# PUBLICATION

## Prospects for ACA Market Stabilization Measures Remain Uncertain

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**With ongoing uncertainty and turmoil in the individual health insurance market, Congress has spent weeks debating whether to include a bipartisan Affordable Care Act (ACA) stabilization measure as part of the "must pass" omnibus spending bill to keep the government open beyond Friday, March 23. However, the Fiscal Year 2018 omnibus spending bill released by the House on Wednesday, March 21 did not include any provisions on market stabilization. Although the Senate may still hold a stand-alone vote on this issue, it remains unlikely that an agreement can be reached as part of the final omnibus spending bill expected to be enacted later this week.**

Proponents have considered the omnibus spending bill to be the last opportunity to enact market stabilization measures before insurers finalize plan premiums for 2019. Both Republicans and Democrats in favor of the package argue that stabilization measures are needed to mitigate significant expected increases in premiums for 2019. However, the debate stalled in part due to disputes over language concerning abortion coverage. Republicans pushed to add so-called "Hyde Amendment" language preventing federal funds from going towards coverage of abortion. Democrats opposed including those restrictions. Some Democrats also questioned the reinstatement of Cost-Sharing Reduction (CSR) payments, given insurers' decisions last year to alter the premiums of subsidized silver plans to recover those amounts (a practice referred to as "silver-loading"). Finally, many Republicans remain opposed to efforts to support the ACA.

On Monday, March 19, Senate Health, Labor and Pensions Committee Chair Lamar Alexander (R-TN), Senator Susan Collins (R-ME), House Energy and Commerce Committee Chair Greg Walden (R-OR), and Representative Ryan Costello (R-PA) introduced legislation for the ACA market stabilization package, titled the Bipartisan Health Care Stabilization Act of 2018. The lawmakers held a press conference on Wednesday, March 21 to continue advocating for the bill's enactment into law.

**Core provisions of the bill include:**

- **Reinsurance:** The bill would provide $10 billion per year over 2019 – 2021 in funding for reinsurance programs or invisible high-risk pools in the individual market, and $500 million for the remainder of 2018 to help cover state administrative costs, for a total of $30.5 billion. For 2019 only, the bill would establish a federal reinsurance program in any state that did not establish its own reinsurance or invisible high-risk pool program.
- **CSR Payments:** The bill would provide funding for the payment of CSRs for plan years 2019 through 2021. The bill would also provide retroactive funding of CSR payments for the last quarter of 2017 and for insurers in certain states that did not allow "silver-loading" of premium increases for 2018.
- **Section 1332 Waivers:** The bill would enact several changes intended to create more flexibility under the section 1332 state innovation waiver process.
- **Catastrophic Plans:** Beginning in 2019, the bill would allow individuals of all ages to enroll in catastrophic plans (those plans would be called copper plans), instead of only those under the age of 30. The bill would require catastrophic plans to be included as part of the single risk pool for pricing premiums in the individual market, unlike under current regulations.

- **Enrollment Outreach:** Finally, the bill would require $105.8 million of existing user fees for operations in the insurance exchanges to be used specifically for outreach and enrollment activities for 2019 and 2020.

The Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) estimate that enacting the legislation would cost $19.1 billion over the 2018-2027 period. CBO and JCT estimate that the bill would cause average individual market premiums to be approximately 10 percent lower in 2019 and 20 percent lower in 2020 and 2021 than under current law. The reduction in premiums would mainly affect the unsubsidized population – e.g., individuals with incomes greater than 400 percent of the federal poverty level (FPL).

The bill does not include the White House's requests to codify short-term health plans, expand Health Savings Accounts (HSAs), and increase the age rating rules to 5:1 for individual market plans. The White House previously issued support for the market stabilization package while simultaneously pushing for these additional provisions to be included.

The market stabilization package appears unlikely to advance as part of the omnibus spending bill this week. It remains unclear whether there will be another legislative opportunity to enact the package this year.