MILLIMAN RESEARCH REPORT

A Bridge Too Far? The Most Likely Fates of ACA CSR Payments and Impacts on the Individual Market

The ACA's cost-sharing reduction subsidies have helped millions of low-income individuals by reducing cost-sharing amounts for those earning less than 250% of the federal poverty level, along with American Indians and Alaska Natives. We delve into some of the key issues that arise from the possibility of non-payment of subsidy amounts to health insurers.

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1. Introduction

Controversy surrounding many of the features of the Patient Protection and Affordable Care Act (ACA) has been a constant since the healthcare reforms were first proposed in 2009. With Donald Trump's election to the presidency in 2016 and the subsequent introduction of the American Health Care Act (AHCA) by House Republicans on March 6 of this year, the ACA appeared to be headed for swift repeal. The AHCA did not make specific provision for CSR payments in 2017 and 2018, but Congress and the administration promised a smooth transition, potentially alleviating much of the uncertainty related to issuers' participation on exchanges, financial results for 2017, and pricing for 2018.

That legislation failed to pass the House, however, and while its failure breathed new life into the ACA's commercial market, it also resurrected concerns that CSR payments would not be made to issuers in 2017 and 2018. With the disappointment of the AHCA not moving forward, President Trump claimed that the ACA would ultimately fail on its own. While there has always been debate about the inherent stability of the ACA's individual market in particular, the potential nonpayment of CSR subsidies would almost certainly tip the scales in favor of instability. Issuers are now contemplating their exchange participation plans for 2018, and the future existence (or lack thereof) of CSRs plays a key role in this decision. In this report, we explore the background, the possible legislative and regulatory outcomes, and potential issuer responses.

2. A rocky road for CSR payments

The ACA was developed with a three-legged stool to reduce the uninsured population by supporting expansion of the individual market. The first leg is guaranteed issue and community rating. Insurers are required to cover everyone without consideration of health status, so that the sick could get affordable coverage. The second is the individual mandate, which encourages healthy individuals to buy coverage to spread all costs among sick and healthy. The final leg consists of the Advanced Premium Tax Credits (APTCs) and cost-sharing subsidies, which make insurance coverage affordable to those who might not purchase coverage otherwise.

The important role of APTCs in the ACA's coverage expansion is undeniable—84% of January 2016 through June 2016 exchange enrollees received premium subsidies in 2017.[1] At the same time, 56% of all exchange enrollees were enrolled in the ACA's cost-sharing reduction (CSR) plans.

Established in Section 1402 of the ACA, CSRs reduce deductibles and set maximum out-of-pocket limitations and cost-sharing amounts for eligible individuals.[2] All issuers offering coverage on the ACA's individual market exchanges are required to offer silver CSR variations for those under 250% of the federal poverty level (FPL) for each silver plan that they offer.[3] Actual uptake varies state by state based on many factors, including Medicaid expansion (which can extend up to 138% FPL)[4] or basic health plans (which can expand up to 205% FPL).

In November 2014, the House of Representatives filed a lawsuit claiming that, while the ACA clearly required issuers to offer these plan variations to eligible enrollees, it did not appropriate a specific source of funds with which to pay issuers.[5] The case was heard in the U.S. District Court for the District of Columbia, and the House claim was upheld by the court in May 2016.[6] The Obama administration appealed the lawsuit, with a little more haste after Donald Trump won the November election. However, the House successfully appealed the Obama administration timeline, with the thought that the new administration should get to decide. Two CSR recipients attempted to intervene in the case, arguing that the Trump administration very well could choose not to represent them, but that request was denied. However, the filings in that request give us some useful perspective on what could come next.

In the meantime, the administration and the House filed a request to stay the hearing pending negotiations between the two parties, with three-month check-ins starting May 22, 2017. The D.C. Court of Appeals has so far not complained about this state of affairs. In a promising sign, the administration is currently continuing to pay CSRs. Meanwhile, issuers are in the midst of making key participation, benefit, and rate decisions for their 2018 ACA filings, which have a federal deadline of June 21, 2017.

1 CMS.gov (October 19, 2016). First Half of 2016 Effectuated Enrollment Snapshot. Fact Sheet. Retrieved April 11, 2017, from https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2016-Fact-sheets-items/2016-10-19.html.

