



Legal and Legislative Updates

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Agenda

- 01** ACA Update
- 02** EEOC v. AARP – Wellness update
- 03** Out-of-Network Services Updates
- 04** EEOC Expansion of Title VII
- 05** High Cost Rx Claims



ACA Updates

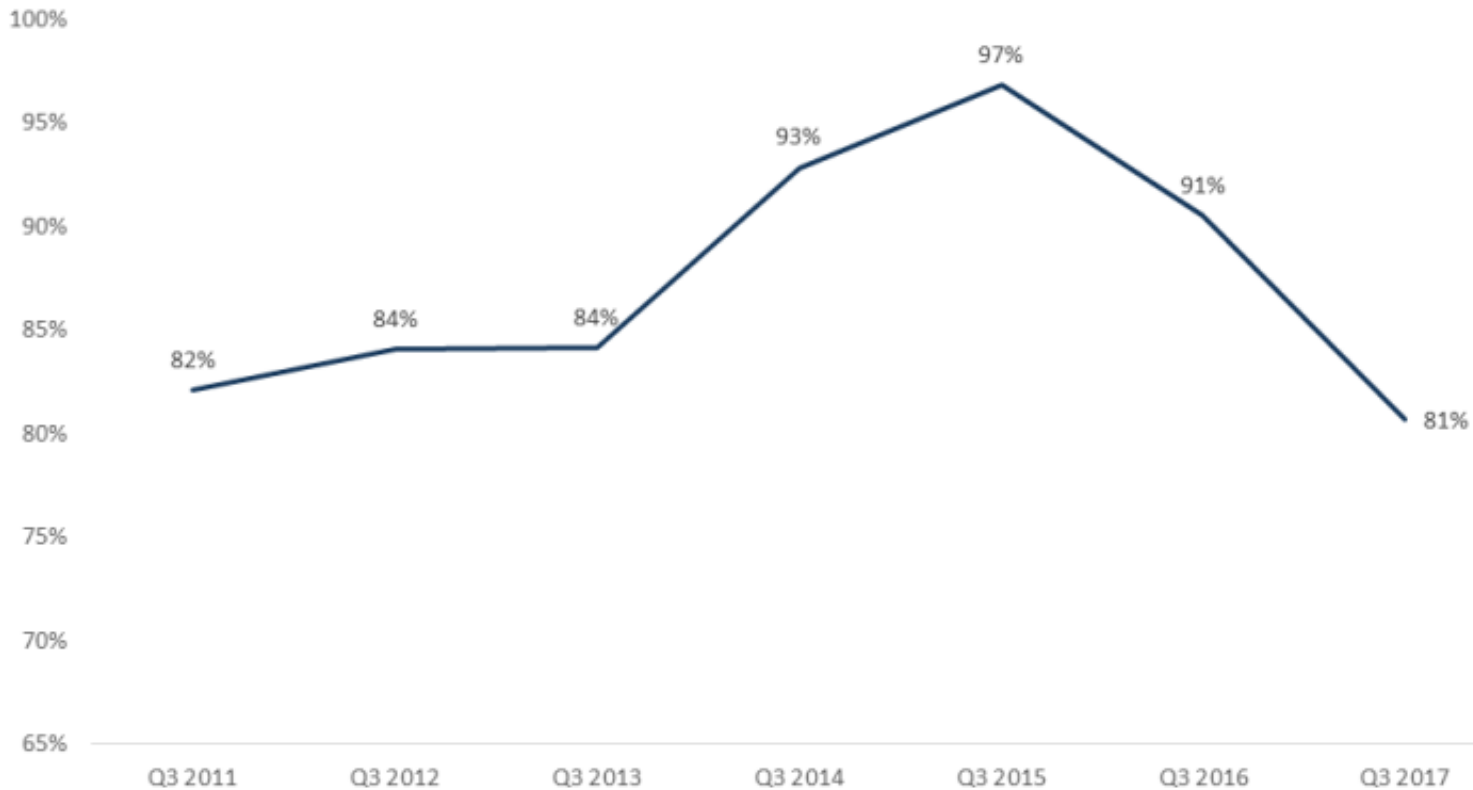
ACA Updates – Regulations



- Five Big Things in NBPP Regs:
 - Flexibility in Selecting Benchmark Plans
 - New Individual Mandate Hardship Exemptions
 - Relaxation of Medical Loss Ratio Standard
 - Closer Scrutiny on Subsidy Eligibility
 - Extension for “Grandmothered” Plans

