Affordable Care Act

Elimination of Individual Mandate Penalty Spawns New Market Issues

- Mandate for individuals to buy health insurance was way to ensure compliance with Affordable Care Act.
- The individual mandate was made moot when federal legislation reduced the penalty to $0.
- Several states, but not California, have established mandates for individuals to buy health insurance.
- California should continue to consider all options to stabilize the market.

BACKGROUND

The individual mandate, enacted as part of the Affordable Care Act (ACA) and in effect since 2014, was intended to reduce the number of uninsured and increase the risk pool for health insurance, thus lowering premiums for everyone. It required all U.S. citizens and legal residents (unless they qualified for an exemption) to purchase health insurance for themselves and their family members if they didn't obtain insurance from another source, such as their employer, through the health insurance marketplace, which in California is Covered California. Those who didn't comply with the individual mandate were required to pay a noncompliance tax penalty. That penalty in 2018 was the greater of 2.5% of household income (up to a maximum of $2,085 per family per year) or $695 per adult and $347.50 per child under 18.

The individual mandate penalty was a way to ensure compliance with the ACA and get as many individuals insured as possible, including healthy individuals who might forgo purchasing insurance until they were sick. Since the ACA prohibits insurers from denying coverage based on current or prior health status, the individual mandate penalty was a way to balance the risk pool and ensure that both healthy and sick individuals purchased insurance.

PENALTY REDUCTION ESSENTIALLY A REPEAL OF THE MANDATE

The last year that the individual mandate penalty was in effect was 2018. The Tax Cuts and Jobs Act, passed by both the U.S. Senate and U.S. House of Representatives and signed by President Donald J. Trump in December 2017, essentially eliminates the individual mandate by reducing the mandate penalty to $0, effective in 2019 and thereafter. This means fewer individuals will buy insurance because the penalty forced many who were not purchasing insurance before the enactment of the ACA to do so after.

The Congressional Budget Office (CBO) has estimated that eliminating the individual mandate penalty will result in 13 million fewer people obtaining health insurance, which will save the federal government approximately $318 billion in government subsidies that would have been paid out if the individual mandate was in effect.

The elimination of the penalty and the resulting smaller risk pool also will cause an increase in premiums. The CBO has estimated a 10% increase in premiums as a result of eliminating the individual mandate penalty. Although lower-income individuals may not be affected because they will continue to receive subsidies, which will cover the cost increase, premiums for those not receiving subsidies will rise.

STATE-LEVEL INDIVIDUAL MANDATE

Elimination of the individual mandate penalty has left many states concerned about the future of health care for their residents. Three states and the District of Columbia already have state-level individual mandates to purchase health insurance.

- Massachusetts' state mandate predates the ACA. In 2018, Massachusetts' individual mandate penalty ranged between $264–$1,428 depending on income.
- New Jersey's state mandate went into effect in 2019 and mirrors the former federal mandate penalty of 2.5% of annual household income (up to a maximum of $2,085 per family per year) or $695 per adult and $347.50 per child under 18 annually, whichever is greater. New Jersey expects to receive $90 to $100 million in penalties each year.
- Vermont's state mandate goes into effect in 2020. The law

CalChamber

California Promise: Opportunity for All

2019 Business Issues and Legislative Guide

See the entire CalChamber 2019 Business Issues and Legislative Guide at
www.calchamber.com/businessissues
Free PDF or epub available to download.

Special Thanks to the Sponsors
Of the 2019 Business Issues and Legislative Guide

Premier

Chevron

Silver

Automobile Club Southern California AAA

Bronze

enterprise

Iron

Suburban Water Systems
A SouthWest Water Company

Frontier Communications

was passed in 2018 and a working group will make recommendations regarding the amount of the penalty at the start of the 2019 legislative session.

NO MANDATE IN CALIFORNIA

Covered California and the California legislators are considering different options to avoid destabilizing the health insurance market before it occurs. One of those options is a state individual mandate. The executive director of Covered California has raised the idea of a state-level individual mandate. He has also discussed other options for consideration, such as a continuous coverage requirement, wherein all Californians would be required to remain enrolled in health insurance or pay higher premiums later, as well as automatic enrollment in insurance plans.

A recent study by the UC Berkeley Labor Center and UCLA Center for Health Policy Research projects that up to 450,000 more Californians under 65 will be uninsured by 2020 and up to 790,000 more uninsured by 2023 compared to the numbers if the ACA penalty had been maintained. The ACA and its accompanying individual mandate penalty reduced California's uninsured rate from 19% down to 7.2%, approximately 3 million Californians. Without the federal individual mandate, the study reveals that uninsured rates would increase to more than 4 million in California by 2023.

Ultimately, with the elimination of the individual mandate penalty in 2019, there is little doubt that, at the very least, there will be some destabilization of the health insurance market. What California will ultimately do to counteract the destabilization is yet to be seen.

CALCHAMBER POSITION

Maintaining a viable health insurance market that provides individuals with an opportunity to obtain health insurance is important. The California Legislature should continue to consider all options to stabilize the market so that small employers and individuals still have those options. The California Chamber of Commerce will continue to promote efforts to contain health care costs and improve access to high-quality health care by supporting a health care system that is affordable and improves the overall health of California citizens.

Staff Contact
Karen Sarkissian
Policy Advocate

karen.sarkissian@calchamber.com
January 2019

CalChamber