

# Interim Charge 11: 1332 waivers and federal health care changes

House Appropriations - S/C on Article II

---

STACEY POGUE

SENIOR POLICY ANALYST, [POGUE@CPPP.ORG](mailto:POGUE@CPPP.ORG)

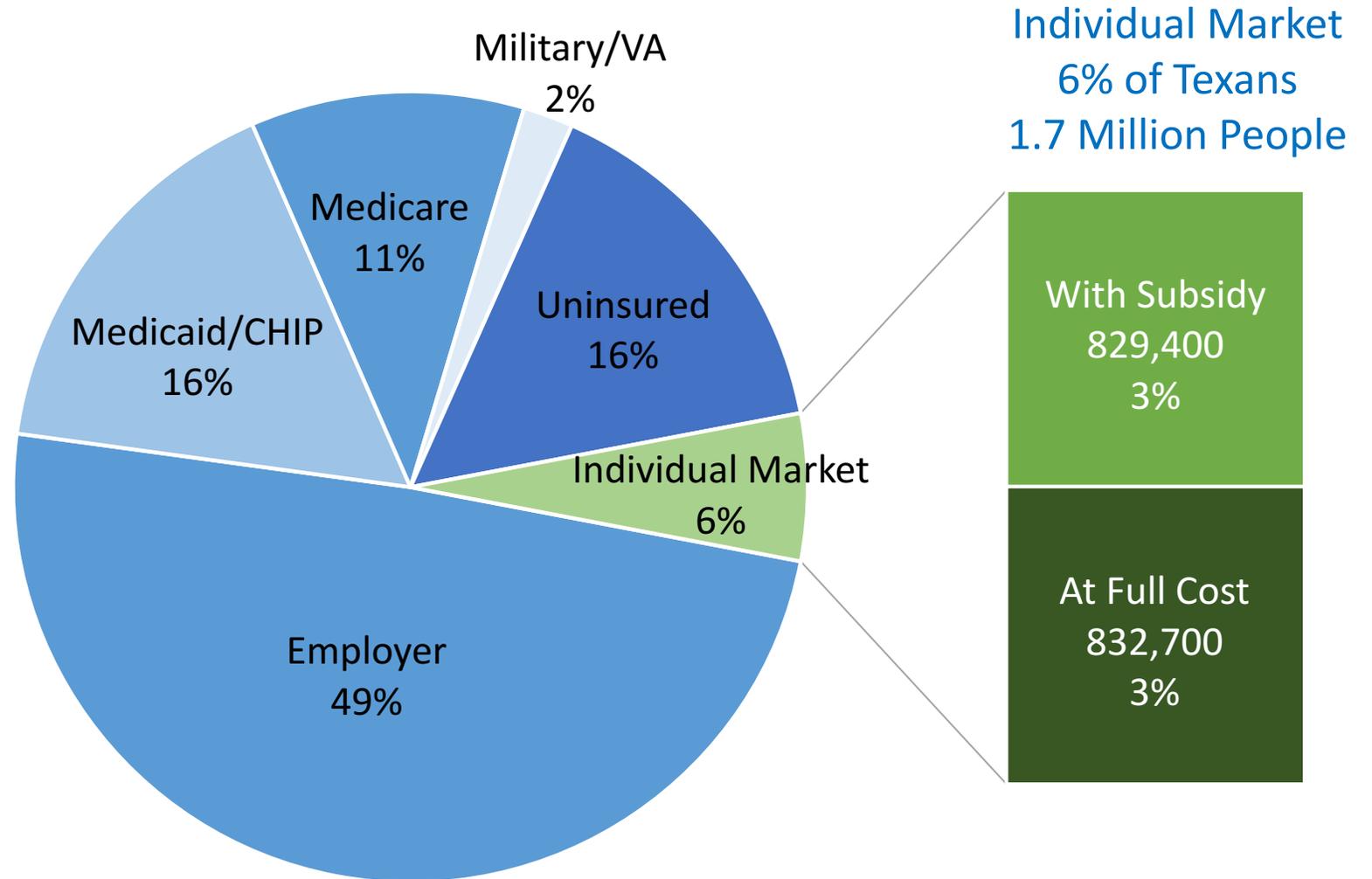
APRIL 4, 2018

# Takeaways: Federal Changes Weaken Texas Individual Market

- Individual market is a critical source of coverage for people who don't have job-based coverage, Medicaid or Medicare: self-employed individuals, small business owners/employees, part-time workers, low-wage workers, early retirees and their families.
- Individual market in Texas roughly doubled post-ACA. 1.7 Million people; 6% of Texans.
