

Health Insurance in NM: Federal Trends and State Authority

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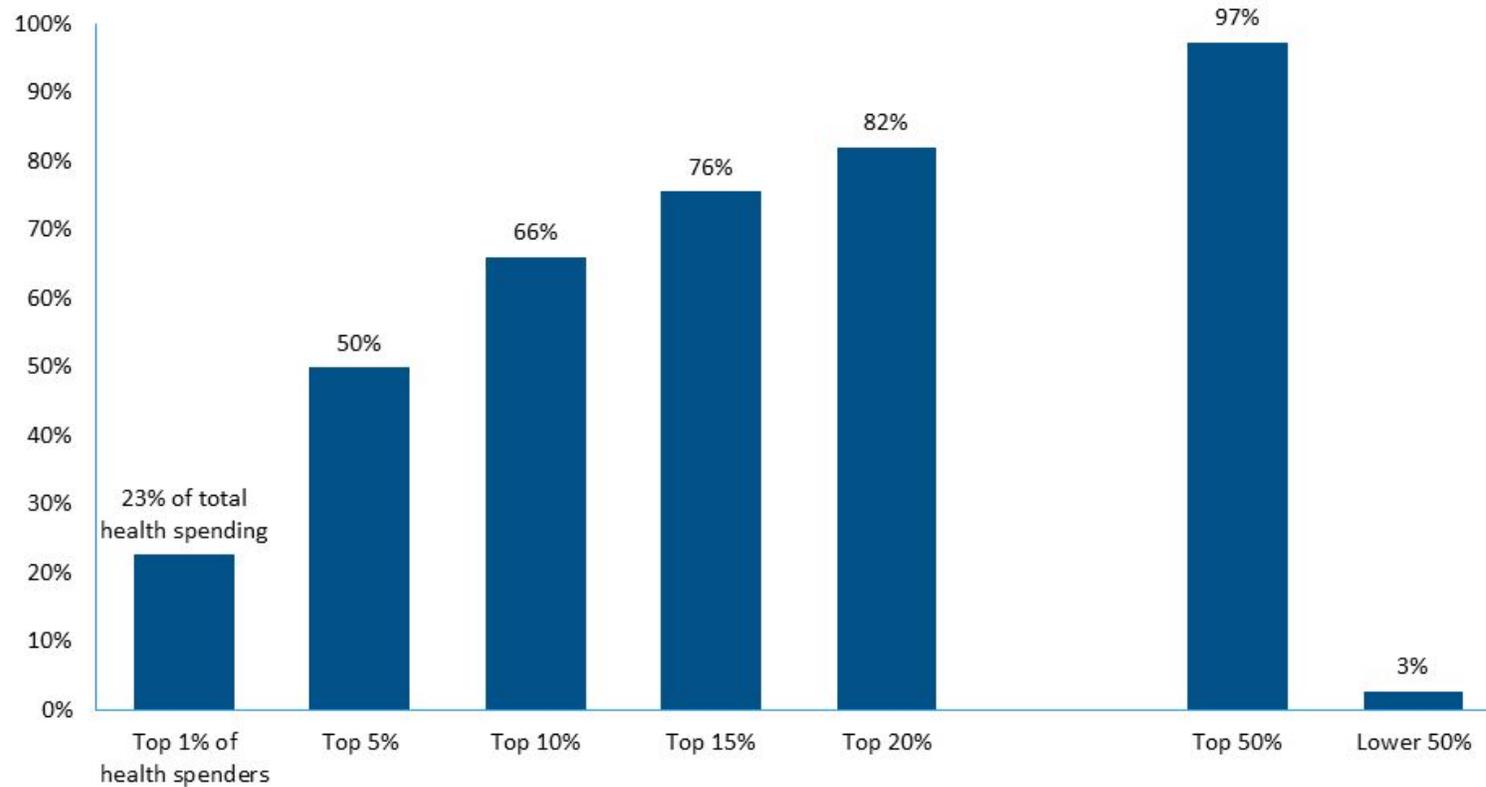
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Health Care Costs

