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California Becomes the 6th State to Restrict Short-Term Plans in 2018 /

On September 22, California became the sixth state to limit or ban short-term limited duration insurance (STLDI) plans. Hawaii, Maryland, New York, Vermont, and Oklahoma have also passed bills or adopted regulations restricting access to, the renewability of, or the allowed duration of these plans. While the California law will prohibit the sale or renewability of any STLDI plans starting on January 1, 2019, the state already had significant restrictions on STLDI plans that limited STLDI plans to a duration of 6 months with the possibility for a single 6-month renewal.

These state actions are in response to a recently promulgated federal regulation. Under that new guidance, adopted by CMS, the Department of Labor (DOL), and the Department of the Treasury, coverage under STLDI plans will be permitted to last up to 364 days and can be renewed for up to 3 years. The rule overturns previous 2016 guidance, which had limited STLDI plans to a single 3-month, non-renewable period. Since state law is the primary authority over these products, these state actions effectively nullify the changes in the new federal regulation.

In addition to STLDI plans, the Trump administration has released guidance related to the sale of association health plans (AHPs). In June, the DOL finalized a rule for AHPs, which would allow certain self-employed individuals, small businesses, and large businesses to band together to provide health insurance for their employees and their dependents.

Other State-level Activity

Two states have considered additional action in response to the recent STLDI and AHP rules:

- **California**'s Governor also signed into law SB1375 on September 22, which removes AHP eligibility for sole proprietors, partners of a partnership, and spouses of sole proprietors and partners. It also restricts which plans and plan sponsors can offer an AHP.

- **Washington**'s Insurance Commissioner has proposed a rule to restrict the sale of short-term limited duration medical plans to 3 months, prohibit renewals, and require enhanced disclosure to consumers about the limitations of coverage.

Earlier this year, legislation was approved in Illinois and Virginia concerning STLDIs and AHPs; however, those approved bills were vetoed by their respective governors.

Our Take

Many stakeholders have expressed concern about the sale of AHP and STLDI plans, stating that they could erode the individual market and create confusion and higher costs for some enrollees who do not understand the limited scope of STLDI plans. Additionally, STLDI plans may be especially problematic for many enrollees with pre-existing conditions or who depend on prescription drugs since STLDIs often have restrictive coverage limits, do not cover care for pre-existing conditions, and often do not include many commonly used services.

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