2 Eligible individuals include citizens, nationals, and lawfully present individuals with incomes under 250% FPL as well as American Indians and Alaska Natives.

3 As finalized by the 2018 Notice of Benefit and Payment Parameters, exchange issuers are required to offer a gold and a silver plan in every rating area in which they offer exchange coverage.

4 Some states and districts have Medicaid eligibility levels above this, including California, Connecticut, and the District of Columbia.

5 *Wall Street Journal* (November 21, 2014). "House GOP Files Lawsuit Over Health Law". Retrieved April 11, 2017 from https://www.wsj.com/articles/house-gop-files-lawsuit-over-obamas-health-care-law-1416584523.

6 The opinion noted that Congress explicitly had not appropriated funds for CSR subsidies in the FY 2014 appropriations bill. What was more surprising to legal observers was that the court allowed the House to bring suit in the case, something of an unprecedented constitutional question around enforcement of separation of powers. SCOTUSblog (May 12,, 2016), "Judge: Billions spent illegally on ACA benefits". Retrieved April 11, 2017 from http://www.scotusblog.com/wp-content/uploads/2016/05/HofR-challenge-to-ACA-DCt-5-12-16.pdf.

3. Exploring the plausible fates of CSRs

There are a large number of potential paths forward. Here are some of the more realistic ones.

SCENARIO 1: DO NOTHING

With the initial failure of the AHCA in the House, President Trump has indicated that he intends to let the ACA fail on its own. It is possible that the current uncertain state of affairs remains for the near future, as the U.S. Department of Health and Human Services (HHS) continues to pay CSR subsidies to issuers.[7] As part of recent budget negotiations, the Administration indicated that CSR subsidy payments to issuers would continue, but explicitly declined to guarantee the length of this policy.[8]

FIGURE 1: SCENARIO 1

THE STATUS QUO	
THE GOOD: ▪ The administration continues to pay CSRs as they currently do ▪ The House does not seek to move the lawsuit forward	THE BAD: ▪ The uncertainty of the lawsuit still looms over the marketplace as either side could proceed forward at some point in the future ▪ There is no guarantee of future payment
WHY IT MIGHT HAPPEN: ▪ Doing nothing is the path of least resistance ▪ Uncertainty could drive further market exits, giving further impetus to future replacement ▪ Administration can say it is still helping lower-income individuals	WHY IT MIGHT NOT HAPPEN: ▪ The ACA could stabilize, and CSR funding is the low hanging fruit on the instability tree ▪ The court may not allow an indefinite suspension of the case
2017 AND 2018 IMPLICATIONS: Funding for CSRs is probable, but by no means guaranteed. This scenario could progress to any of the others at any time.	

SCENARIO 2: THE ADMINISTRATION SETTLES AND CSRs VANISH IMMEDIATELY

Many view this as a likely outcome: the Trump administration concedes that it has no legal grounds to support paying for CSRs, accedes to the will of the House (as affirmed by the D.C. Circuit Court), and ceases paying CSR subsidies. This scenario would likely hasten the destabilization of the ACA marketplace. In this scenario, House Republicans would do nothing, whether through a shared Republican desire to see the ACA fail or an inability to come to an agreement on funding.

FIGURE 2: SCENARIO 2

TRUMP SETTLES	
THE GOOD: ▪ Uncertainty is resolved. Congress could respond by funding CSRs, perhaps temporarily, if outcry is sufficient and no other solution is apparent.	THE BAD: ▪ Likely immediate cessation of advanced CSR payments for the remainder of 2017 ▪ Significant issuer losses in 2017 if CSR payments cease immediately ▪ Uncertainty around the ability of insurers to account for unpaid CSRs in 2018 rates ▪ Issuers probably cannot avoid providing CSRs if they want to remain on exchanges
WHY IT MIGHT HAPPEN: ▪ This is the standing court decision ▪ The individual marketplace would be destabilized, paving the way for reform ▪ Certain elements of the administration favor this approach[9]	WHY IT MIGHT NOT HAPPEN: ▪ Political backlash from the millions of CSR enrollees who may not find affordable replacement plans ▪ Republicans in Congress have recognized that pulling CSRs would require a replacement plan ▪ Other elements in the administration do not favor this approach ▪ Political influence from the insurance lobby and other concerned stakeholders
2017 AND 2018 IMPLICATIONS: Funding ceases upon settlement, though Congress could always decide to step in.	