- Recent federal actions have introduced significant new uncertainty for 2019. The Urban Institute estimates an additional 20% rate increase for Texas for 2019. Middle and upper income enrollees will be hardest hit.
- Texas should commit to working to maintain market stability in a manner that protects consumer's access to comprehensive and affordable coverage.
  - State-level policies can mitigate instability
  - 1332 "State Innovation Waiver" reinsurance can lower premiums. Already in place in Alaska, Minnesota, and Oregon

The Individual Market is a Small but Critical Source of Coverage

## Health insurance coverage sources in Texas, 2016 all ages



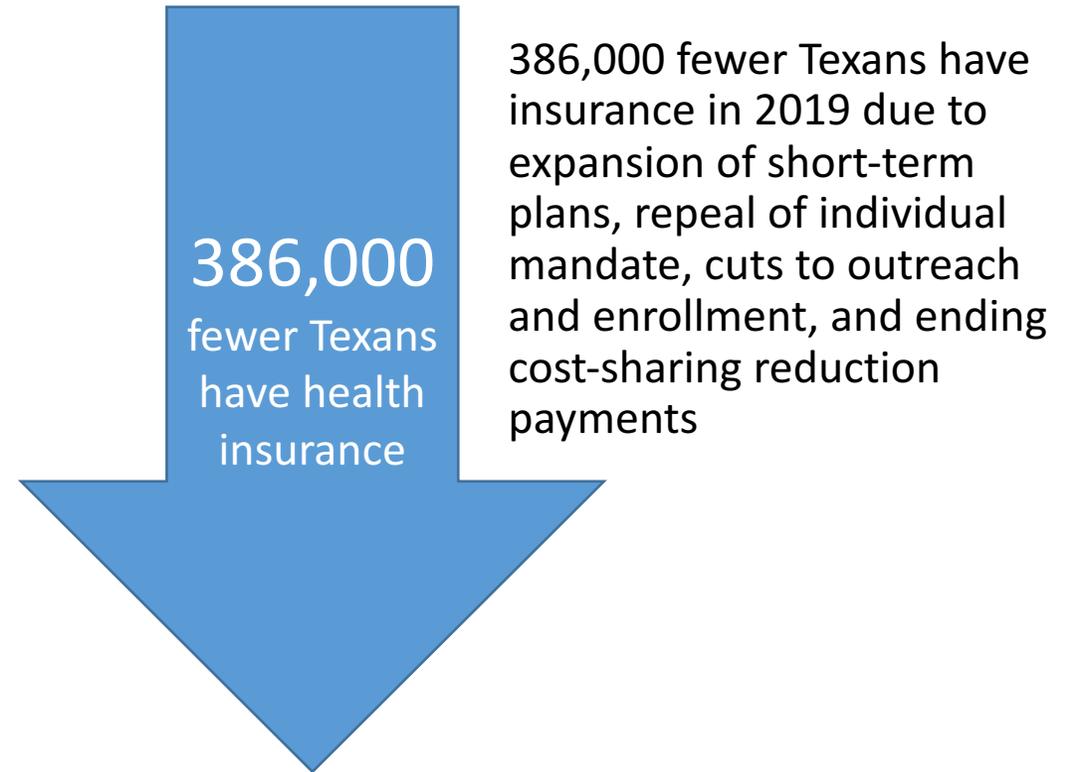
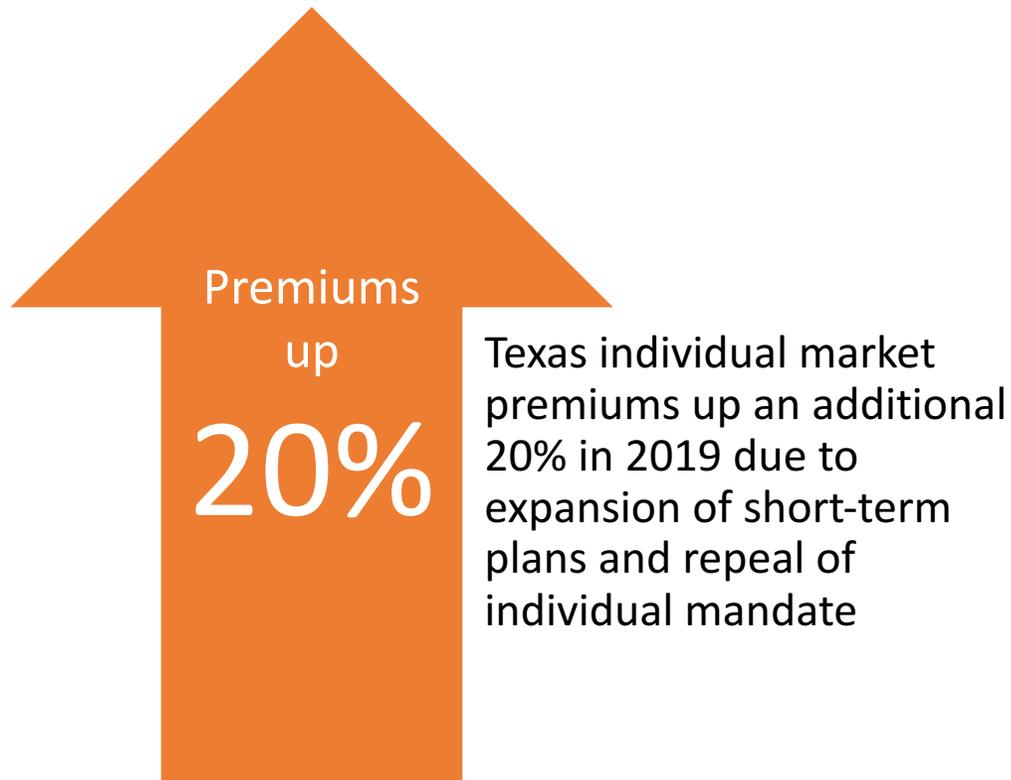
# Federal Actions Adding to Market Instability