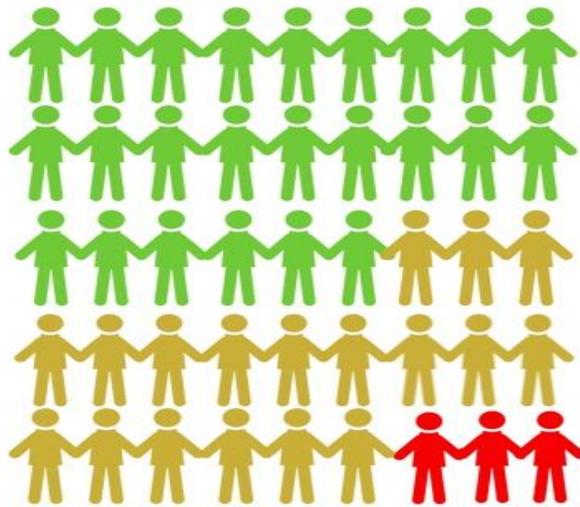
Figure 1

Concentration of Health Care Spending in U.S. Population



Source: Kaiser Family Foundation analysis of Medical Expenditure Panel Survey, Agency for Healthcare Research and Quality, U.S. Department of Health and Human Services

Importance of Diversity and Scale in Insurance Markets



PLAN 1
LOWEST PREMIUM



PLAN 2
Average Premium



PLAN 3
Highest Premium



What was the
market like before
the Affordable Care
Act (ACA)?

The Pre-ACA Insurance Market

- Insurance companies discriminated against people with pre-existing conditions

Health Underwriting	Health Insurance Spending Caps	Benefits Limits
Carrier use of medical history data to predict (and avoid) risk of individuals seeking coverage.	Annual and lifetime limits on how much a carrier will reimburse for health care costs.	Carriers design health benefit plans to limit risks covered and deter enrollment of populations with higher risks.

Stories from NM

“Due to a pre-existing condition, I was denied health insurance on the private market... It nearly broke us financially.” - **Alexis from ABQ**

“Exorbitant pricing for pre-existing conditions will wipe me out.” - **Marianne from Cochiti Lake**

“The only glimpse of light was that under the Affordable Care Act, my newly diagnosed, yet pre-existing condition was protected, so I did not have to fear that I would be ineligible for future insurance.” - **Andrea from Los Lunas**