7 According to the *Washington Post* and other sources, the administration intends to keep paying CSR subsidies while it decides how to respond to House v. Price. (April 11, 2017), "This is how Obamacare might actually explode". Retrieved April 11, 2017 from https://www.washingtonpost.com/news/wonk/wp/2017/04/11/this-is-how-obamacare-might-actually-explode/.

8 https://www.wsj.com/articles/house-speaker-ryan-says-spending-bill-excludes-payments-to-health-insurers-1493220956.

9 Dawsey, J. et al. (April 5, 2017). White House divided on Obamacare payments. Politico. Retrieved April 11, 2017, from http://www.politico.com/story/2017/04/white-house-obamacare-payments-repeal-236934.

SCENARIO 3: CONGRESS ARRANGES A TEMPORARY SHORT-TERM PAYMENT SOLUTION

In the aftermath of the election, several prominent House Republicans stated the need to pay for CSRs for current recipients. Accordingly, Congress could simply pass a stand-alone bill appropriating the estimated $7 billion in 2017 CSR obligations. In this scenario, Congress indicates that it will do no such thing for 2018 CSRs, potentially even giving insurers enough time to strategically address this possibility in their 2018 filings.

FIGURE 3: SCENARIO 3

CONGRESS PAYS UP (FOR 2017)	
THE GOOD: ▪ Funding questions for 2017 are addressed ▪ Issuers that want to offer exchange coverage in 2018 may have time to modify rates accordingly ▪ The lawsuit's uncertainty likely goes away	**THE BAD:** ▪ Uncertainty over how to account for 2018 nonpayment could lead to either significant rate increases or financial losses ▪ Significant subsidization across members as issuers spread the costs of unpaid CSRs
WHY IT MIGHT HAPPEN: ▪ Congress has said it recognizes that CSR amounts need to be paid for 2017 – If this happens after 2018 pricing, Congress could view themselves as obligated to fund 2018 as well, alleviating 2018 uncertainty ▪ This approach requires limited federal funding for the program, making it a popular way to make good ▪ It puts the ACA on life support, and sends the market the message that 2018 may be the last year of the ACA as we know it ▪ It buys Congress a little time to create a replacement solution	**WHY IT MIGHT NOT HAPPEN:** ▪ The House Freedom Caucus does not want to create new spending, but would prefer to reduce revenue, and it has enough votes to block legislation in the House ▪ Doing nothing may be consistent with the administration's approach of letting the ACA implode on its own
2017 AND 2018 IMPLICATIONS: Funding for 2017 exists, funding beyond that is unlikely.	

SCENARIO 4: CONGRESS COMES UP WITH A LONGER-TERM FUNDING SOLUTION FOR CSRs

CSR funding is a real issue that must ultimately be addressed because the ACA (allegedly) didn't provide the tools required to disburse the required funding. Congress could include language related to funding of CSRs in the annual appropriations bill package in September (this language is typically pretty "sticky," and once inserted doesn't change much). By doing so, Congress could remove a large amount of issuer uncertainty at the expense of several billion dollars a year (potentially with a funding cap on total CSRs). This could be paired with a shorter-term solution, as discussed in Scenario 3 above, to create issuer confidence.

FIGURE 4: SCENARIO 4

CONGRESS INCLUDES CSRS IN STANDING APPROPRIATIONS	
THE GOOD: ▪ Funding questions for 2017 go away ▪ Funding is more likely for 2018, as appropriations language is "sticky" ▪ The lawsuit's uncertainty goes away	**THE BAD:** ▪ This process takes more time than a stand-alone funding bill ▪ Relief for 2018 may be limited because of timing
WHY IT MIGHT HAPPEN: ▪ Congress has said it recognizes that CSR amounts need to be paid for 2017, and possibly 2018 ▪ This limits future questions on funding, saving face with lower-income individuals	**WHY IT MIGHT NOT HAPPEN:** ▪ Changes to appropriations are challenging ▪ Republicans in the House and Senate may be opposed to additional funding obligations ▪ This action would potentially stabilize the ACA, extending its lifetime
2017 AND 2018 IMPLICATIONS: Funding is essentially set for any future years of the program, though certainty about funding likely would not be known until after rate filings are due.	

