

MinnesotaCare Funding

February 16, 2018

Recent actions by the federal government have reduced funding for the MinnesotaCare Program. This fact sheet explains what MinnesotaCare is and how it is funded. It also provides details on how recent federal actions affect the program. Although the new cuts to the program's federal funding are substantial, MinnesotaCare coverage will continue per state statute unless the state Legislature takes action to change the program.

What is MinnesotaCare?

MinnesotaCare was created in 1992 by Republican Governor Arne Carlson and a bipartisan coalition of legislators. The program provides health care coverage for more than 89,000 Minnesotans who earn too much to qualify for Medicaid but whose incomes are below 200 percent of the federal poverty line. (A family of three below 200 percent of the federal poverty line is earning roughly \$40,000 per year.)

MinnesotaCare is considered a "Basic Health Program" (BHP) under federal law, allowed under Section 1331 of the Affordable Care Act (ACA). The law permits states to purchase coverage directly for people by pooling the premium tax credits and cost-sharing reduction (CSRs) subsidies they would have otherwise received in the individual insurance market.

Today, MinnesotaCare enrollees pay no more than \$80 per person per month in premiums and are guaranteed very low out-of-pocket costs. MinnesotaCare coverage is more affordable and comprehensive than insurance available on the individual market. The program delivers a more broad set of benefits than those required by federal law, including dental, vision and comprehensive behavioral health services.

How is MinnesotaCare Financed?

Before the ACA, the program was financed with expenditures from the state's Health Care Access Fund, which were matched by federal Medicaid funds.

Today, MinnesotaCare is almost entirely funded with federal funds and enrollee premiums.¹ As a BHP, it is financed with 95 percent of the tax credits and subsidies that enrollees would have received if they had purchased insurance through the health care marketplace. The remaining cost is covered by the Health Care Access Fund and premiums paid by enrollees. The current state budget forecast projects that MinnesotaCare

¹ The state share of the program's costs is about 5 percent. Most of the state costs are related to the population eligible for MinnesotaCare that is state-funded only and not eligible for federal funds.

can continue without additional state funding through July 1, 2021. However, this projection assumes a two-year reinsurance program which results in increased federal BHP revenue in 2021.^[2]

Cuts to MinnesotaCare under recent federal actions

Reinsurance Pass-Through

In March of 2017, the Minnesota Legislature passed a bill to create a state-funded reinsurance program. The reinsurance program is authorized from January 1, 2018 to December 31, 2019. This program was designed to address rising premiums in Minnesota's individual market. In May, the state's Department of Commerce submitted a 1332 waiver to the Centers for Medicare & Medicaid Services (CMS) to request federal funding for the reinsurance program. Because the reinsurance program, by design, reduces premiums in the individual market, Minnesota asked to receive the difference in premium tax credit funding between the higher (without reinsurance) and the lower (with reinsurance) premiums. This is referred to as "pass-through funding." CMS only allowed the pass-through funding to be applied to the individual market and did not allow it be applied to the BHP. The resulting reduction in federal funding for MinnesotaCare is approximately \$277 million from state fiscal year 2018 to 2020 based on the November 2017 forecast.

The Elimination of CSRs

Approximately 75 percent of the federal funding for MinnesotaCare comes from premium tax credits and 25 percent comes from cost-sharing reductions. The state estimates that the CSR component of this funding represents approximately \$132 million for fiscal year 2019. By comparison, qualified health plans on MNsure receive roughly \$3.4 million in CSR payments per year. This is because the CSRs are only available for people whose income is at or below 250 percent of the federal poverty level. Therefore, a smaller number of individuals receiving subsidies through MNsure would qualify.

The White House announced on October 12, 2017 that the CSR payments would be discontinued. In November, the Minnesota Department of Human Services proposed to CMS a method of recalculating the federal BHP payments. The approach proposed would reflect the increases in premium tax credits occurring in other states resulting from the elimination of the CSRs, as is required under the law. CMS disagreed and on December 31, 2017, informed the Department that it would simply reduce the BHP payment by approximately 25 percent because of the President's decision that the CSRs were not appropriated. The Minnesota Department of Human Services projects that this decision will reduce federal funding by approximately \$529 million in state fiscal years 2018 to 2021 based on the November 2017 forecast.

