Georgetown University Health Policy Institute
CENTER ON HEALTH INSURANCE REFORMS

Misleading Marketing of Non-ACA Health Plans Continued During COVID-19 Special Enrollment Period

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Background

Millions of Americans are eligible for health insurance plans with little or no premium and significantly reduced cost-sharing this coming open enrollment period thanks to historic enhanced marketplace subsidies under the American Rescue Plan (ARP).[1] But a secret shopper study conducted during the recent COVID-19 special enrollment period suggests that some consumers shopping for coverage during the upcoming open enrollment period will likely be directed, by misleading marketing practices, to alternative plans without the protections of the ACA.[2]

These alternative plans—including fixed indemnity plans, short-term health plans, and health care sharing ministries—fail to protect people with preexisting conditions, exclude many essential health benefits, and leave enrollees vulnerable to catastrophic medical bills.[3] Despite these gaps, enrollment in these types of products has increased in recent years, rising at least in part from deceptive and misleading marketing of these products to individuals who are searching for comprehensive major medical coverage.[4]

Several studies and investigations—including a 2019 Georgetown study, a year-long investigation by the House Energy and Commerce Committee, an undercover investigation by the U.S. Government Accountability Office, and secret shopper analysis by researchers at Brookings—have documented misleading or deceptive marketing practices associated with alternative plans.[5] These analyses all reach similar conclusions—sales representatives often misrepresent the coverage to consumers, urge consumers to purchase plans over the phone without written information, or fail to disclose major coverage limitations, including limitations and coverage for COVID related services.[6] Once enrolled in alternative plans, these limitations can leave consumers on the hook for their full medical bills.[7] Preexisting condition exclusions have been found to leave consumers with tens of thousands of dollars in uncovered medical bills.[8] Some alternative plans, including short-term plans, are known to rescind coverage—a practice where the insurer determines an enrollee has a preexisting condition after a medical claim is filed and uses that condition as justification to retroactively cancel coverage.[9]

To assess whether these practices have continued throughout 2021, this study replicated a prior secret shopper study from 2019.[10] The goal of this study is to see if shoppers were still being directed towards alternative coverage at a time when the ACA coverage was broadly available and more affordable than ever because of the enhanced premium subsidies under the ARP.

With expanded subsidies under ARP, millions of people were eligible for plans with $0 premiums during the recent COVID-19 special enrollment period.[11] Many of those eligible for low or $0 premium plans were also eligible for cost-sharing reduction plans that reduced deductibles, copayments, and other cost-sharing.[12] And, for the first time ever, the ARP extended marketplace subsidies to individuals with higher incomes.[13] The expanded income eligibility includes many people who may have previously been priced out of marketplace coverage and thus are more likely to enroll in non-ACA coverage options such as short-term plans.

Findings

Despite the broad expansion of affordable coverage because of the change in federal policy, the results of this study largely mirrored the results from the 2019 Georgetown study and other studies.

- Online consumers are still being directed to agents, brokers, or other sales representatives [herein representatives] selling, by phone, alternative coverage that costs more and covers less than the ACA plans available during the special enrollment period. Ten out of the top 12 search results directed consumers to websites that collected personal information that resulted in calls, emails, and text messages. Of phone calls with 20 representatives, only five recommended marketplace coverage.
- Consumers were far more likely to be referred to fixed indemnity plans, health care sharing ministries, short-term plans, and other non-ACA products that were impossible to categorize based on the information provided. These alternative plans were typically more expensive than marketplace coverage and had higher cost-sharing. Representatives repeatedly provided misleading information about the alternative plans they were selling as well as false statements about the cost and features of marketplace plans.

Overview of Methodology

This study was based on the 2019 Georgetown secret shopper study and was conducted from June 25 to July 10, 2021.[14] Researchers developed two consumer profiles: 1) 28-year old Dani without any preexisting conditions; and 2) 48-year old Jen who takes a generic medication for high cholesterol and has an unspecified heart condition. Both were in a one-person household with an annual income of $20,000 and searching for new coverage because of a loss of employer coverage and a planned move to Texas. These consumers were eligible to enroll in marketplace plans during the COVID-19 special enrollment period and for a separate special enrollment period for loss of coverage as of August 1, 2021.

To see how the two profiles would be treated, researchers performed internet searches for four terms that might be used by consumers shopping for health insurance ("ACA enroll," "cheap health insurance," "healthcare.gov" and "Obamacare plans") and visited the three most common websites that appeared in the first three search results (including advertisements appearing as results) and entered the contact information for the profiles into the webforms on these websites. Researchers spoke with ten sales representatives over the phone for each profile, for a total of 20 representatives.

