OFFICE of the INSURANCE COMMISSIONER
WASHINGTON STATE

ACA Watch List
Trump Administration Executive Actions/Congressional Actions
To Weaken or Change the Affordable Care Act
(Updated April 13, 2017)

Potential Actions

Potential Actions	Issue/Proposed Solution	Priority
Individual Market/Exchange		
Cost-Sharing Reductions (CSR's)	Over $65 million in annual payments to Washington issuers helped nearly 70,000 residents in 2016 lower their out of pocket costs. The *House v. Price* litigation was "pended" in February, with an update to the Court due on May 22, 2017. Without action later in April by Congress to fund CSR's directly, the fate of CSR's is unknown. This is a primary cause of uncertainty in the individual market for 2018 and beyond. Secretary Price and the Trump administration should continue this appeal, and continue paying CSRs during the appeal. Congress and the Trump administration must commit to and implement a permanent solution by making an ongoing, automatic (mandatory) appropriation (similar to what exists already for tax credits) for CSRs.	**Now.**

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	Saying that CSR payments will continue while the litigation is ongoing is not enough to provide stability in the individual market. Treating CSR funding as a discretionary item means that this uncertainty would recur each year as Congressional budget decisions are often made after issuer filing deadlines for the upcoming year. Map of those impacted available at https://www.1in4wa.com/ (Financial Assistance, Cost-Sharing Map)	
Individual Mandate Enforcement	Any pulling back of individual mandate enforcement creates greater uncertainty in the individual market because younger and healthier people can avoid purchasing coverage. Do not weaken enforcement.	**Now.**
Risk Stabilization Program	Federal funding needs to be provided to stabilize the individual market for 2018 and 2019, through a nationally administered risk stabilization program or fund. This would have the duel benefit of lowering premiums for consumers and reducing federal outlays for tax credit payments.	**Now.**
Cross-border Insurance Sales	The Health Care Choice Act of 2017 (H.R. 314) would repeal Title I of the ACA, which includes the individual and small group health insurance reforms, health benefit exchanges, individual/employer mandates and premium and cost-sharing subsidies. Generally, this will harm consumers by eliminating the Exchange and renewing the variability in state rating, benefit mandates and consumer protection rules that were in place pre-ACA.	**Now.** Pending in the U.S. House. Contact House delegation. Ask them to oppose the legislation. **Watch** for regulations.

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	More specifically, with regard to cross-state sales, under the bill, once an insurer is licensed in a primary state, they can sell in any other "secondary" state. The insurer is exempt from "covered laws" in the other states, including regulation of sales, rating (including medical underwriting), services covered and renewal of individual health insurance. Secondary states are very limited in their ability to regulate the issuer. This will harm/confuse consumers by creating a patchwork of plans with inconsistent state oversight/regulation/coverage requirements. Any changes should include that all affected states must agree to cross border sales.	
ACA Infrastructure	Do not reduce implementation/enforcement/oversight resources to agencies that operate ACA programs, such as HHS/CMS and Treasury/IRS.	**Watch** for administrative action or congressional budget changes.

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Medicaid		
Medicaid income and eligibility documentation	Tighten Medicaid income and eligibility documentation enforcement	**Watch** for regulations or sub-regulatory guidance.
Potential Impacts	Many Potential Impacts: Example – for AHCA see "Impact of AHCA: 3-15-17"	

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	Proposed Federal Budget - HHS	
Older Americans Act	The Administration budget outline calls for a reduction in discretionary funding to the HHS budget of more than 18%, while there is literally no detail on how this would occur one would assume that this reduction would eliminate whole programs and mean significant reductions for others, this could be catastrophic for programs funded through the Older Americans Act. The *Older Americans Act (OAA)* provides Washington about $26 million each year- these funding provided services to 212,000 seniors (not receiving Medicaid) in FFY2016. The OAA funds essential services such as: • home delivered meals (Meals on Wheels), • rides to medical appointments or shopping, • Senior Center meals, • information and person-centered options counseling, • Adult Day Care, • legal services, and • Other services coordinated locally by a statewide network of Area Agencies on Aging. Even a 10% cut to these programs would mean a loss of: • 160,000 home delivered meals and 140,000 senior center meals; • 20,000 rides into the community; and • 22,000 information contacts. The services under the Older Americans Act exist to provide "just enough" assistance for many of our older citizens to maintain independence, dignity, and self-determination outside of the more costly Medicaid LTSS system. For many,	

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	their ability to remain independent and healthy at home is dependent on services such as those provided with OAA funding.	

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	Individual Market/Exchange & Medicaid Legislation	
American Health Care Act (Reconciliation Bill)	This bill would repeal or change critical components of the ACA, including ▪ Changing Tax credits/Eliminating CSRs ▪ Reducing Medicaid Expansion and Funding ▪ Eliminating Mandates ▪ Age Rating & Actuarial Value	**Watch.** Discussions continue in the House, with potential amendments.
Tax Reform Legislation (Summer 2017)	If ACA-related taxes not repealed through ACA "repeal and replace" legislation, risk of tax reform bill repealing taxes that are key to financing ACA.	**Watch**
2018 Labor/HHS Appropriations bill	Do not reduce implementation/enforcement/oversight resources to agencies that operate ACA programs, such as HHS/CMS and Treasury/IRS.	**Watch**

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Actions Already Taken

Executive/Regulatory Actions	
Executive Order 13765, issued on January 20, 2017	The executive order directed HHS and other federal departments to repeal and undermine the ACA "to the maximum extent permitted by law." Increases uncertainty for issuers and consumers about both the substance and timing of actions that could undermine the stability of the individual and small group insurance markets. Particular confusion has ensued around enforcement of the individual mandate.
Weakened Individual Mandate Enforcement	The IRS announced it would process tax returns, even if a person does not indicate whether they have health insurance coverage. Any pulling back of individual mandate enforcement creates greater uncertainty in the individual market because younger and healthier people can avoid purchasing coverage. An immediate and clear statement from the Administration/IRS is needed to clarify that this penalty will still be enforced.
Final Market Stabilization Rules	The rules make several changes for the 2018 plan year including: shortening open-enrollment (Nov 1-Dec 15); allowing carriers to reduce the actuarial value of plans; tightening eligibility for Special Enrollment Periods (SEPs), permitting more carriers more options to collect unpaid premium balances. These rules were finalized on April 13.
Risk Corridor Payments for CY 2014-2016:	The federal government owes insurers who offered coverage on exchanges roughly $8.3 billion from the ACA's risk-corridor program to offset losses on the exchanges from 2014 and 2015: • $5.8 billion in net risk-corridor payments for 2015.

Executive/Regulatory Actions	
	• $2.5 billion for 2014. Congress in 2014 passed a provision in the 2015 federal budget requiring risk corridors to be revenue-neutral, so CMS can only pay out what it takes in from profitable insurers. The risk-corridor program was established under the ACA to help offset insurer losses in the first three years of the exchanges. The program, which expired in 2016, was designed to discourage insurers from hiking premiums because of uncertainty about who would enroll in their plans. It works by requiring profitable insurers to pay funds into the program, while plans with higher medical claims receive money. A similar risk-corridor program exists in Medicare Part D.
Exchange Outreach/Marketing	The Trump Administration reduced ACA advertising/outreach for federal Marketplace 2017 enrollment in January 2017. Continued, robust outreach and marketing at the federal and state level is needed for 2018. Any decrease in outreach for individual market enrollment could result in fewer people enrolled and greater risk to individual market stability.