These policies create “adverse selection.” Plans with skimpy coverage will “cherry pick” the healthiest people from the individual market. As less healthy people become concentrated in ACA-compliant plans, premiums will rise and choices will decline.

Middle class individuals who have pre-existing conditions or need comprehensive coverage will be hardest hit.

- Congress repeals individual mandate, effective in 2019.
  - American Academy of Actuaries: Eliminating mandate will increase premiums; may weaken solvency and cause insurer market withdrawals. Possible “severe market disruption and loss of coverage.”
  - Congressional Budget Office: Premiums will increase by 10%
- Proposed rule to expand short-term, limited duration plans not subject to the ACA. Can deny coverage or charge more due to pre-existing conditions
  - Urban Institute [estimates](#) TX individual market premiums will rise 20% in 2019 over what they would have been due to short-term health plans & repeal of individual mandate
- Proposed rule to expand “association health plans.” AHPs do not fully comply with ACA. Will be designed to attract healthier individuals. History of scams & insolvency
  - American Academy of Actuaries: “AHPs could result in unintended consequences such as market segmentation that could threaten non-AHP viability and make it more difficult for high-cost individuals and groups to obtain coverage.
- Recent policy changes that discourage enrollment: Marketplace ad budget cut by 90%; Navigator funding cut by 40%; open enrollment period cut in half