The Results: Agents, Brokers and Sales Representatives Continue to Provide Misleading Information

As noted above, Dani and Jen were overwhelmingly referred to non-ACA plans but were often not informed about what they would be purchasing. Just one representative identified the type of coverage they were selling (a health care sharing ministry). The other representatives did not identify the type of coverage, but researchers were able to identify one plan as a short-term plan based on a mention of coverage for a six-month duration and four plans as fixed indemnity insurance based on the cost-sharing structure. While researchers could not identify the remaining plan types based on the information shared, it was clear that it was not marketplace coverage nor did it appear to be another type of major medical coverage.

Most representatives did not suggest marketplace coverage. Because of the enhanced ARP subsidies, both women would be eligible for a silver marketplace plan with premiums starting at just $2 a month and greatly reduced cost-sharing. Yet, only 5 out of 20 representatives recommended a marketplace plan. Eleven of the representatives offered alternative plans with monthly premiums that ranged from $70 to $300. In all instances, the alternative plans that representatives recommended were more expensive than marketplace plans available to Dani and Jen. In addition, three representatives mentioned a one-time enrollment fee as high as $99. (It is common for alternative plans to be sold through associations that have a non-refundable enrollment fee or membership fee.[15] One representative suggested the existence of an association by referring to the plan as group coverage).

Consistent with the 2019 report, representatives continued to use misleading sales practices when discussing marketplace plans and the alternative products.[16] Representatives did not disclose accurate information about the affordability of marketplace plans, with one representative saying that marketplace plans "are just going to end up costing you more money." Even though both women were eligible for bronze plans with a $0 premium and a silver plan with reduced cost sharing that had a $2 premium, one representative stated that marketplace premiums start at $379 per month and another quoted $421 per month for a marketplace plan with a $2,000 deductible. Representatives also provided false reasons for high premiums: two representatives said premiums are higher now, in 2021, because of COVID-19.

Based on these calls, Dani and Jen would never know that they qualified for a marketplace plan with significantly reduced cost-sharing. One representative said that, while Jen did qualify for a marketplace plan with no premium, the deductible would be $6,500. While this may be true for someone with a higher income, the representative failed to mention that Jen qualified for cost-sharing reductions and thus a plan with a $250 deductible for just $2 a month.

The alternative plans being offered also had significant gaps that were typically not disclosed by the representatives. Two representatives stated that services for Jen's cholesterol and heart condition would be covered. One responded "sure, sure, absolutely" when asked if the plan would cover Jen for a heart attack. Only one representative selling alternative plans mentioned a preexisting condition exclusion, stating from the start that the plans he sells would not cover care Jen needed for the first 12 months. Rather than actual insurance coverage of prescription drugs, one representative stated that a prescription discount card is included. Two others mentioned patient assistance programs to Jen as a way to afford her medication. Two representatives said that substance use treatment is not covered, and one representative said that costs are lower because there is no maternity care.

Even when asked directly, representatives refused to provide more information to better understand the plan until after the consumer provided payment. Only one representative selling alternative coverage agreed to send any written information before moving forward to confirming eligibility (i.e. health status) and completing enrollment. None of the other representatives would provide written information until after payment was made for the first month's coverage and any applicable enrollment fee. Two representatives said that sharing benefit information over email would create a contract, while another said that shoppers can only see plan information before enrolling during open enrollment. One broker incorrectly invoked the Health Insurance Portability and Accountability Act (HIPAA) as the reason why a prospective enrollee could not get information about their plan before enrolling in it.

It's likely a typical consumer would be unable to fully understand what they were buying based on these calls and without seeing plan information in writing. Cost-sharing was described for only a few services. Representatives typically only mentioned one or two excluded benefits, if they mentioned anything about specific benefits being excluded. Coupled with the lack of or misleading information about the availability of affordable marketplace plans, these sales practices mean many online shoppers may have unwittingly enrolled in alternative plans during the recent special enrollment period as a result of continued misleading practices.

Implications

Even with an extended enrollment period and enhanced financial help for marketplace plans, consumers shopping online for health insurance continue to be misdirected to representatives selling alternative plans that discriminate against people with preexisting conditions and lack consumer protections found in plans sold through the ACA marketplaces. These alternative plans can be hundreds of dollars more per month than marketplace plans and have significantly higher cost-sharing, especially for lower-income consumers. But the true cost differentials and lack of consumer protections were not disclosed when talking with most representatives. Instead, consumers continue to be fed false or misleading information during brief phone interactions.

