Stakeholders Worry Ways & Means Reconciliation Measures Would Decimate Exchanges

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While much of the attention has been on the House Energy & Commerce Committee's large-scale changes to Medicaid, the Ways & Means Committee also approved significant changes to the Affordable Care Act in its portion of the massive reconciliation package heading to the Rules Committee as early as Monday (May 19). Among the myriad health policies buried in the W&M text that passed along party lines Wednesday are several measures that would limit access to the ACA's premium tax credits, including one that ends tax credits for most lawfully present immigrants and another that would essentially bar automatic reenrollment

Stakeholders, including exchange officials, insurers and advocates, say the combined effect of the proposed Medicaid and ACA cuts would devastate both programs.

During the marathon W&M markup, Democratic lawmakers repeatedly bashed Republicans for supporting policies that would throw millions off health care, including by failing to extend the enhanced ACA tax credits that expire at the end of the year, and unsuccessfully offered several amendments that would make those subsidies permanent. California Rep. Judy Chu (D) also offered an amendment that would strike the policies that she says sabotage the ACA, which failed along party lines.

"These were simple, common-sense proposals to protect working Americans from the worst parts of this bill. But every single Republican on the Committee voted no," Chu said. "Millions will be left without the food assistance they need to survive. People across the country will lose the tax credits that make health coverage affordable or be locked out of coverage altogether. Hospitals will be pushed to the brink of closure, emergency room visits will skyrocket, and seniors will be kicked out of their nursing homes."

Ways & Means policies that affect the ACA include newly barring most lawfully present immigrants from accessing the premium tax credits -- including DACA recipients, those seeking asylum and many others, effective for plan year 2027. The W&M bill also repeals as of the end of this year the special rule that granted lawfully present immigrants' access to premium tax credits even if they earn less than 100% of the federal poverty level. According to the Joint Committee on Taxation (JCT) the two policies raise about $116 billion in the 2025-2034 budget window.

The bill also makes significant changes to the enrollment process, including by barring auto-reenrollment. Under the bill, premium tax credits would be unavailable to consumers until their eligibility to enroll and to access the credits been verified, including during the 90-day data matching period.

“Therefore, the proposal prohibits passive reenrollment,” according to a JCT description of the provision. The PTCs would also be unavailable to any consumer who failed to file their taxes, and to reconcile any changes between their estimated income and actual earnings that may result in overpayment or underpayment of tax credits.

And Exchanges must set up a pre-enrollment verification process that would allow consumers to confirm their eligibility for enrollment, tax credits and cost-sharing reductions for the following plan years as of Aug. 1. The policy would go into effect in 2028 and JCT estimates it would increase revenue by about $41 billion.

Way & Means also resurrects a plan floated earlier this year that removes the limitations on the amount of PTC overpayments that must be repaid by exchange beneficiaries that earn less than 400% of poverty. Current law restricts those payments to protect lower-income enrollees whose actual earnings were more than estimated from facing significant tax bills. Congress previously increased those limits to glean savings. Completely axing the limits, effective Dec. 31, would raise $19.5 billion, according to JCT.

The bill also addresses the special enrollment period for low-income consumers, which CMS proposed to axe as of Jan. 1, 2026, in a draft rule that the Energy & Commerce Committee bill would largely codify. Under the W&M bill, premium tax credits could not flow to anyone enrolling through that SEP starting three months after the bill is enacted. JCT says the policy would increase federal revenue by $41 billion.

Prior to the markup, Meg Murray, president and CEO of the Association for Community Affiliated Plans (ACAP), issued a statement outlining the lobby’s concerns with some of the proposals. Requiring exchanges to conduct pre-enrollment verification for all applicants would create rampant problems for new consumers and “wreak havoc” on the auto-reenrollment process, Murray said.

ACAP doesn’t take a position on immigration policy, but the lobby says that stripping tax credits from DACA recipients and other lawfully present immigrants would be devastating to the marketplaces and the health system in general. Making it more difficult for these consumers to get coverage drives up emergency room usage and ultimately increases hospitals’ uncompensated care costs, Murray says. “Such costs are ultimately absorbed into hospital operating costs and have the effect of raising provider reimbursement costs for all forms of coverage-- subsidized or not--and increasing costs to all insured Americans,” she adds.