# Harm to Texans: Premiums Up, Coverage Down



# State Policy Options to Increase Stability

- Pursue 1332 State Innovation Waiver for high-risk reinsurance pool funding to lower premiums
  - State share needed. Does not have to be GR.
  - Former TX high risk pool used no GR. Assessment on insurers generated \$70 million/year on average and hospitals contributed \$20 million/year on average from insurer prompt pay penalties to support low-income subsidy.
- States regulate short-term plans. States can:
  - Limit duration and renewability, so they are stop-gap coverage as intended.
  - Apply minimum benefit standards
  - Improve disclosures
  - Increase oversight of deceptive marketing
- States have broad authority today to regulate association health plans. If not pre-empted in final rule, states can align standards for AHPs with the rest of the market to limit adverse selection
- Boost marketing, outreach, and enrollment assistance
- State individual mandate or alternative policies to encourage enrollment before people get sick

# Background Slides

# 1332 Waivers

**Purpose:** Allow states to undertake different approaches to achieving ACA core goals

## Statutory Guardrails

Waiver must:

- Cover comparable number of people
- Maintain affordability of health coverage (premiums and cost-sharing)
- Provide benefits as comprehensive as “essential health benefits,” and
- Not increase the federal deficit

## Other Provisions

- 5 year term. Renewable
- Public input process
- Allows federal “pass-through” funding: savings states policies create in federal subsidies can be returned to the state for reinsurance or invisible high risk pool funding

# 1332 Waiver: What Can Be Waived

## Waivable

- Individual and large employer mandates
- Requirements for state exchanges
- Essential health benefits
- Metal levels
- Single risk pool requirement
- Premium and cost-sharing subsidies

## Not Waivable

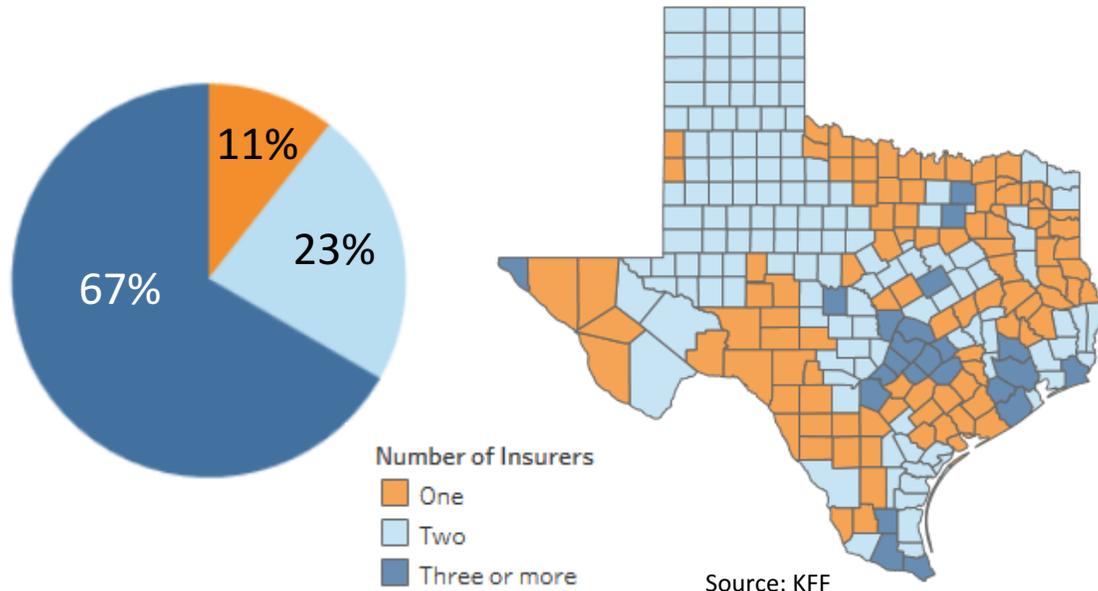
- Ban on denying coverage or charging more based on pre-existing conditions
- Ban on annual and lifetime limits
- Preventive care coverage requirements
- Age-rating limits
- Anti-discrimination protections
- Medicaid and CHIP provisions