The ACA reformed the market to protect people with pre-existing conditions

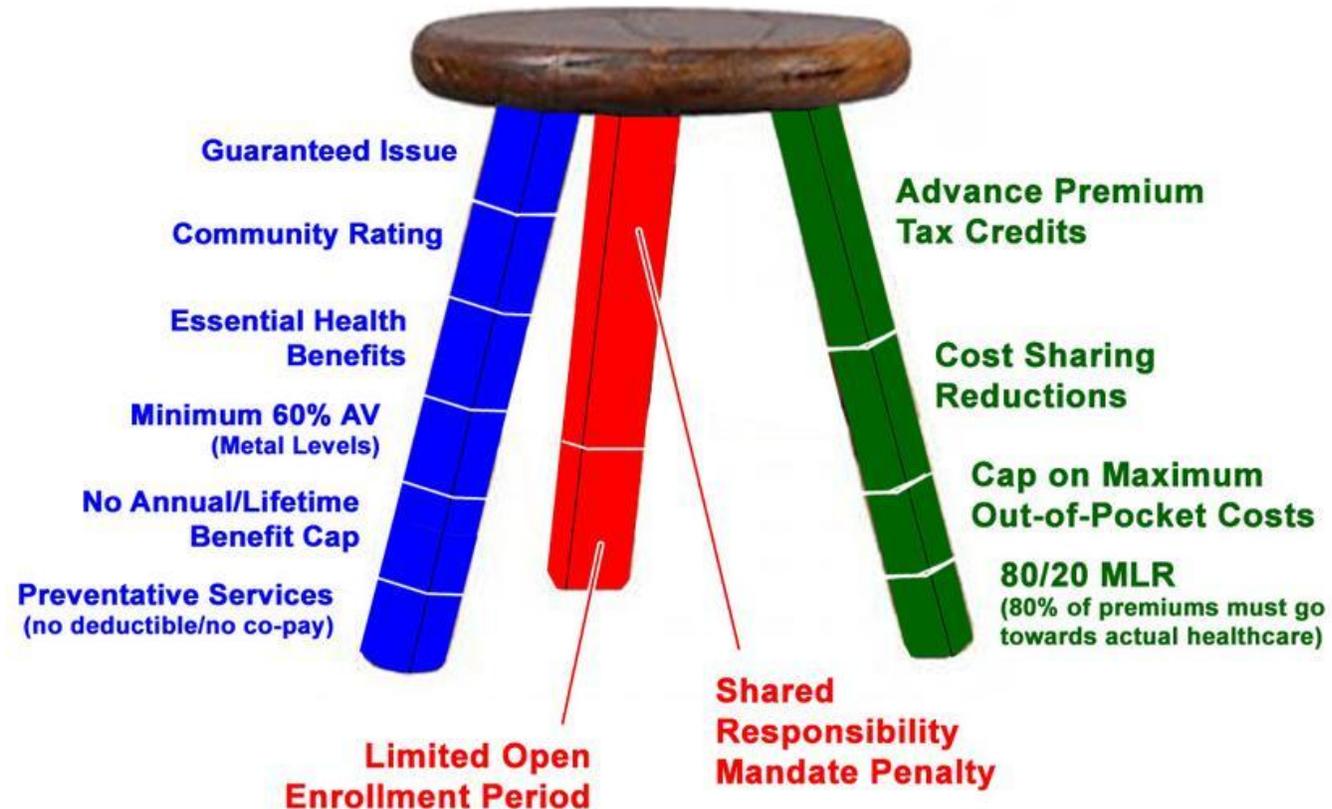
ACA Consumer Protections

- Non-discrimination: insurers must sell health plans to any applicant and cannot charge more based on health status or gender
- Ten essential health benefits: all qualified health plans must cover the ten essential health benefits
- Prohibition of annual/lifetime limits: health plans cannot impose dollar limits on any of the essential health benefits
- Free preventive services: all health plans must cover prevention services without cost sharing

How the ACA reformed the market

THE THREE-LEGGED STOOL OF THE ACA: (IDEAL VERSION)

BLUE: Insurer Responsibility • RED: Enrollee Responsibility • GREEN: Government Responsibility



Recent federal changes impacting health coverage for New Mexicans

What is causing premium increases, enrollment declines, and long-term instability?

Repeal of the ACA individual responsibility rule

- Requirement to have coverage

Expansion of substandard insurance

- Short-term, limited duration plans
- Association Health Plans/MEWAs

Lawsuit against pre-existing condition protections

- Could unravel the ACA
- Eliminate protections for New Mexicans

Federal changes and their effects

Policy Change	Impacts
Repeal of individual responsibility rule	<ul style="list-style-type: none">● Uninsured rate will increase● Increased marketplace premiums
Expansion of substandard insurance	<ul style="list-style-type: none">● Increased marketplace premiums● Increased enrollment in coverage that does not offer access to care or financial protection
Lawsuit against pre-existing condition protections	<ul style="list-style-type: none">● End of federal protections for people with pre-existing conditions● Many other parts of the law, like the premium subsidies and online shopping tools, likely could not be administered