SCENARIO 5: THE ADMINISTRATION CONTINUES THE LAWSUIT

Hiding in the weeds of the House lawsuit is a tricky issue—if the House wins, then that would establish the precedent that the House has the right to sue the Executive Branch over separation of powers concerns.[10] The Trump administration may not want that kind of oversight, and as a result could choose to restart the lawsuit. In order to do so, the administration would likely have to continue paying CSRs (otherwise there is no case and the precedent stands[11]). Given the length of time these suits and related appeals usually take, issuers would likely be secure in CSR funding through most if not all of 2018.

FIGURE 5: SCENARIO 5

TRUMP TRIES TO WIN THE LAWSUIT, AND CSRS COME ALONG FOR THE RIDE	
THE GOOD: ▪ The timing of these decisions would essentially guarantee payment of CSRs through 2018 ▪ This would be a signal of short-term support for the health insurance industry	**THE BAD:** ▪ While funding is fairly certain for 2017 and 2018, uncertainty would return for 2019 pricing ▪ The administration could lose the lawsuit at the highest level, in which case (absent legislative action) non-funding is guaranteed as opposed to merely possible
WHY IT MIGHT HAPPEN: ▪ Trump may not want the House to be able to sue his administration ▪ Trump may prefer to pay CSRs while negotiations with the House continue, despite unwillingness by the court to indefinitely delay the suit	**WHY IT MIGHT NOT HAPPEN:** ▪ Previous statements make this politically challenging for the Trump administration ▪ Republicans in Congress don't want to lose, so voluntarily continuing the suit could alienate allies needed for legislation
2017 AND 2018 IMPLICATIONS: Funding for CSRs is essentially guaranteed, though a firm answer could come down in late 2018 or 2019.	

10 It seems likely that Congress (as the Legislative branch) could collectively sue, but the Courts have generally held that individual members of Congress cannot do so. Whether or not the House as an institution can sue is the unsettled question.

11 At the District Court level – this precedent could be overturned by the court of appeals or the Supreme Court.

4. Issuer options

In the event that payment of CSRs ceases, there are some key legal issues that impact issuers.

The ACA requires issuers to offer silver plans. It also requires qualified health plans (QHPs) on-exchange to offer silver CSR variations to qualified individuals under 250% FPL who enroll in silver QHP coverage through the exchange. And while the ACA clearly states that the U.S. Treasury shall pay issuers, there may not be an appropriation to actually make these payments. The QHP contract contains language that appears to allow issuers to terminate the contract for cause[12] in the event that APTCs and CSRs go unfunded, as that has material impacts on rates. At the same time, the QHP contract explicitly notes that termination of the agreement "does not relieve the QHP of applicable obligations to continue providing coverage to enrollees." Off-exchange coverage and issuers that are entirely off-exchange are not affected by this because CSRs are currently restricted to exchange enrollments. Given the scenarios discussed above, issuers have the options shown in Figure 6 should CSR nonpayment move from a speculation to a reality.

FIGURE 6: ISSUER OPTIONS FOR CSR NONPAYMENT

RESPONSE	PROS	CONS	APPLICABLE SCENARIOS
Stay on exchange, don't increase rates	▪ Keeps premiums competitive ▪ Amounts owed may still be paid by Judgment Fund[13] ▪ Maintains market presence ▪ Maintains exchange presence ▪ Additional enrollment opportunities ▪ Could potentially leverage 180-day capacity-related enrollment hiatus to limit exposure	▪ Significant financial risk and cash flow issues waiting for settlement of any lawsuit ▪ Potential exposure to significant enrollment increases and selection if large issuers drop exchange coverage (compounding the previous issue)	All
Stay on exchange, stop offering CSR plans in 2017 and/or 2018, and crosswalk members to standard plan	▪ Avoids providing CSR benefits without accompanying funding ▪ Still accessible on-exchange for individuals with APTCs ▪ Avoid exchange lockout ▪ Rates would be adequate	▪ Possibly illegal[14] ▪ Possibly violates QHP contract, leading to decertification and two-year exchange lockout, unless the law is modified to eliminate the requirement to offer CSR variants ▪ Potential contractual issues	Scenario 2
Stay on exchange, increase rates for 2017	▪ Addresses shortfall while still offering CSR plans to enrollees	▪ May not be able to increase rates ▪ Uncertain interaction between increased rates and APTC amounts ▪ Would require pricing guidance from regulators ▪ Would require reopening the Health Insurance Oversight System (HIOS)	Scenario 2

12 Timing would be dictated by federal and state law surrounding breach of contract, but there is no explicit timeframe provided in the contract for issuer-driven contract termination.