The combined cuts to MinnesotaCare from the 1332 waiver and the discontinuation of the CSRs add up to a total **federal funding loss of \$806 million for MinnesotaCare for state fiscal years 2018-2021.**

^[2] Minnesota's reinsurance program provides discounts for health care purchases made on the individual market.

It is important to note that MinnesotaCare has historically been funded with both state and federal funds. The coming sunset of the state's provider tax eliminates the largest state revenue source used for the Health Care Access Fund, which has historically provided funding for MinnesotaCare and is a significant funding concern.

Minnesota's Participation in CSR Subsidies Lawsuits

2018

New York and Minnesota file suit on behalf of Basic Health Program funding

On January 26, 2018, Minnesota and New York (the only other state in the nation that has a BHP) jointly filed a lawsuit to restore the value of the CSR component of federal funding for both states' BHP. The complaint was filed in the U.S. District Court for the Southern District of New York. The lawsuit challenges the federal government's decision to withhold funding as well as the process it used to make that decision. In short, Minnesota and New York claim that: (1) the funding withhold is unlawful; (2) the federal government violated the Administrative Procedures Act (APA) in failing to follow proper procedure in making such a significant funding decision, including by failing to post the revised payment procedures for notice and comment; and (3) the APA required the federal government to consider alternative payment methodologies the states provided, which would have prevented such large funding losses. The states asked the court to restore full funding, to use the proposed payment methodologies submitted by the states, and/or to use mandated procedures prior to changing the BHP payment methodology.

2017

Minnesota is among 18 states and D.C. to file suit on behalf of CSR payments

Following the October 2017 announcement by the Trump administration that CSR payments would be discontinued, 18 states (including Minnesota) and the District of Columbia filed a lawsuit to prevent the federal government from withholding the payments.² The states' request for a preliminary injunction that would have continued the payments was denied. The states will file a motion for summary judgment on April 20, 2018 and the Trump Administration will file a cross-motion for summary judgment on May 15, 2018. A hearing on the motions will be held on July 12, 2018.

2014

U.S. House of Representatives sued the Department of Treasury and the Department of Health and Human Services to block CSR payments

In 2014, the U.S. House of Representatives sued the Department of the Treasury and the Department of Health and Human Services to prevent them from making cost-sharing reduction payments under the ACA. The court

² The states that joined the lawsuit are California, Connecticut, Delaware, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia and Washington.

ruled in favor of the House of Representatives, holding that the ACA lacked the appropriations language necessary to fund the cost-sharing subsidies.

The Obama Administration appealed the decision to the U.S. Court of Appeals for the District of Columbia Circuit.

As described above, the parties, including the states who have been allowed to intervene in the lawsuit, have entered into a conditional settlement agreement, but are waiting for court action to effectuate the agreement.

Minnesota is among 15 states and the District of Columbia to join the 2014 case, arguing that the Affordable Care Act legally appropriated funds for CSR payments

In May of 2017, 15 states (including Minnesota) and the District of Columbia requested permission to intervene and participate in the appeal.³ The D.C. Circuit Court of Appeals granted the states' motion to intervene. The Court held that the states had demonstrated that termination of the CSR payments would lead to increased insurance costs resulting in more uninsured people for whom the states would be required to provide health care.

In December 2017, the states, the Trump Administration, and the House of Representatives agreed to a conditional settlement agreement. As part of the settlement, the parties requested the district court vacate the portion of its judgment enjoining the federal government from making cost sharing reduction payments. The district court has indicated that it would take that action, if the case is remanded from the Court of Appeals back to the district court. The parties have asked the Court of Appeals remand the case, but are waiting for a ruling.

³ The states that are intervening are: California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, New Mexico, New York, Pennsylvania, Vermont, and Washington.