Figure 1

Average Third Quarter Individual Market Medical Loss Ratios, 2011 - 2017



Note: Q3 data is year-to-date from January 1 – September 30

Source: Kaiser Family Foundation analysis of data from Mark Farrah Associates Health Coverage Portal TM. Note: Figures above represent simple loss ratios and differ from the definition of MLR in the Affordable Care Act



Figure 1: Average Third Quarter Individual Market Medical Loss Ratios, 2011 – 2017

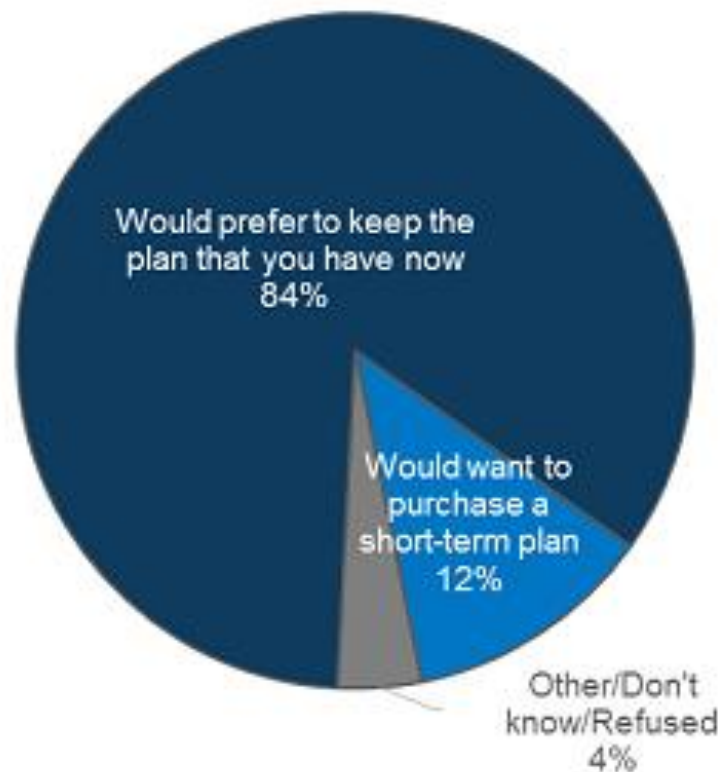
ACA Updates – Other



- Executive Order:
 - Association Health Plans
 - Short-term, Limited Duration Insurance
 - HRA Expansion
- Legislative Action?
 - Seems unlikely....
 - Many clamoring for market stabilization
 - Consider:
 - Upcoming elections
 - ACA penalty notices

Few Non-Group Enrollees Say They Would Want to Buy A Short-Term Insurance Plan

Some are proposing a type of insurance plan called a short-term plan that would last up to 12 months and would not be renewable at the end of the year. These plans would cost significantly less but provide fewer benefits and not pay for care for pre-existing conditions. If you had the opportunity, would you want to purchase such a plan, or would you prefer to keep the plan that you have now?