13 The Judgment Fund is available to pay unappropriated amounts (with certain exceptions), which would include CSRs if they are not paid.

14 There is at least one argument that this is legal, which relies on the fact that the government cannot take private property without appropriate compensation. The intervention request from December 2016 pointed to a precedent in a situation that bears some similarity to issuers required to offer CSRs. See page 6 of the legal brief at **http://premiumtaxcredits.wikispaces.com/file/view/reply%20supporting%20emergency%20motion.pdf/602879602/reply%20supporting%20emergency%20motion.pdf**.

FIGURE 6: ISSUER OPTIONS FOR CSR NONPAYMENT (CONTINUED)

RESPONSE	PROS	CONS	APPLICABLE SCENARIOS
Stay on exchange, increase all rates in 2018	▪ Mechanically the easiest adjustment to pricing ▪ Accounts for uncertainty ▪ Rational premium slope	▪ Setting uniform load probably challenging because CSR costs would be spread across all plans, creating significant subsidization risk ▪ Plan rates could be noncompetitive if other issuers do not increase rates ▪ If other issuers increase silver plan rates only, non-silver plan premiums could be too high to be competitive ▪ Issuers on the receiving end of a large influx of previous CSR enrollees may find themselves underpriced, even if they've increased their rates; risk adjustment may provide some relief. ▪ Off-exchange issuers would have a pricing advantage because they do not need to provide CSRs	All
Stay on exchange, increase rates for silver plans only	▪ Plans priced more appropriately, less intra-metallic tier subsidization risk ▪ No competitive disadvantage for non-silver plans, regardless of competitor behavior	▪ Could result in unusual rate slopes (such as silver plans more costly than gold plans) that would likely lead to regulatory and marketplace pushback ▪ Subsidization risk if actual CSR mix is higher than priced because of rate slope considerations ▪ If other issuers increase rates for all plans, silver plans could become noncompetitive, potentially leading to membership decreases that are due to lower CSR enrollment[15] ▪ Off-exchange issuers would have a pricing advantage for silver plans because they do not need to provide CSRs	All
Terminate QHP agreement and exit exchange Immediately for 2017	▪ No CSR requirements ▪ No CSR non-funding requirements ▪ Maintains market presence	▪ No APTCs or related enrollment ▪ Potential two-year exchange lockout ▪ Adverse selection for remainder of year ▪ Potential contractual issues ▪ Reputational concerns	Scenario 2
Exit exchange for 2018 and start offering only plans off exchange	▪ Limited CSR risk (remainder of 2017) ▪ Avoid two-year exchange lockout ▪ Maintain market presence	▪ No APTCs and likely reduced enrollment for issuers with large CSR enrollment ▪ No exchange presence ▪ Limited reputational concerns	All

15 Note that in this case metallic plans are more attractive, so other plans could see increased membership, especially if APTCs are higher.

5. Wrapping up

If you have any questions, please feel free to reach out to Pedro, Fritz, or Jason. The authors are grateful to the Milliman Healthcare Reform Oversight Group for their review. We are particularly grateful for the input and support of Jeremy Engdahl-Johnson and Lorraine Mayne.

Although we believe this information to be accurate and reasonably comprehensive, as with any forward looking statements, we cannot guarantee that other scenarios having different implications do not emerge. Readers should carefully consider their own situations in light of the information presented here.

In preparing this information, we relied on information obtained from public data sources that we believe is accurate. Our results and conclusions may not be appropriate if this information is not accurate. As with all legislative and political issues, situations change often and quickly. Some of the references or conclusions could be out of date soon after receipt.

Guidelines issued by the American Academy of Actuaries require actuaries to include their professional qualifications in all actuarial communications. Pedro Alcocer, Fritz Busch, and Jason Karcher are members of the American Academy of Actuaries and meet the qualification standards of the American Academy of Actuaries to issue this report and render the actuarial analysis contained herein.