The lobby also worries about the proposal to eliminate the limits on recapturing premium tax credit overpayments, and how it would affect the lower-income consumers who may not have been able to predict their income and suddenly find themselves with a large tax bill.

“We are also fearful that knowing they could be liable for a significant tax bill if their estimate is off, that fewer people will enroll in coverage and will instead remain uninsured,” ACAP says.

Jenny Sullivan of the Center on Budget and Policy Priorities says the demand that people return to the exchange and affirm their eligibility data -- even if it hasn’t changed -- is particularly concerning. Healthcare.gov and the state-based exchanges have used automatic re-enrollment since they were established. While consumers are encouraged to return to exchanges to shop for plans during open enrollment, many people don’t.

Sullivan looked at CMS’ recently released public use files for the 2025 open enrollment that showed about 54% of healthcare.gov users were passively enrolled -- but that rate jumps to 76% for consumers in the state-based exchanges.

The new proposals come at the same time premiums and cost-sharing will be increasing due to changes proposed in CMS’ marketplace rule, she says.

Sullivan also expects to see erosion in the marketplace risk pools should the policies be implemented. Adding red tape to the process makes it more likely that only those who are extremely motivated to enroll will do so, while those without an urgent need for coverage are less willing to tolerate the hassle, she points out. So the pools are likely to be sicker.

Michelle Eberle, director of Maryland’s Health Benefit Exchange, tells *Inside Health Policy* that it would be extremely difficult for exchanges to get system changes and communications ready to implement policies with a Jan. 1, 2026, effective date. Exchange directors intend to highlight the timeline issue when talking to Congress.

Eberle says that while some of the exchange-related policies advancing through the House were expected - including the move to codify CMS’ marketplace rule -- other significant changes caught her by surprise -- like taking away the tax credits from the lawfully present residents.

That’s 34,000 people in Maryland, Eberle says.
Another 190,000 people could face higher taxes due to the removal of the limitation on repayments.

Stripping the credits from lawfully present residents has ripple effects on other programs too, Eberle says, pointing out that would reduce the pass-through dollars for the state's reinsurance program.
The pre-enrollment verification is also problematic because it introduces unnecessary barriers for consumers and increases the administrative burden on the exchanges. Currently about 98% or 99% of renewals on Maryland's exchange are automatically re-enrolled, and the exchange verifies data through state-based sources, she says.

Cheryl Fish-Parcham, director of private coverage at Families USA, also points out that Congress -- and CMS -- have suggested auto-reenrollment changes are needed to address fraudulent activity. But state-based exchanges didn't face the same surge of unauthorized enrollment and plan switches as healthcare.gov.
It's a one-fits-all solution to a problem that doesn't exist in those markets, she says of the verification requirements.

With the bill moving through the House, Eberle says exchange directors will be working to make sure the Senate is aware of the challenges with the timeline, and to stress that by undermining the marketplaces the legislation would leave people ineligible for Medicaid with no coverage options.

Under the Energy & Commerce bill anyone who doesn't meet the work requirements is also ineligible for exchange tax credits. That's another move that singles out low-income people -- and it would be particularly harmful to early retirees, Eberle says.

Fish-Parcham and Families Executive Director Anthony Wright also stress the "stark contrast" between how the legislation treats low-income people compared to wealthier Americans.

The Ways & Means bill doubles down on the Energy & Commerce's legislation policies that make it harder to get on and stay on health care coverage by adding administrative burdens and costs, says Wright, adding that the new red tape is particularly aggravating.

Everyone understands that the health system is difficult to navigate, but after the nation finally figured out a way to make signing up for and keeping coverage simpler -- the legislation would undermine that process. Even more frustrating is that it is being done intentionally, says Wright. -- *Amy Lotven* (alotven@iwpnews.com)