SHORT-TERM, LIMITED DURATION INSURANCE

An Alternative to Affordable Care Act Health Plans?

On October 12, 2017, President Donald Trump issued an Executive Order promoting two types of health insurance coverage as alternatives to the health insurance plans available to individuals and small businesses under the Affordable Care Act (ACA) — association health plans (http://bit.ly/KHI-1810) and short-term, limited duration insurance (STLDI). The order directed the secretaries of the Treasury, Labor and Health and Human Services (the "Departments") to consider expanding the availability of STLDI by allowing it to cover longer periods and be available for renewal by consumers. The president noted that since STLDI is not subject to the ACA's mandates and regulations, it can be an affordable alternative to the health plans sold through the ACA marketplaces for individuals who do not obtain coverage through their employer.

In response to the president's order, the Departments issued a proposed rule on February 21, 2018, stating the intent to "lengthen the maximum period of short-term, limited duration insurance, which will provide more affordable consumer choice for health coverage." During the public comment period for the proposed rule, which ended on April 23, the Departments received more than 12,000 comments. The Final Rule, which lengthened the maximum period to three years, was released on August 1. It will become effective October 2, 2018.

Short-Term, Limited Duration Insurance (STLDI)

STLDI is a type of health insurance coverage originally designed to allow consumers to fill temporary gaps in coverage they might experience when transitioning from one health plan to another, for example, when changing jobs or relocating. Under the requirements applicable to individual health insurance coverage established under the Public Health Service Act (PHS Act), STLDI is not considered individual health insurance and is not subject to the market reforms and other requirements of the ACA.

Although the PHS Act does not define STLDI, up until 2016 federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) defined STLDI as "health insurance coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract ... that is less than 12 months after the original effective date of the contract." However, following the enactment

KEY POINTS

- ✓ Short-term, limited duration insurance (STLDI), a type of health insurance originally designed to allow consumers to fill temporary gaps in coverage, may now be an alternative to plans available under the ACA.
- ✓ The Final Rule released by the Departments of the Treasury, Labor and Health and Human Services now allows STLDI plans to have a duration of up to 36 months, including renewals.
- ✓ STLDI may be an attractive alternative to young, healthy consumers who require little or no ongoing health care or prescription drugs, but may increase premiums for individuals who want or need ACA-compliant coverage and could cause insurers to leave the ACA-compliant market.
- ✓ Newly defined STLDI plans could be available for sale to consumers in late 2018 or early 2019.

Figure 1. **ACA Plans Compared to Short-Term, Limited Duration Coverage**

Consumer Protection	ACA Plans	Short-Term, Limited Duration Insurance Coverage
Coverage for pre-existing conditions?	Yes	No — short-term plans can decline to offer coverage at all or exclude coverage for pre-existing conditions
Higher premium rates based on health status prohibited?	Yes	No — short-term plans can vary rates based on an individual's health status
Premium rate variations based on age limited?	Yes, limited to 3:1	No
Premium rate variations based on gender prohibited?	Yes	No
Covers all essential health benefits?	Yes	No — coverage varies by plan and many exclude benefits such as prescription drugs, maternity care and preventive care services
Dollar caps on health care services prohibited?	Yes	No — short-term plans can include annual or lifetime limits on benefits and stop paying medical bills after that cap is reached
Required to cap out-of-pocket expenses for consumers?	Yes, out-of-pocket limit for 2018 marketplace plans is $7,350 for an individual plan and $14,700 for a family plan.	No — short-term plans can set caps for out-of-pocket expenses at any amount
Consumers (based on their income) allowed to use advanced premium tax credits and cost-sharing subsidies to purchase coverage?	Yes	No — premium tax credits cannot be used to purchase short-term plans and cost-sharing subsidies are not applicable
Satisfies the individual mandate?	Yes	No — however, the individual mandate penalty will be $0 beginning on January 1, 2019
Insurers required to issue plans to eligible consumers?	Yes	No
Insurers prohibited from underwriting?	Yes	No — insurers can underwrite at time of application/renewal and/or at time of claim
Plans guaranteed renewable?	Yes, guaranteed renewable at the option of the consumer	No, but plans may be renewed or extended for a duration of no longer than 36 months at the discretion of issuers
Open enrollment periods	Yes, limited annual open enrollment period, with special enrollment periods available for eligible consumers	No open enrollment period; individuals can apply throughout the year
Network adequacy requirements	Yes	No

Source: KHI synthesized reports by the Georgetown Health Policy Institute and American Academy of Actuaries.

of the ACA, some insurers began to offer STLDI coverage that lasted for just less than one year (364 days). To address concerns that STLDI was being sold to consumers as a type of primary health insurance coverage, as well as concerns about the impact of adverse selection on the risk pool for ACA-compliant plans, the Obama administration issued a final rule in October 2016 that changed the long-standing definition of STLDI to specify that it only could provide coverage for less than three months.