The report reflects the authors' findings and opinions, which are not necessarily representative of the views of Milliman and its other employees. Milliman does not certify the information, nor does it guarantee the accuracy and completeness of such information. Use of such information is voluntary and should not be relied upon unless an independent review of its accuracy and completeness has been performed. Materials may not be reproduced without the prior written consent of Milliman.

The authors are not attorneys and, therefore, cannot issue legal interpretations or opinions. Counsel should be sought when evaluating whether any actions taken in response to developments on this issue are appropriate and/or legal.

Appendix A: State-Level APTC AND CSR Data

APTCs and CSRs are present in many states, but certain states are affected to greater or lesser degrees. The table in Figure 7 summarizes states by CSR enrollment as a percentage of all exchange coverage, both by federally facilitated marketplace (FFM) and state-based marketplace (SBM). The table in Figure 8 summarizes 2016 APTC and CSR enrollment by state, using 2016 open enrollment data for federally facilitated exchange (FFE) states[16] and effectuated exchange enrollments as of March 31, 2016, as reported in a compendium of state data by HHS's Office of the Assistant Secretary for Planning and Evaluation (ASPE).[17] For CSR enrollments in FFE states, we have used county-level data to estimate the average silver CSR percentage. The table in Figure 9 summarizes 2017 state-level open enrollment plan selection data by FPL and metallic tier to estimate average silver actuarial values (AVs) if CSRs are unfunded.

FIGURE 7: CSR ENROLLMENT AS % OF EXCHANGE, MARCH 31, 2016

CSRS AS % OF EXCHANGE	FFM	SBM	TOTAL
<50%	10	8	18
50%-60%	16	3	19
60%-70%	8	2	10
70%+	4	0	4

For FFE states, CSR enrollment varies from 35% of the exchange population in New Hampshire, up to 78% in Mississippi (the poorest state in the nation by income, and a state which has not expanded Medicaid which increases the number of individuals eligible for 94% CSRs). SBM states tend to have lower CSR percentages, consistent with the number of these states that have expanded Medicaid. The lowest CSR penetration is in states with other considerations, however. Minnesota and New York both offer Basic Health Programs to individuals under 205% FPL, which significantly impacts the number of CSR eligibles. Washington, D.C., has the lowest CSR penetration of any state or district, which is due to the fact that members of Congress and their staffs are required to purchase coverage through the exchange as well.

In non-expansion states, issuers should carefully monitor state Medicaid expansion plans, as that could materially influence the CSR plan variation mix. Note that most American Indian/Alaska Native enrollment is in three states—Alaska, North Dakota, and Oklahoma. In these states, similar consideration should be given to all metallic tier plans, as Indian CSR enrollees represent 3% to 5% of the exchange population and can select plans at any metallic tier.

16 ASPE. Health Insurance Marketplace Cost Sharing Reduction Subsidies by ZIP Code and County 2016. Retrieved April 11, 2017, from **https://aspe.hhs.gov/health-insurance-marketplace-cost-sharing-reduction-subsidies-zip-code-and-county-2016**.

17 ASPE. Compilation of State Data on the Affordable Care Act. Retrieved April 11, 2017, from **https://aspe.hhs.gov/compilation-state-data-affordable-care-act**.

