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AGENDA ITEM

For Possible Action

Information Only

Date: February 9, 2017
Item Number: VII
Title: Affordable Care Act status report

PURPOSE

The purpose of this report is to provide information to the Board and public regarding the status of the Exchange’s implementation of a state based health insurance exchange and other operational matters of the Exchange.

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GENERAL COMMENTS

The debate surrounding the repeal and replacement of the Affordable Care Act (ACA) has remained a primary focal point throughout President Trump’s first month in office. While this campaign promise has remained a rhetorical focus, actual efforts to repeal and replace the law have slowed.

Currently, the uncertainty about the future of ACA is due in large part to disagreements on the timing and policy prescriptions associated with its potential repeal and replacement. Many federal lawmakers, industry organizations, carriers, and consumer advocates argue that a repeal should not happen prior to a replacement plan being developed and established in law. Congressional majority leadership continues to assert that they do not plan to disrupt service to the 22 million Americans currently covered under the ACA, however they have not yet coalesced around a plan for replacement.

Majority leadership continues to focus on a reconciliation bill modeled on H.R. 3762, which was first introduced in October of 2015. H.R. 3762 repeals the expansion of Medicaid along with the subsidies that assist low- and middle-class families to obtain Qualified Health Plans. It also includes a transition period of two to four years whereby the subsidies continue and the ACA remains until a replacement plan is developed, legislated and implemented so as not to disrupt the coverage for consumers currently receiving benefits. H.R. 3762 was vetoed by President Obama in January of 2016.

At the same time that efforts to repeal and replace are being debated a new movement to “repeal and repair” has been gaining momentum among many in the Republican majority. “Repeal and repair” appears to be less aligned with a full replacement of the ACA with a new health insurance model, and proposes instead to repair areas under the current law to improve the marketplace. With respect to this new approach to changing the ACA, Congressman Greg Walden, Chairman of the Energy and Commerce Committee, stated, “We’re going to take time to get this right.”

Other federal and state lawmakers, especially those currently in the majority, have discussed other potential changes to ACA that could impact the final legislation. These include providing immediate market stabilization by loosening age-rating bands, ensuring patients with preexisting conditions are not denied coverage, requiring enrollment verification for special enrollment periods, and reducing the ACA’s 90-day grace period. These efforts are designed to stabilize struggling Exchanges while healthcare reform continues to be evaluated.

Insurance carriers concerned about the uncertainty and instability of the ACA have begun to push federal lawmakers to provide more clarity on the future of the law. Aetna and Anthem’s Chief Executive Officers have even made public statements offering no guarantees on their participation in the marketplace for plan year 2018 without insight into the future of health exchanges. Should these carriers decide not to participate in Exchanges in plan year 2018, there will be immediate implications for the Nevada Exchange.

Finally, there have also been early efforts from the Executive Branch that have implications on the current and future status of the ACA. On his first day in office, President Trump signed an Executive Order titled “Minimizing the Economic Burden of The Patient Protection and Affordable Care Act Pending Repeal.” The order states, “In the meantime, pending such repeal, it is imperative for the executive branch to ensure that the law is being efficiently implemented, take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford States more flexibility and control to create a more free and open healthcare market.” Many health policy experts remain confused about the order, however most agree that it does nothing to change the legal framework of the ACA. Substantive changes to the ACA will need to result from federal lawmakers and parliamentary procedures.

In short, the current uncertainty about the future of the ACA persists. While federal lawmakers and policymakers appear to remain intent upon changing the current ACA system, they remain divided on what direction their final policy will go. At the very least, this uncertainty has an

immediate impact on the Silver State Health Insurance Exchange's ability to retain existing customers and develop new relationships.