# Select State 1332 Waiver Activity

State	Status	Key provisions
Hawaii	Approved	Forego SHOP exchange, maintain existing employer premium assistance program
Alaska	Approved	Federal pass-through funding for condition-specific reinsurance. Premiums down 20% in state's only insurer. Trump administration has encouraged other states to view as a model
Oregon	Approved	Reinsurance with pass-through funding
Minnesota	Partial approval	Reinsurance with pass-through funding
Oklahoma	Initial application withdrawn; another under development	Reinsurance with pass-through funding. Withdrawn when it was not approved in time for 2018 coverage
Iowa	Withdrawn	Create one standardized plan; eliminate cost-sharing assistance for low-income; replace sliding-scale subsidies with flat tax credit; reinsurance. Waiver unlikely to have complied with guardrails
Massachusetts	Denied	Create state-administered cost-sharing reductions payments. Deemed too close to 2018 open enrollment to be workable
Idaho	Under development	Make "Coverage Gap" population eligible for Marketplace subsidies.

# 2018 Texas Marketplace

## OPTIONS



- 67% of Texans are in counties where 3 or more insurers offer Marketplace plans
- 11% of Texans in counties with only 1 Marketplace insurer
- 8 insurers in 2018 Texas Marketplace

## ENROLLMENT

	Plan Selections during Open Enrollment:		% change
	2017	2018	
Texas	1.2 million	1.1 million	-8%
States Using HealthCare.gov	12.2 million	11.8 million	-4%

Sources: CMS and NASHP

Dip in enrollment for 2018 likely driven by:

- Enrollment period cut in half
- Ad budget cut by 90%
- Enrollment assistance funds cut by 40%
- Premium increases for middle/upper income
- Confusion about penalty/status of ACA

# Repeal of Individual Mandate Causes Higher Premiums and More Uninsured



**Congressional Budget Office:** Individual market premiums up 10% over current law. 4 million more uninsured in 2018 and 13 million more by 2025.



AMERICAN ACADEMY of ACTUARIES

**American Academy of Actuaries:** Eliminating mandate will increase premiums; may weaken solvency and cause insurer market withdrawals. Possible “severe market disruption and loss of coverage.” 11/21/17 letter to Senate



AHIP  
America's Health Insurance Plans



AMERICAN ACADEMY OF FAMILY PHYSICIANS  
STRONG MEDICINE FOR AMERICA



American Hospital Association



BlueCross BlueShield Association  
An association of independent Blue Cross and Blue Shield companies



AMA  
AMERICAN MEDICAL ASSOCIATION



Federation of American Hospitals

**Health care/coverage providers:** “Eliminating the individual mandate by itself likely will result in a significant increase in premiums, which would in turn substantially increase the number of uninsured Americans...There will be serious consequences if Congress simply repeals the mandate while leaving the insurance reforms in place: millions more will be uninsured or face higher premiums, challenging their ability to access the care they need.” 11/14/17 joint letter to Congress



Cancer Action Network



American Heart Association  
life is why™



march of dimes  
A FIGHTING CHANCE FOR EVERY BABY™



AMERICAN LUNG ASSOCIATION



Arthritis Foundation



CYSTIC FIBROSIS FOUNDATION  
ADDING TOMORROWS



MS  
National Multiple Sclerosis Society



American Diabetes Association



Women Heart  
The National Coalition for Women with Heart Disease



EPILEPSY FOUNDATION



Volunteers of America



Lutheran Services in America



FAMILY VOICES



METAVIVOR  
Metabolic Disease Control, Awareness, Research and Support



project sleep



AMERICAN LIVER FOUNDATION  
Your Liver. Your Life.



National Alopecia Areata Foundation



UOAA  
United Osteoarthritis Foundation



DYSTONIA MEDICAL RESEARCH FOUNDATION

**Patient Groups:** “Repealing the individual mandate without other wise increasing access to adequate, affordable health insurance is a step backwards for individuals and families. We are deeply concerned that premium increases will fall disproportionately on patients with pre-existing conditions who have little choice but to remain in a much smaller market, provided they can even afford to do so.” 11/28/17 joint letter to Senate