**Repeal of the
ACA individual
responsibility rule**

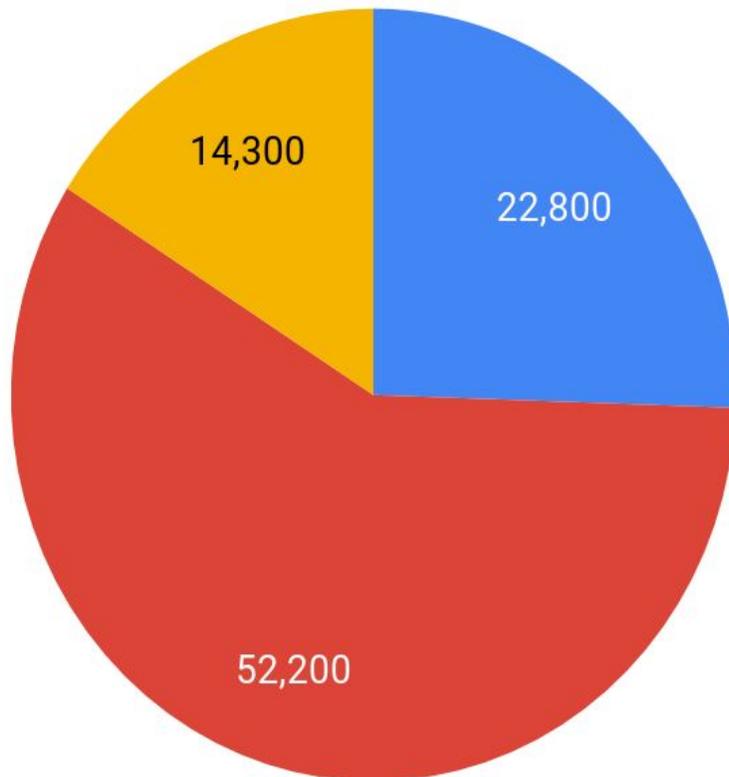
90,000

New Mexicans are projected to become uninsured by 2025 due to the repeal of the ACA's individual responsibility rule

Individual Responsibility Rule Repeal (2019)

Coverage loss due to repeal of individual mandate by 2025

● Individual market ● Medicaid ● Employer-sponsored insurance

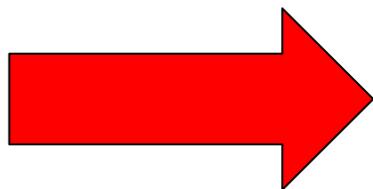


- New Mexico already seeing impacts

- 9% decrease in Exchange market enrollment between 2017 and 2018
- Commonwealth Fund projects that premiums would be 21% lower in NM with the rule still in place - **greatest in the nation**

Expansion of substandard insurance

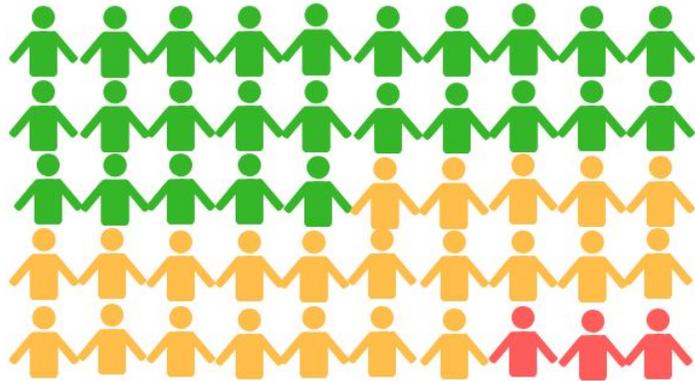
This is the cover of a brochure for a substandard insurance plan



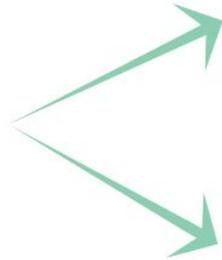
The plan excludes coverage for injuries related to mountain climbing.



How "splitting the market" raises costs on people with higher health needs



\$310 premium per person



\$125 premium per person



\$588 premium per person



“Short-term” health plans

What are “short-term” plans?

