

★ INSURANCE RATES COULD SOAR IN 2019

Removal of ACA's individual mandate seen as main driver in rising cost of health coverage

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Insurance premiums could rise sharply in January, as measures to undercut the Affordable Care Act start to take effect.

In New York State, 14 insurance companies are asking for a weighted average hike of 24 percent, with individual requests ranging from an actual rate cut to up to a 38.6 percent increase. The highest rate hike was requested by Fidelis Care, which this year has the largest share of enrollment statewide — 41 percent — in individual qualified health plans.

The state's Department of Financial Services will announce the approved rate hikes in August. According to the department, the individual rate hike requests are on average close to 12 percent higher than they would have been if the individual mandate under the ACA were still enforced.

Twelve of the 14 insurers in the state offer plans on the New York State of Health marketplace exchange. The weighted average rate hike requested for small group plans was 7.5 percent. The average is weighted based on insurers' market share.

The federal tax legislation enacted last fall removed tax penalties for individuals who fail to purchase a health insurance policy. Under the ACA, in-

BY THE NUMBERS

24%

Weighted average hike in insurance premiums requested for 2019 by 14 insurance companies in New York State

38.6%

Highest percent rate increase requested by an insurance company, according to the state's Department of Financial Services

dividuals were mandated to buy insurance, and penalized for not doing so, in an attempt to motivate young and healthy people to buy insurance they may not personally use. If only sicker and older people buy — and use — insurance, premiums are driven higher.

Last year, insurers in New York State asked for a weighted average hike of 17.7 percent, which the Department of Financial Services cut to an approved overall rate hike of 13.9 percent. Many people buying policies on the exchange qualify for subsidies and payments to help lower premiums and out-of-pocket expenses. But those whose in-

comes are too high to qualify for subsidies or tax credits are not insulated from the effect of rising premiums.

Chipping away

The Trump administration is continuing its efforts to chip away at the ACA, which Congress tried and failed to repeal last year, and recently issued a proposed regulation that would allow insurers to offer short-term health insurance policies for up to a day short of a full year. Currently, the law allows short-term plans, for just under three months, that cost less than normal plans while offering fewer benefits.

In response, Department of Financial Services Superintendent Maria T. Vullo sent a letter to insurers on June 21 saying that short-term, limited-duration health insurance plans are prohibited in New York State regardless of potential federal regulatory changes.

"The so-called limited-duration health plans envisioned by the Trump administration's proposed rule are nothing more than an end run around the Affordable Care Act to further sabotage the existing health insurance marketplace," said Vullo in a statement released June 21. "A 364-day health plan is not a short-term policy but is a fiction that is being fabricated to undermine the integrity of the Afford-



Flyers at an Affordable Care Act outreach in Dallas last year. Last

able Care Act and its important consumer protection. Such plans would entice people to buy junk insurance that provide little in the way of genuine coverage and would drive up rates by eroding membership in existing plans."

Short-term limited-duration plans are exempt from protections afforded consumers under the Affordable Care Act, including essential health benefits, her statement said, adding that short-term plans could, for example, deny coverage for pre-existing conditions and impose annual and lifetime benefit limits.

"Despite the noise and rhetoric from President Donald Trump and his administration, the Affordable Care Act is still the law of the land," Vullo said in a statement, adding that the state would enforce state laws and regulations requiring individual and small group accident and health insurance policies, as well as student accident and health insurance policies, to "cover the same categories of essential health benefits that currently apply through the ACA regardless of whatever ac-

tions the federal government takes to undermine the law."

While state law offers consumer protections to insurance company policyholders, millions of New Yorkers — almost half of workers in employer-sponsored coverage — have health coverage not regulated by state law. Employers who offer self-insured health plans are not considered insurers, even if an insurance company administers the plan. Employees may believe they have private insurance through a regulated insurer because the insurer's name is on their paperwork. But such self-insured plans are considered an employee benefit under a federal statute known as ERISA, the Employee Retirement and Income Security Act, and are exempt from state insurance regulations and essential benefit requirements.

'Back to the pre-ACA'

State Sen. Kemp Hannon (R-Garden City), chairman of the State Senate Health Committee, said it was not clear what would happen with those plans should the ACA's

Trump: Unlikely to query court candidates on Roe

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President Donald Trump, in a Fox News interview that aired Sunday, said he will “probably not” ask his potential Supreme Court nominees their opinions on the landmark *Roe v. Wade* decision that legalized abortions in 1973, despite his top contenders hailing from a list compiled by a conservative organization opposed to abortions.

Trump, in a pretaped interview, told Fox News host Maria Bartiromo he was advised against asking potential nominees narrow questions on specific court decisions as he weighs a replacement for Supreme Court Justice Anthony Kennedy, who announced his retirement Wednesday.

“I don’t think I’ll be so specific on the questions I’ll be asking,” said Trump, who has previously announced he will name his pick on July 9.