This information is far from harmless. Enrollees that unwittingly enroll in these alternative plans can find themselves left with catastrophic medical bills when claims go unpaid. Patients may forgo important medical care because they cannot afford the high cost of care without real coverage. Other patients may be forced into medical bankruptcy. The results of this study underscore the well-documented need for federal and state action to protect consumers from alternative plans that lack critical consumer protections and the sales representatives and entities selling them.[17]

Endnotes

[1] Katie Keith, "The American Rescue Plan Expands The ACA," *Health Affairs* 50, no. 5 (April 2021).

[2] See, e.g., Michael S. Fischer, "Health Group to Pay $2M for Misleading Clients," Think Advisor, August 20, 2021.

[3] Christen Linke Younge and Kathleen Hannick, "Fixed Indemnity Health Coverage is Problematic Form of "Junk Insurance"," USC-Brookings Schaeffer Initiative for Health Policy, August 2020; Christen Linke Younge, "Taking a Broader View of "Junk Insurance"," USC-Brookings Schaeffer Initiative for Health Policy, July 2020; Dania Palanker, Emily Curran, and Arreyellen Salyards, "Limitations of Short-Term Health Plans Persist Despite Predictions That They'd Evolve," To The Point Blog, The Commonwealth Fund, July 22, 2020; JoAnn Volk, Justin Giovannelli, and Christina L. Goe, "States Take Action on Health Care Sharing Ministries, But More Could Be Done to Protect Consumers," To The Point Blog, The Commonwealth Fund, February 19, 2020; and Leukemia and Lymphoma Society, et al., "Under-Covered: How "Insurance-Like" Products Are Leaving Patients Exposed," March 2021.

[4] Dania Palanker and Kevin Lucia, "Limited Plans with Minimal Coverage Are Being Sold as Primary Coverage, Leaving Consumers at Risk," To The Point Blog, The Commonwealth Fund, September 10, 2021.

[5] Christen Linke Young and Kathleen Hannick, "Misleading Marketing of Short-Term Health Plans Amid COVID-19," USC-Brookings Schaeffer Initiative for Health Policy, March 2020; Government Accounting Office, "Private Health Coverage: Results of Covert Testing for Selected Offerings," August 2020; Sabrina Corlette, et al., "The Marketing of Short-Term Health Plans: An Assessment of Industry Practices and State Regulatory Responses," The Urban Institute and Robert Wood Johnson Foundation, January 2019; and U.S. House of Representatives, Committee on Energy and Commerce, "Shortchanged: How the Trump Administration's Expansion of Junk Short-Term Health Insurance Plans is Putting Americans at Risk," June 2020.

[6] Christen Linke Young and Kathleen Hannick, "Misleading Marketing of Short-Term Health Plans Amid COVID-19," op. cit; Government Accounting Office, op. cit.; Sabrina Corlette, et al., op. cit.; and U.S. House of Representatives, Committee on Energy and Commerce, op. cit.

[7] Leukemia and Lymphoma Society, et al., op. cit.

[8] Ibid.

[9] Reed Abelson, "Without Obamacare Mandate, 'You Open the Floodgates' for Skimpy Health Plans," *The New York Times*, November 30, 2017.

[10] Sabrina Corlette, et al., op. cit.

[11] Centers for Medicare and Medicaid Services, "American Rescue Plan Lowers Health Insurance Costs for Americans Who May Have Lost Their Job," June 2021.

[12] Office of the Assistant Secretary for Planning and Evaluation, "Access to Marketplace Plans with Low Premiums: Current Enrollees and the American Rescue Plan," April 2021.

[13] Katie Keith, op. cit.

[14] Sabrina Corlette, et al., op. cit

[15] Emily Curran, Dania Palanker, and Sabrina Corlette, "Short-Term Health Plans Sold Through Out-of-State Associations Threaten Consumer Protections," To The Point Blog, The Commonwealth Fund, January 31, 2019.

[16] Sabrina Corlette, et al., op. cit

[17] Christen Linke Younge, "Taking a Broader View of "Junk Insurance," op. cit.; Dania Palanker, Maanasa Kona, and Emily Curran, "States Step Up to Protect Insurance Markets and Consumers from Short-Term Health Plans," The Commonwealth Fund, May 2, 2019; and Leukemia and Lymphoma Society, et al., op. cit.

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