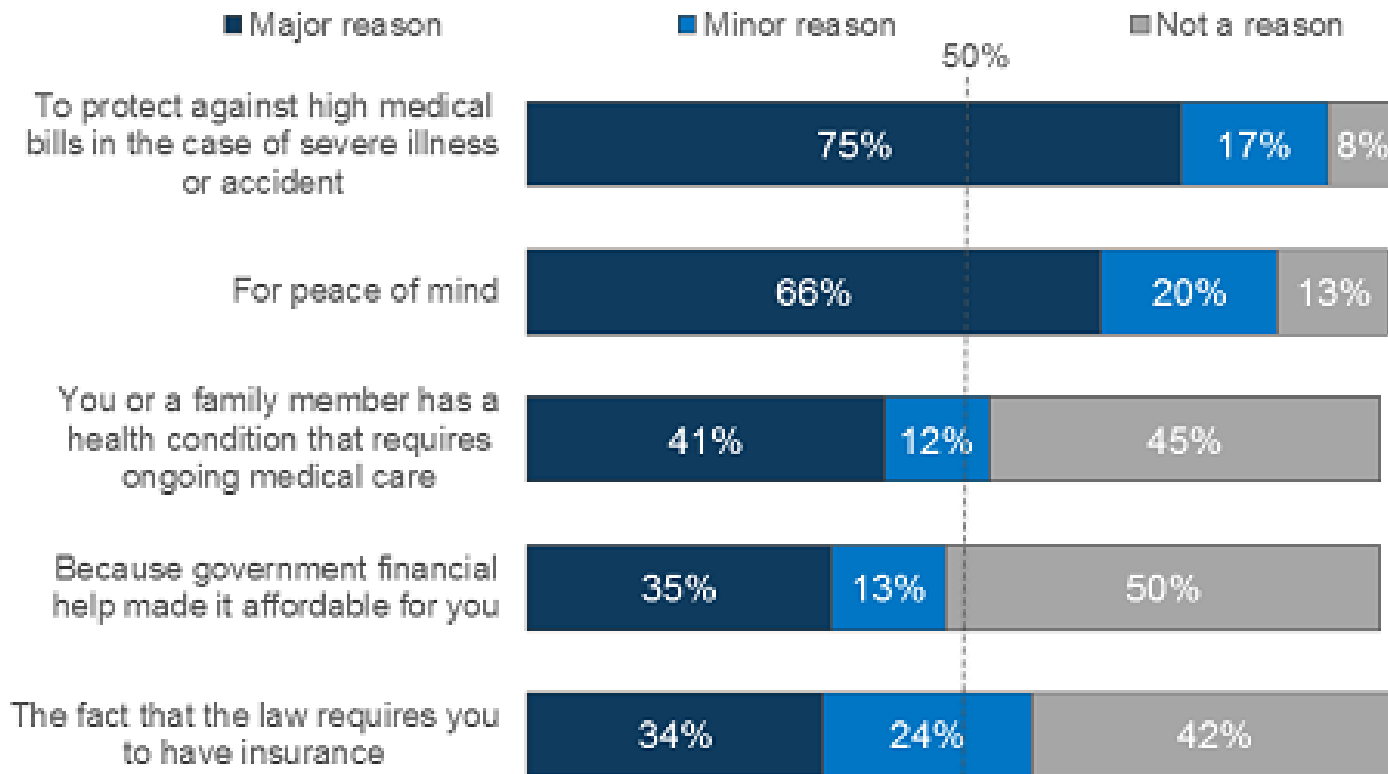
NOTE: Other includes "It depends" (vol.) responses.

SOURCE: KFF Health Tracking Polls (interviews from February and March 2018)



High Medical Bills, Peace of Mind Top Reasons For Why Non-Group Enrollees Buy Insurance; Fewer Say Mandate

AMONG NON-GROUP ENROLLEES AGES 18-64: Is each of the following a major, minor, or not a reason why you chose to purchase your own insurance?

