

Preexisting conditions dominate health care discussions

**By Dana Beezley-Smith, Ph.D.**

It's the number one issue in her state, she told MSNBC, "and I'll bet in all the other states, too."

U.S. Sen. Claire McCaskill, D-Mo., learned the issue of health care was still relevant at a St. Louis fundraising dinner in June. On a whim, she asked supporters to stand if they'd had prior health conditions. "Even I was stunned just how few people kept their seats," she told *The New York Times*.

Since then McCaskill, who faces a November re-election challenge, asks the question at each of her political events, and now so does her colleague, Sen. Joe Donnelly, D-Ind., also seeking re-election.

Tyler Law, national press secretary of the Democratic Congressional Campaign Committee, says House candidates across the country are also addressing the subject of health care. "There is nowhere this does not play," he told the paper.

Mollyann Brodie, senior vice president at the Kaiser Family Foundation, approves of the emphasis. "I completely can see why they're excited to be able to talk about this issue again. I agree with the strategy, based on our polling and everyone else's polling. It's a time when it is going to work."

According to the group's July survey, protections for preexisting conditions are voters' top health care concern.

Before the Affordable Care Act (ACA), Americans buying individual plans faced higher premiums or coverage denials for previous illnesses. Its "guaranteed issue" and "community rating" provisions required carriers to accept all applicants and establish premiums without regard to health status.

But the safeguards are being revisited due to two recent events. In June, the federal Department of Justice declined to defend the ACA against a legal challenge by Texas and other conservative states.

The agency asked the court to find unconstitutional not only the individual mandate, but the guaranteed issue and community rating requirements.

And in August, the Department of Health and Human Services (HHS) finalized its proposal for short-term limited duration insurance (STLDI). The regulation allows carriers to offer plans for 364 days as opposed to the 90 days previously permitted. Insurers may offer guaranteed policy renewals for up to three years at the same cost, even if covered individuals develop health conditions.

STLDI plans are medically underwritten and are not subject to parity rules or the ACA's 10 "essential benefits." They often don't cover maternity services, prescription drugs or mental health and substance abuse treatment.

They "aren't for everyone," HHS Secretary Alex Azar explains, "but they can provide a much more affordable option for millions of the forgotten men and women left out by the current system."

Premiums are estimated to be one-half to one-third the expense of ACA insurance, and individuals no longer have to pay an IRS penalty for buying noncompliant policies. The administration estimates that roughly 600,000 people will enroll in these plans in 2019, 100,000 to 200,000 of them abandoning their ACA policies.

Although Azar promises STLDI consumer protection notices will be more robust than the previous administration offered, some worry that Americans aren't sophisticated enough to purchase the insurance they need.

Americans may read the notices, Michael Conway, Colorado's insurance commissioner told *The Huffington Post*, "but that's not the same as understanding."

Others, like Michael Cannon, health policy director for the libertarian Cato Institute, are enthusiastic about the decision. "Obamacare is now optional," he declared in a *Washington Examiner* editorial.

"The new rule will expand consumer protections for the sick, cover up to 2 million uninsured people, reduce premiums for millions more, protect conscience rights and make Obamacare's costs more transparent."

These costs, according to physician Scott Atlas, senior fellow at the right-leaning Hoover Institution at Stanford University, include the essential benefits requirement, "which raised premiums by 10 percent" and the ACA's 3:1 age rating "that raised premiums for younger enrollees by 19 percent to 35 percent."

Guaranteed issue, he says, "gave people incentives to remain uninsured until they were sick, a grossly misguided rule that raised premiums for everyone, regardless of age or city, by 46 percent."

However, a new lawsuit, filed the very day the STLDI regulation was finalized, may thwart efforts to expand STLDI. Several cities, including Cincinnati and Columbus, Ohio, Baltimore and Chicago, argue that Trump is failing to faithfully implement the ACA. Petitioners ask that the court enjoin the administration from enacting its executive orders and rulings.

The suit maintains, in part, that the STLDI order, "will result in fewer individuals receiving ACA-compliant health insurance coverage and increase premiums for quality plans."

Such fears are "overblown and misguided," writes Cannon. "Renewal guarantees will keep high-cost patients out of Obamacare plans. That improves Obamacare's risk pools."

When the STLDI regulations were proposed last spring, a number of health advocacy groups objected, warning that loosening strictures could harm sick individuals.

Axene Health Partners' actuary Greg Fann decries the "shaming" of STLDI and believes opposition "stems largely from the exaggerated belief of adverse ACA market impact."

"I'm not suggesting these inefficient plans are the optimal solution, but if they satisfy the folks that enroll, reduce the uninsured rate and leave the ACA market intact – with fewer people orphaned by limited unworkable options – you'll hear ACA supporters sing a different tune."

Insurers are expected to offer new STLDI policies in October. Open Enrollment for 2019 ACA exchange plans begins Nov. 1.

*Dana Beezley-Smith, Ph.D., is in private practice serving children, adults and families in Green, Ohio.*