FIGURE 8: 2016 APTC AND CSR ENROLLMENT BY STATE

		CSR ENROLLMENT BY PLAN VARIATION					
STATE	APTC ENROLLMENT	CSR ENROLLMENT	94%	87%	73%	AI/AN	AVERAGE SILVER CSR%
United States	84.7%	57.3%					
FFE Only	86.5%	60.9%	54.4%	30.8%	14.3%	0.5%	88.8%
Alabama	91.9%	75.8%	61.5%	26.5%	11.7%	0.3%	89.7%
Alaska	90.1%	41.7%	34.3%	39.1%	18.5%	8.1%	86.8%
Arizona	69.3%	52.6%	27.3%	51.2%	20.4%	1.0%	86.1%
Arkansas	89.7%	57.0%	29.2%	47.9%	21.6%	1.2%	86.0%
California	87.6%	50.0%					
Colorado	61.9%	26.7%					
Connecticut	78.5%	50.7%					
Delaware	84.6%	43.9%	29.3%	45.1%	25.6%	0.0%	85.5%
District of Columbia	6.9%	1.6%					
Florida	93.3%	73.5%	68.1%	23.3%	8.6%	0.1%	90.6%
Georgia	89.4%	67.4%	66.1%	24.0%	9.8%	0.1%	90.3%
Hawaii	82.3%	60.6%	58.9%	28.7%	12.5%	0.0%	89.4%
Idaho	87.8%	62.4%					
Illinois	77.5%	46.7%	31.6%	48.0%	20.2%	0.2%	86.4%
Indiana	82.6%	45.7%	36.3%	43.8%	19.7%	0.2%	86.8%
Iowa	87.0%	52.5%	27.0%	49.9%	22.8%	0.3%	85.7%
Kansas	84.6%	59.2%	52.8%	31.2%	14.6%	1.4%	88.7%
Kentucky	75.7%	43.1%					
Louisiana	92.6%	64.3%	64.6%	25.2%	10.0%	0.2%	90.1%
Maine	84.9%	57.0%	44.9%	34.9%	19.8%	0.4%	87.4%
Maryland	74.6%	53.4%					
Massachusetts	76.2%	64.1%					
Michigan	87.9%	52.6%	32.8%	43.5%	23.1%	0.6%	86.0%
Minnesota	63.8%	16.4%					
Mississippi	94.2%	77.6%	70.2%	21.6%	8.2%	0.1%	90.8%
Missouri	89.6%	58.7%	57.7%	29.1%	12.7%	0.5%	89.3%
Montana	85.2%	45.4%	38.1%	40.4%	17.5%	3.9%	87.2%
Nebraska	89.9%	52.3%	50.3%	31.0%	17.8%	0.9%	88.0%
Nevada	89.5%	61.0%	33.6%	43.5%	22.1%	0.7%	86.2%
New Hampshire	63.4%	35.4%	31.0%	45.9%	23.1%	0.0%	85.9%
New Jersey	82.3%	51.8%	31.7%	44.9%	23.4%	0.0%	85.9%
New Mexico	68.9%	47.7%	26.3%	46.9%	23.0%	3.8%	85.6%
New York	55.3%	18.1%					
North Carolina	91.5%	66.0%	59.2%	26.1%	14.6%	0.2%	89.1%
North Dakota	85.8%	44.8%	17.7%	48.9%	22.7%	10.7%	84.8%
Ohio	82.3%	44.9%	27.0%	47.6%	25.3%	0.1%	85.3%
Oklahoma	87.0%	62.3%	50.8%	25.8%	12.7%	10.7%	89.0%
Oregon	72.8%	40.4%	21.0%	49.5%	28.3%	1.2%	84.5%
Pennsylvania	77.9%	55.1%	34.2%	45.3%	20.5%	0.1%	86.5%
Rhode Island	84.4%	59.8%					
South Carolina	91.0%	73.2%	58.1%	26.3%	15.5%	0.1%	88.9%
South Dakota	89.5%	61.5%	42.5%	30.2%	22.4%	4.9%	86.8%
Tennessee	87.7%	59.7%	57.1%	30.0%	12.6%	0.2%	89.2%
Texas	83.6%	59.2%	61.2%	26.2%	12.2%	0.4%	89.6%
Utah	88.4%	64.8%	48.6%	32.4%	18.2%	0.8%	87.9%
Vermont	70.2%	35.0%					
Virginia	84.2%	58.7%	54.9%	29.5%	15.5%	0.1%	88.7%
Washington	69.8%	41.8%					
West Virginia	87.7%	52.4%	25.1%	52.7%	22.3%	0.0%	85.6%
Wisconsin	85.0%	55.0%	45.2%	35.5%	18.4%	0.9%	87.6%
Wyoming	92.0%	55.4%	44.7%	31.7%	22.1%	1.5%	87.0%