The Final Rule

The Final Rule, which includes modifications to the proposed rule, amends the definition of STLDI in existing federal regulations and revises the required notice that must appear in STLDI contracts and application materials by:

- Allowing plans to have an expiration date specified in the contract that is less than 12 months (up to 364 days) after the original effective date of the contract and, taking into account renewals or extensions, have a duration of no longer than 36 months in total; and
- Revising the required notices that must appear in all STLDI contracts and application materials to assist consumers in distinguishing between STLDI plans and ACA-compliant coverage.

The renewability of STLDI plans, which was not included in the proposed rule, permits renewals or extensions of STLDI policies, but does not require STLDI issuers to renew or extend them.

Who Might Benefit from Expanded Duration STLDI?

Because STLDI plans typically have pre-existing conditions exclusions, annual or lifetime limits, do not include the ACA-required essential health benefits, and do not have limits on out-of-pocket costs, they are less expensive than ACA-compliant plans and might be attractive to young, healthy consumers who require little or no ongoing health care or prescription drugs.

STLDI might also be a good choice for individuals who need more than three months to find new employment, missed an opportunity to enroll during the marketplace open enrollment period (and do not qualify for a special enrollment period), are not eligible for financial assistance to purchase ACA-compliant plans, or need only catastrophic coverage.

The required notice that must be used by STLDI issuers and appear in contracts and application materials at the time of initial enrollment, as well as renewals or extensions, must state:

This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits.

If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage. Also, this coverage is not "minimum essential coverage." If you don't have minimum essential coverage for any month in 2018, you may have to make a payment when you file your tax return unless you qualify for an exemption from the requirement that you have health coverage for that month.

Concerns About Extending the Duration of STLDI

With the extended duration and renewability of STLDI plans, and the reduction of the individual mandate penalty beginning in 2019, the Departments acknowledge in the Final Rule that relatively young and healthy individuals, including those who are uninsured or are currently enrolled in ACA-compliant individual market plans and whose income disqualifies them from obtaining advanced premium tax credits, are more likely to purchase STLDI plans. The potential loss of these young, healthy individuals who choose to purchase STLDI plans as their primary health insurance coverage rather than ACA-compliant plans, could impact the ACA-compliant individual market single risk pools in each state by increasing premiums for individuals who want or need ACA-compliant coverage and causing insurers to experience higher than expected costs and losses, which could motivate them to leave the ACA-compliant market.

Consumers who purchase STLDI and later develop chronic conditions could face significant financial hardship or loss of access to benefits until they are able to enroll in ACA-compliant plans that would

Figure 2. **Short-Term, Limited Duration Health Insurance Plans Offered in Kansas, May 2018 (three-month coverage only), for family of four (two parents, age 40, and two children, ages 7 and 14) (29 plans offered by three companies)**

Range of Policy Coverage Caps	Range of Premiums (Estimated Cost Only)	Range of Deductibles	Range of Out-of-Pocket Maximums (After Deductible is Paid)	Coverage for Outpatient Generic Drugs	Coverage for Periodic Health, OB-GYN, Well-Baby Care Exams	Coverage for Mental Health Services
$750,000-$2 million/person	$127.50-$1,759.16/month	$500-$12,500/person	$0-$10,000/person	18 plans — no coverage, discount card only; 11 plans — coinsurance applies after deductible is paid, maximum benefit $3,000	24 plans — no coverage; 5 plans — coinsurance applies after deductible is paid for periodic health exams	Kansas mandate applies; subject to deductible and coinsurance, up to 45 days of inpatient treatment for mental disorders, up to 30 days of inpatient treatment for substance abuse, and outpatient treatment of mental disorders and substance abuse up to a combined limit of $15,000

Source: KHI comparison of 29 STLDI plans offered in Kansas.

provide coverage for such conditions. In addition, because STDLI plans are not subject to the ACA regulations applicable to the individual insurance market, individuals who purchase STLDI plans may be left with large bills since STLDI plans are exempt from the requirements for prohibitions on annual and lifetime limits, and limits on deductibles and out-of-pocket costs.

Conclusion

Newly defined STLDI plans could be available for sale to consumers in late 2018 or early 2019. Kansas insurance regulators and policymakers will want to monitor closely enrollment in STLDI plans in the future and how that impacts the state's individual health insurance market and the availability and cost of coverage for all Kansans.

ABOUT THE ISSUE BRIEF
This brief is based on work done by Linda J. Sheppard, J.D. It is available online at khi.org/policy/article/18-19.

212 SW 8th Avenue | Suite 300
Topeka, Kansas | 66603-3936
785.233.5443
khi.org
/KHIorg
@KHIorg
@khiorg