Individual Mandate Overview

Presentation to the
Maryland Health Insurance
Coverage Protection Commission

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Overview

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- Federal Individual Mandate
- State Responses
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Individual Mandate

- Individuals purchase health insurance coverage or pay a penalty
- Helps guard against adverse selection
  - Shared risk can lead to higher prices for healthier individuals
  - Without the mandate, healthier individuals may not participate
- Reduces “free riders”
- Recognizes cost of the uninsured/uncompensated care
- Government intrusion into private decisions

Massachusetts

- Massachusetts' 2006 Health Care Reform Plan included the first individual mandate
- Adult residents must enroll in a health plan that meets "minimum creditable coverage" standards
- Individuals report their carrier and subscriber identification number on their state tax return
- In tax year 2015, 93% of adults reported having compliant coverage for the entire year (3% for part of the year, 3% not at all)

Massachusetts (Cont.)

- The penalty is no more than one-half of the lowest cost Health Connector premium available but varies slightly based on age and income
- About 50,000 people pay a penalty annually
- In 2017, the penalty ranged from $252 (individuals with incomes between 150% and 200% federal poverty guideline (FPG)) to $1,152 (for “older” adults with incomes above 300% FPG)
- The penalty generates about $18.0 million annually, which is used to subsidize Massachusetts Health Connector programs

Massachusetts (Cont.)

- Several exemptions from the penalty
  - Gaps in coverage of three months or less
  - Individuals with incomes up to 150% FPG
  - Sincerely held religious beliefs
  - Financial hardships
  - Lack of affordability
- In 2014, 28% of Massachusetts' uninsured were exempt due to lack of affordability
  - The affordability schedule is prepared annually by the Massachusetts Health Connector
  - 2.9% to 7.6% of income for those with incomes less than or equal to 400% FPG, depending on individual/couple/family
  - 8.05% of income for those with incomes greater than 400% FPG

Massachusetts (Cont.)

- Uninsured rate lowest in the nation (3.7% vs. national 8.8%)
- Lowest average premiums for any exchange marketplace and lowest average per member per month premiums before subsidies among all states in 2017 and 2018
- High carrier participation (nine carriers for 2019)
- Fundamental differences in Massachusetts
  - Medicaid expanded to 150% FPG in 2006
  - ConnectorCare program (190,000 enrollees) provides additional subsidies to individuals with incomes up to 300% FPG and offers low monthly premiums, low cost sharing, and no deductibles
  - Strong insurance regulation prior to federal reforms (guaranteed issue, age rating ratio of 2:1)

Federal Individual Mandate

- A principal feature of the Affordable Care Act
- Took effect in tax year 2014
- Intended to incentivize all individuals to purchase coverage to guarantee a broad pool of insured individuals and reduce adverse selection
- Federal law (26 U.S.C. § 5000A) requires individuals to
  - have minimum essential coverage
  - qualify for an exemption or
  - make a “shared responsibility payment” with their federal income tax return for the months without coverage or an exemption
- Payment for tax year 2018 is the greater of $695 per individual (up to a maximum of $2,085) or 2.5% of household income

Federal Individual Mandate (Cont.)

- Multiple exemptions from the mandate or its penalty
  - Coverage is considered unaffordable
  - Short coverage gap (less than three months)
  - Citizens living abroad/certain noncitizens
  - Members of a health care sharing ministry
  - Members of Indian tribes
  - Individuals who are incarcerated
  - Family income below filing threshold
  - Religious conscience
  - General hardship

- About 12.7 million taxpayers claimed an exemption for tax year 2015

Federal Individual Mandate (Cont.)