FIGURE 9: ESTIMATE 2017 SILVER CSR AVS BY STATE

STATE	MARKETPLACE TYPE	AVERAGE SILVER CSR AV (INCLUDING STANDARD PLANS)	AVERAGE SILVER CSR AV (CSRS ONLY)	AVERAGE SILVER CSR AV (87%/94% ONLY)
Alaska	HC.GOV	82.8%	86.0%	89.8%
Alabama	HC.GOV	86.2%	89.1%	91.7%
Arkansas*	HC.GOV	82.1%	85.6%	89.6%
Arizona	HC.GOV	80.5%	84.6%	89.3%
Delaware	HC.GOV	80.9%	85.1%	89.6%
Florida	HC.GOV	88.6%	90.5%	92.2%
Georgia	HC.GOV	87.0%	90.0%	92.1%
Hawaii	HC.GOV	78.7%	85.7%	89.7%
Iowa	HC.GOV	81.1%	85.2%	89.4%
Illinois	HC.GOV	81.5%	86.0%	89.8%
Indiana	HC.GOV	80.6%	85.6%	89.7%
Kansas	HC.GOV	85.5%	88.5%	91.4%
Kentucky*	HC.GOV	80.1%	84.3%	89.1%
Louisiana	HC.GOV	84.6%	88.1%	91.0%
Maine	HC.GOV	83.3%	87.1%	91.0%
Michigan	HC.GOV	81.9%	85.7%	89.9%
Missouri	HC.GOV	85.6%	88.9%	91.6%
Mississippi	HC.GOV	88.1%	90.3%	92.2%
Montana	HC.GOV	82.5%	85.7%	89.7%
North Carolina	HC.GOV	85.4%	88.6%	91.8%
North Dakota	HC.GOV	81.1%	84.2%	88.9%
Nebraska	HC.GOV	84.3%	87.4%	91.3%
New Hampshire	HC.GOV	79.8%	85.3%	89.6%
NewJersey	HC.GOV	79.8%	85.4%	89.7%
New Mexico*	HC.GOV	80.4%	85.2%	89.5%
Nevada*	HC.GOV	82.5%	85.8%	90.0%
Ohio	HC.GOV	80.5%	84.8%	89.5%
Oklahoma	HC.GOV	86.3%	88.9%	91.7%
Oregon*	HC.GOV	79.2%	84.4%	89.2%
Pennsylvania	HC.GOV	80.7%	85.6%	89.7%
South Carolina	HC.gov	85.2%	88.6%	91.8%
South Dakota	HC.gov	83.1%	86.9%	91.1%
Tennessee	HC.gov	85.1%	88.7%	91.4%
Texas	HC.gov	86.3%	89.4%	91.9%
Utah	HC.gov	84.5%	87.6%	91.3%
Virginia	HC.gov	84.7%	88.3%	91.6%
Wisconsin	HC.gov	83.1%	87.6%	91.0%
West Virginia	HC.gov	81.5%	85.3%	89.3%
Wyoming	HC.gov	83.4%	87.0%	91.2%
Total	HC.gov	84.9%	88.4%	91.4%
Total	SBM-FP*	80.7%	85.0%	89.4%

Appendix B: CSR Non-Payment and Risk Adjustment

Risk adjustment is designed to address paid claims after CSRs. It would theoretically be possible for HHS to increase the CSR induced utilization factors to further incorporate the amount of unpaid CSRs. This would not solve the defunding, but would essentially spread it across all issuers in the individual market, as risk scores for QHP issuers would be relatively higher that those off-exchange. Doing this would also likely increase complaints from issuers about the inherent weaknesses of the risk adjustment mechanism, as the fundamental inaccuracy of the risk score calculated for any given individual is compounded by the inaccuracy of this modified induced utilization factor.

Appendix C: The Roads Less Likely To Be Traveled

The following outcomes are also possible, but are not the focus of this paper. Rather, we concentrated on outcomes we see as either likely or plausible for 2018 under the current political climate.

- **Scenario 6:** Modify the ACA to create a permanent/mandatory appropriation for CSRs in line with APTCs (the rationale that the Obama administration was using to pay CSRs)
  - CSRs seem to be too large of a bargaining chip to give away in this fashion.
- **Scenario 7:** Pass a new healthcare reform bill that solidifies 2018 CSR treatment in some fashion
  - The AHCA did not address this issue, and uncertainty on this helps drive instability, which should help premiums under the new reform market.
- **Scenario 8:** Repeal the requirement for issuers to offer CSR variations alongside every silver plan offering. This would mean issuers would no longer have to offer CSR plans if they offer silver plans on the exchange.
  - This kind of change would essentially be a repeal of the CSR requirement, as issuers would be likely to accept this flexibility if funding was not assured.
- **Scenario 9:** Pass an ACA repeal bill effective for 2018
  - Previous repeal legislation has focused on a two- to three-year transition period, which is due to the operational difficulties of reversing to the previous status quo.

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