- Supposed to provide limited, gap coverage to individuals in transition
- **Do NOT have pre-existing condition protections**
 - Cost less because they lock out people who are sick & don’t cover essential benefits

2018 federal rule change

- Previous rules
 - Three-month plan duration
 - Policies could not be renewed
- New rules
 - 364 day plan duration
 - Renewable for **three years**

“Short-term” health plans

The Problem

- No real protections for consumer who have these plans who get sick or injured – they aren’t designed to serve as real health insurance coverage
- Typically marketed to “healthier individuals”, leaving sicker individuals in the ACA-compliant market, driving up costs
- Plan marketing is often deceptive

Impact on NM Enrollment

- Urban institute projects a 49% decrease in individual market enrollment

37,000

New Mexicans are expected to leave the individual market due to the combined impact of the expansion of "short-term" plans and the repeal of the ACA's individual responsibility rule

“Short-term” health plans

What can NM do?

- OSI Current Regulatory Authority
 - Can regulate “short-term” plans by establishing definitions
 - Allows regulations to define these plans as three-months, non-renewable
 - Allows regulations to require notification about limited nature of plans
- Gaps in OSI Authority
 - NM Insurance Code is riddled with exceptions limiting OSI regulatory authority on-short term, limited benefits plans
 - May need statutory authority to implement certain consumer protections:
 - Requirement that these plans spend premiums on benefits (medical loss ratio)?
 - Requirement that these plans offer an essential health benefit package?
 - Guaranteed issue?
 - Prohibit pre-existing conditions exclusions?

Association Health Plans/MEWAs

What are Association Health Plans?

Health insurance for employers or industry-related associations of individuals who band together to purchase health insurance.

Previous rule

- If your association is made up of self-employed individuals or small groups, market rules for individual or small group markets applied accordingly.
- Employer groups must have some commonality of interest

New rule

- Allows more types of groups to achieve large group, ERISA plan status, where fewer consumer protections apply
- Allows more loosely associated groups to band together to sell plans

Association Health Plans/MEWAS

Problems

- Expands skimpier coverage
- Splits the market
 - Could draw healthy people out of market, increasing premiums for sicker people
- Creation of dubious associations
 - Association of Air Breathers
- Multi-state oversight requirements

Association Health Plans/MEWAS

What can NM do?

- NM statutes give OSI broad regulatory authority
 - Registration
 - Financial solvency
 - Examination
 - Application of consumer protections
 - Define bona fide association

But, it's complicated

- Where the feds allow for a plan to be regulated as large group, ERISA coverage, where is state's regulatory authority pre-empted?
 - States are trying to figure this out now

**Federal lawsuit against
pre-existing condition
protections**

Federal lawsuit against pre-existing condition protections

Background

In Texas vs United States, 20 states filed a lawsuit challenging the constitutionality of the Affordable Care Act now that the penalty associated with the individual responsibility rule has been repealed.

- The Trump administration argues that the ACA's pre-existing protections are unconstitutional
- If pre-existing condition protections are struck down, the health coverage that many rely upon could collapse

27%

of nonelderly New Mexicans have “declinable pre-existing conditions under pre-ACA practices” according to the Kaiser Family Foundation. That’s a total of **332,000 people in NM.**

Federal lawsuit against pre-existing condition protections

What can NM do?

- Put pre-existing conditions and other components of the ACA into state law
 - Mitigates the worst possible outcome
 - Several states already have pre-existing condition protections in state law
- **Urgency** – final decision on lawsuit by higher-level courts could come down as soon as mid-2019

Protecting and expanding coverage gains in NM

- 1) Adopt a new version of the ACA individual responsibility rule that prioritizes enrollment in health coverage
 - a) Stan Dorn's "Insurance Down Payment" model
- 2) Adopt common sense rules substandard insurance
- 3) Adopt the ACA's consumer protections to state law to protect against lawsuit threatening to reinstate pre-existing conditions
- 4) Focus on boosting enrollment
 - a) Up to 50,000 uninsured New Mexicans could be eligible for zero dollar Gold or Bronze plans

Questions?

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