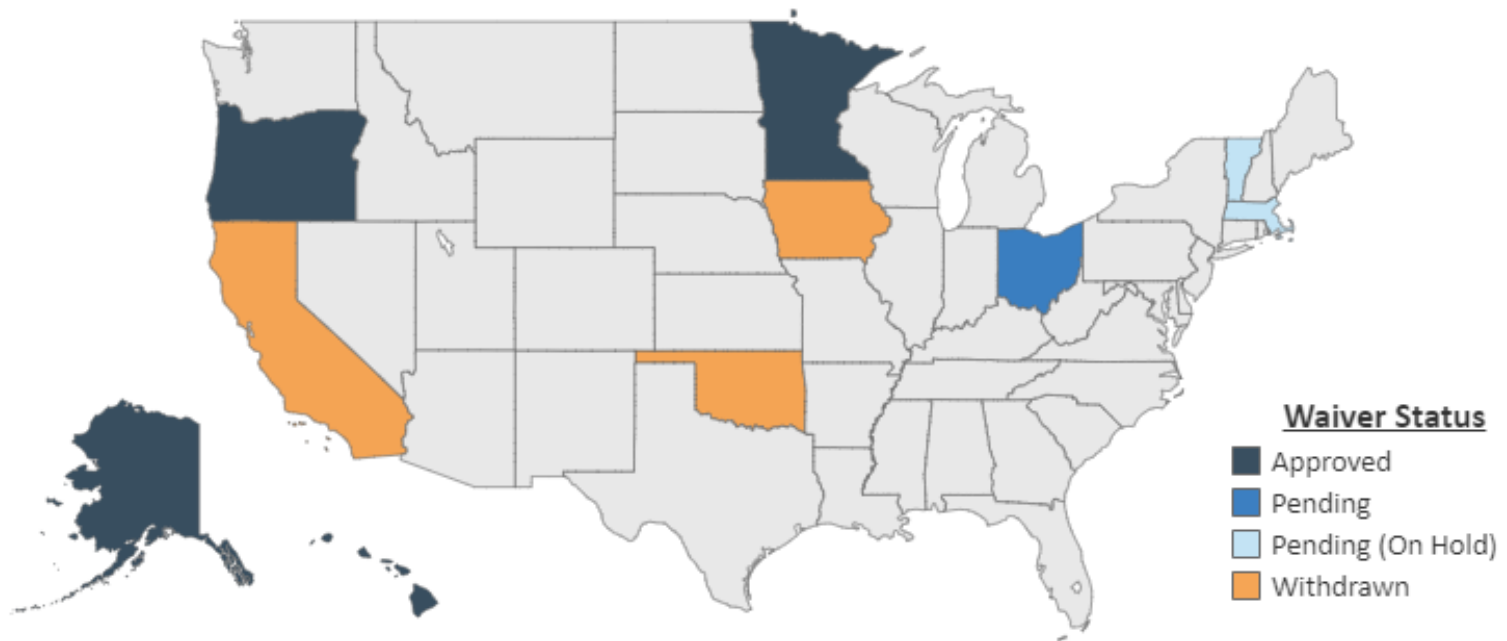


NOTE: Don't know/Refused responses not shown.

SOURCE: KFF Health Tracking Polls (interviews from February and March 2018)



Section 1332 State Innovation Waivers



Source: Kaiser Family Foundation



Wellness Updates

Wellness Updates



- Background:
 - HIPAA wellness rules in 2014
 - EEOC wellness rules (finally) in 2016
- AARP challenged EEOC guidelines, said they were too employer-friendly
 - AARP won case (sort of)
 - Regs vacated effective in 2019 unless EEOC issues new regs
- Remember:
 - HIPAA guidelines remain in effect
 - Absence of EEOC regs do not prohibit EEOC enforcement



Out-of-Network Services

Out-of-Network Services



- Emergency Services – Pricing
 - ACA says OON emergencies must at least be reimbursed at greatest of three:
 - Median in-network
 - Medicare
 - UCR
 - What is your plan doing? (Hint: most are paying billed charges)
- Out-of-network claims
 - Handle with caution
 - Focus on request for documents
 - Ensure TPA is not over-representing what the plan covers



EEOC Expansion of Title VII

EEOC Expansion of Title VII



- Title VII protects against discrimination on the basis of
 - race,
 - color,
 - religion,
 - sex and
 - national origin
- Second Circuit & EEOC: “Sex” extends to stereotypes of sexual norms, including choice of partner
- Natural extension: discrimination on basis of gender identity
- BUT...
 - New EEOC coming soon...



