
- The Trump administration has, of course, dramatically cut funding for the Navigators.

6. Weakens the Small Business Health Options Program, which is designed to help small businesses provide coverage to their employees

- Removes the requirements needed to ensure SHOPs can assist small businesses in enrolling their employees as mandated by the ACA

7. Forces low-income consumers to submit additional documentation to verify their income when it conflicts with government data

- Effectively knocks low-income consumers off insurance without any evidence that the requirement will prevent fraud or abuse
- As HHS acknowledged, many commenters, including the American Diabetes Association, America’s Health Insurance Plans, and many others “expressed concern that low-income consumers have difficulty in providing documentation to resolve their annual income data matching issues.”

8. Drives up the cost of insurance by relieving CMS of its obligation to review the cost of insurance

- Allows insurers to raise premiums on student health plans without justification and raises the threshold for rate increases that warrants review
- Violates the ACA’s clear requirement that HHS review “unreasonable increases in premiums for health insurance coverage”

9. Gives insurers credit for improving the quality of their services whether or not they actually made improvements

- Makes it easier for insurers to avoid paying rebates to their customers when they are owed them and to avoid improving their services
- Drives up the cost of insurance

More information about the suit challenging these actions can be found [here](#).

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Democracy Forward is a nonprofit legal organization that scrutinizes Executive Branch activity across policy areas, represents clients in litigation to challenge unlawful actions, and educates the public when the White House or federal agencies break the law.

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