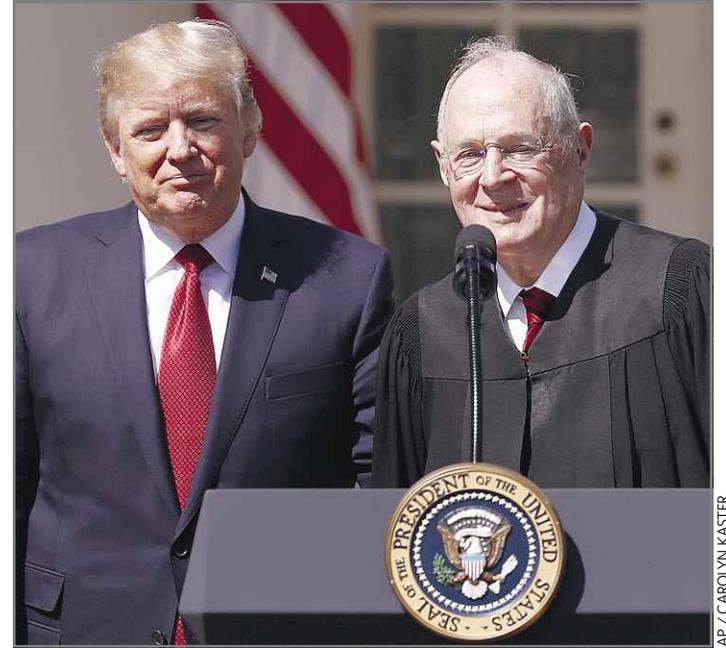
Trump is considering nominees from a list of 25 contenders screened and approved by the Federalist Society, a conservative legal organization that has long opposed *Roe v. Wade*. As a presidential candidate, Trump stated his intent to put “anti-abortion justices on the court,” when asked during a presidential debate whether he wanted the Supreme Court to overturn *Roe v. Wade*.

“Well, if we put another two or perhaps three justices on, that’s really what’s going to be — that will happen,” Trump said during an October 2016 presidential debate.

Sen. Susan Collins (R-Maine), a moderate who has often opposed legislation supported by Trump, said on CNN’s “State of The Union” that she wants the president to “broaden his list” beyond the 25 potential picks circulated by the White House. Collins said she was not comfortable with all of the candidates.

“I would not support a nominee who demonstrated hostility to *Roe v. Wade*, because that would mean to me their judicial philosophy did not include a respect for established decisions, established law,” Collins said of the landmark 1973 Supreme Court ruling.

Asked by Bartiromo if his replacement would be modeled



Trump said Justice Anthony Kennedy “ended up being a little more neutral than a lot of people would have preferred.”

after Kennedy, 81, a conservative appointed by Ronald Reagan who sided with the court’s liberal judges in several key cases, Trump said: “Maybe so.”

“Justice Kennedy ended up being a little more neutral than a lot of people would have preferred,” Trump said.

Speculation about the president’s selection reverberated on the Sunday morning talk show circuit.

Leonard Leo, executive vice president of the Federalist Society, who is advising Trump on the nomination, said on “Fox News Sunday” that “*Roe v. Wade* is a very major precedent in America. And for . . . years, people have been talking about it being overturned.”

“I don’t think at the end of the day, it’s about *Roe v. Wade*. It’s about having judges on the court who are going to interpret the Constitution the way it’s written,” Leo said.

Sen. Maria Cantwell (D-Wash.) said on NBC’s “Meet The Press” that unlike in 2017, when Trump picked Neil Gorsuch to replace conservative Justice Antonin Scalia, who died in 2016, “This is a very different Supreme Court discussion, because everyone in the United States Senate who’s going to vote on this knows that it will change the balance of power.”

Also Sunday, Trump used the

Fox News interview to defend his trade policies. The president has come under criticism from U.S. allies now facing a series of new tariffs on steel and aluminum, and from business groups who argue an escalating global trade war will increase production costs.

When asked if he should be “calling out” private companies such as Harley Davidson, the motorcycle manufacturer, which announced last week it was shipping some of its production overseas in response to Trump’s tariffs, the president said, “Yes, I should.”

He added that he will likely wait until after November’s selection to sign a new North American Free Trade Agreement with Canada and Mexico.

“NAFTA, I could sign it tomorrow, but I’m not happy with it. I want to make it more fair, OK?” Trump said.

Asked what he could do to bring the country together amid growing political polarization, Trump said: “There’s probably never been a base in the history of politics in this country like my base. I hope the other side realizes that they better just take it easy.”

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fall’s tax bill eliminated individual mandate for health insurance.

protections be overturned. “The ACA put in a number of different protections for health insurance coverage,” he said. Without them, “you go back to the pre-ACA. Some companies would not have prior pre-existing conditions covered and some would.”

Many big companies used good insurance as a recruiting tool, he said, and the question is whether they would continue to. “Will the companies that want to be competitive stay being competitive?” he said. “The other ones may decide they want to economize. We don’t know.”

Hannon said he worried more about potential cuts to other health care programs, such as funding assistance for graduate medical education. “We get more than any other state.” He added, “I would say all of this debate has introduced an unwanted element of uncertainty and that’s not something you really need to have happen.”

The state already embeds ACA requirements for state-licensed insurers to cover pre-ex-

isting conditions, charge all policyholders the same rates, and offer an array of essential benefits, according to state officials.

Assemb. Richard Gottfried (D-Manhattan), who chairs the Assembly Health Committee, said that while the state cannot impose requirements on the large group self-insured employer plans, it could take further action in response to the loss of federal ACA protections for individuals. “There would be a lot to be said for New York State enacting its own individual mandate,” he said, if the lack of a federal mandate results in more people opting out of buying health insurance, thus driving up premium costs.

He said the Assembly has for the last four years passed his NY Health Act, which would abolish insurance companies and create a single-payer plan with state health insurance that he said would cost far less than the current system. He said it fell one vote short of passing the State Senate. Gov. Andrew M. Cuomo proposed further study, he said.

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