High Cost Rx Claims Management

High Cost Rx Claims Management



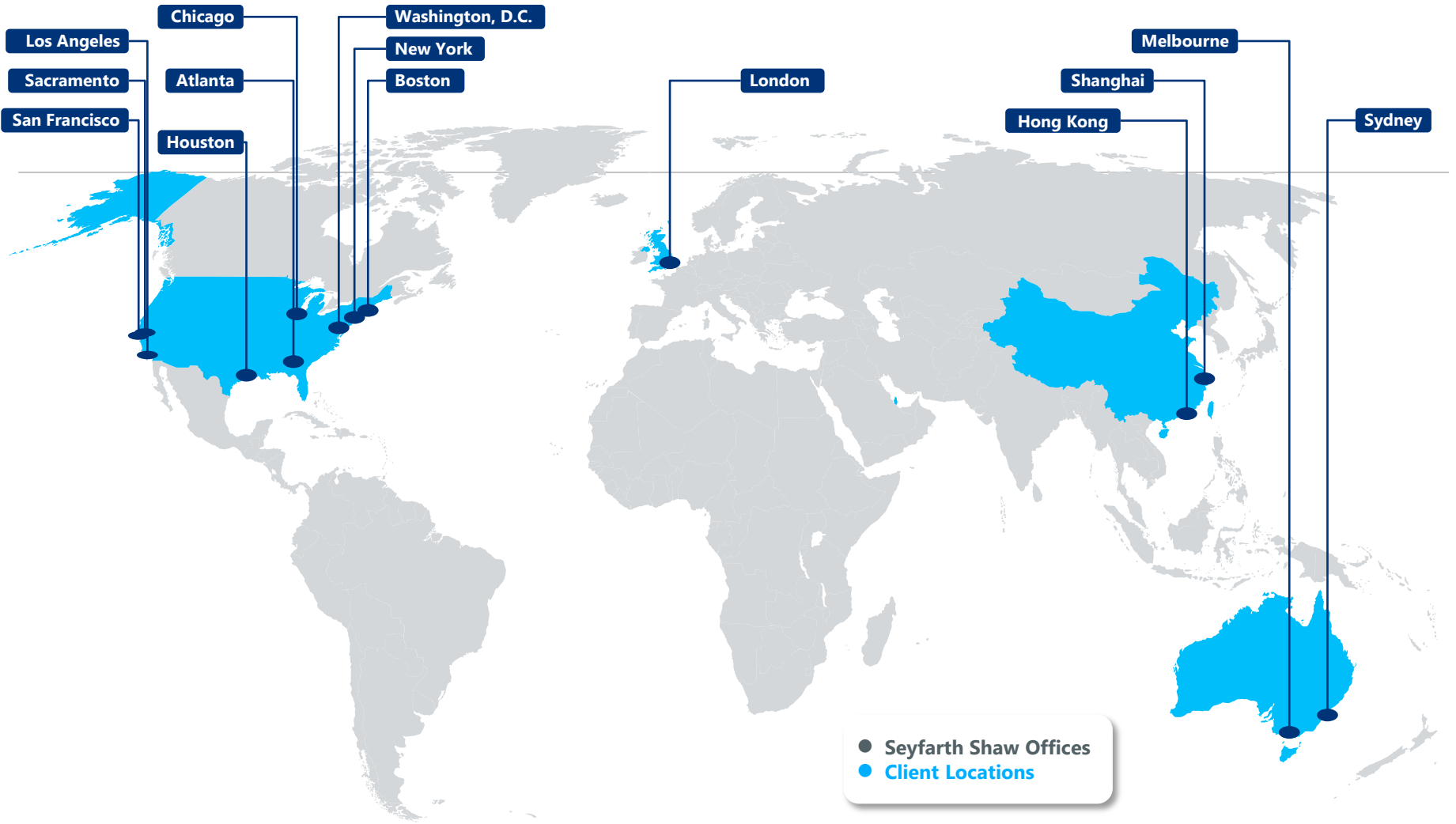
- How can you address a high-cost Rx claim?
 - Careful re:
 - ACA prohibition on dollar limits
 - HIPAA nondiscrimination rules
 - Americans with Disabilities Act
- Manufacturer Coupons
 - Consider impact on deductible/OPX
 - Consider impact on high-deductible health plan participants



Questions?

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 ● Client Locations

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Thank You