- The Tax Cut and Jobs Act of 2017 eliminated the tax penalty for failure to comply with the mandate effective tax year 2019
- Taxpayers must continue to report coverage, qualify for an exemption, or make an individual shared responsibility payment for tax year 2018
- The Congressional Budget Office projected that, nationally, elimination of the mandate penalty will
  - Decrease health insurance enrollment by 3 million to 6 million individuals between 2019 and 2021
  - Increase individual market premiums by 10%
- Federal government spending is reduced by $318 billion over 10 years due to fewer subsidies paid

State Responses

- In 2018, nine states (including Maryland) and the District of Columbia considered implementing state-based individual mandates
- Goal to encourage younger, healthier consumers to maintain coverage and preserve a broader risk pool
- Penalty revenue could be used for market stabilization or other efforts
- To date, New Jersey, Vermont, and the District of Columbia have enacted their own individual mandates

New Jersey

- The Health Insurance Market Preservation Act of 2018 included an individual mandate
- Effective January 1, 2019
- Penalties and exemptions mirror the federal mandate, with some small changes
- Anticipates $90 million to $100 million in penalty revenue, which must be used for reinsurance
- Federal § 1332 waiver to implement a reinsurance program
  - $40,000 attachment point, $215,000 cap, 60% coinsurance
  - Anticipated to reduce premiums by 15% in 2019 and 2020
  - Estimated cost of $323.7 million funded with mandate penalty revenue, annual general fund appropriations, and federal pass-through funds

Vermont

- Vermont's Act 182 of 2018 enacted an individual mandate
- Effective January 1, 2020
- Mandate will have a financial penalty or "other enforcement mechanism"
- Separate legislation established an Individual Mandate Working Group
  - The working group is developing recommendations regarding administration and enforcement of the mandate
  - Recommendations are due November 1, 2019
- Vermont anticipates enacting additional legislation during the 2019 session to establish specific penalties or enforcement mechanisms

District of Columbia

- The district's fiscal 2019 budget (Bill 22-753) includes a health insurance requirement for taxpayers and their dependents
- Effective January 1, 2019
- Largely mirrors federal mandate with additional exemptions
  - Individuals aged 20 or younger with incomes less than or equal to 324% FPG
  - Individuals aged 21 or older with incomes less than or equal to 222% FPG
  - Individuals covered under certain Washington, DC health programs
- Penalty to be determined by the DC Health Benefit Exchange Authority by September 30 of each tax year
- Revenues must be used to increase outreach to the uninsured, provide information on health insurance options, and engage in activities that increase the availability of health insurance options or increase affordability

Other States

- Several other states considered but did not pass individual mandates
- Connecticut
  - The Legislature's proposal included fines of up to $10,000 and allowed consumers to deposit fines into a health savings account
  - The Governor's proposal included fines of $500 or 2% of income, with revenues used at the discretion of the insurance commission
- Hawaii
  - Similar to Massachusetts, only for adult residents

Maryland

- Chapters 37 and 38 of 2018 require the commission to study whether to adopt a State-based mandate and how to use the payments, including the use of payments to assist individuals in purchasing coverage
- Protect Maryland Health Care Act of 2018 (Senate Bill 1011/House Bill 1167)
  - Mirrored federal mandate regarding penalties and exemptions
  - Payments could be used as a “down payment” for coverage
  - Otherwise, revenues must be used for reinsurance, additional individual assistance or subsidies, incentives for carriers, or other stabilization efforts

Maryland (Cont.)

- The Urban Institute estimates that a Maryland individual mandate could
  - Decrease the number of uninsured individuals by 15.8% (69,000 individuals, including 43,000 in the nongroup market)
  - Reduce the average nongroup premium by as much as 13.5%
- Approved calendar 2019 individual rates decline by an average of 13.2% due to reinsurance
  - Rates included 5% to reflect elimination of the federal individual mandate penalty
- Payment of calendar 2016 federal penalty in Maryland
  - 68,150 Maryland tax returns paid the penalty (down 27.6% from 2015)
  - Total penalties of $51.0 million
  - 96% of returns had an adjusted gross income (AGI) less than $100,000
  - 76% of returns had an AGI less than $50,000
  - 34% of returns had an AGI less than $25,000

Policy Issues for Consideration

- What qualifies as minimum essential coverage
- Level of penalty (sufficient to incentivize consumers to maintain coverage)
- Use of penalty revenue
- Exemptions, including affordability standards
- State entity to develop and handle appeals, oversight, and enforcement