



## Alerts

### HHS Proposed Rule Signals Future of Obamacare May be Repair not Repeal

**February 16, 2017**

*Health Care Alert*

On Wednesday, February 15, 2017, the Health and Human Services Department (HHS) announced a proposed rule designed to help stabilize the Affordable Insurance Exchanges for the 2018 benefit year. The rule proposes several revisions to the Affordable Care Act (Obamacare) intended to improve the risk pool. Recently confirmed HHS Secretary Tom Price called them "initial steps in advance of a broader effort to reverse the harmful effects of Obamacare." The action suggests that repair rather than repeal of Obamacare may now be the objective of the Trump Administration.

The proposed rule seeks to ensure a competitive market by making the following changes in the ACA markets:

1. Allows insurers to require a policyholder whose coverage terminated for non-payment of premiums to pay all past due premiums owed to that insurer in the prior 12-month period in order to resume coverage from that same insurer.
2. Shortens the annual open enrollment period. Open enrollment for coverage year 2018 would begin on November 1, 2017 and end on December 15, 2017, which is 45 days sooner than the previously established open enrollment period. HHS anticipates this revision will reduce opportunities to delay enrollment until after medical care is needed and will encourage healthier persons who may previously have enrolled in partial year coverage after December 15<sup>th</sup> to enroll for the entire year.
3. Starting in June 2017, require pre-enrollment verification of eligibility before persons seeking to enroll during special enrollment periods obtain coverage. Currently, individuals self-attest to eligibility and submit supporting documents of the loss of employer coverage or qualifying events such as marriage or the birth or adoption of a child. Coverage through the Exchanges is triggered without further pre-enrollment verification. The proposed rule delays or pends enrollment until verification of eligibility is completed. The proposed change is intended to promote continuous coverage, but make sure uninsured individuals who would not qualify for a special enrollment period obtain coverage during open enrollment instead of waiting until they get sick.
4. Amend the actuarial value to provide issuers with additional flexibility to try to help stabilize premiums and incentivize insurers to enter or remain in the market.

Insurance industry groups responded favorably to the proposed rule changes. The comment period for the proposed rule closes March 7, 2017.

*This alert has been prepared by Hinshaw & Culbertson LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship.*