



STATE HEALTH POLICY ISSUE BRIEF: REMOVING RESTRICTIONS TO SHORT-TERM, LIMITED-DURATION INSURANCE IN STATES

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WHAT IS SHORT-TERM, LIMITED-DURATION INSURANCE?

Short-term, limited-duration (STLD) insurance plans are temporary insurance plans sold by insurance companies that are in effect for a predetermined amount of time, from as little as 1 month to up to 3 years.¹ Because they are classified as temporary plans, the Affordable Care Act (ACA) exempted short term plans from many requirements. For example, the plans may be medically underwritten, are not required to cover all essential health benefits outlined by the ACA, and may not cover certain pre-existing conditions.² Because of these exemptions, premiums typically cost significantly less than premiums for individual plans bought on the Obamacare exchanges—sometimes by almost half the cost.^{3,4} Most STLD plans are sold through associations or in non-group markets.⁵

In 1997, short-term, limited-duration insurance was defined as coverage less than 12 months in duration by contract, though some states placed greater restrictions on the duration or did not permit the plans.^{6,7} Near the end of its term, the Obama Administration passed a rule that shortened STLD plans to 90 days and made them non-renewable.⁸ In October 2017, President Donald J. Trump signed an executive order⁹ that directed agencies to roll back the Obama Administration's restrictions on STLD plans. The final rule resulting from this executive order, published in August 2018, expanded STLD plans to last up to 12 months and made them renewable up to three times for a total of 36 months.¹⁰ A lawsuit was filed against this expansion of STLD plans, but a district court upheld the Department of Health and Human Services' (HHS) interpretation of STLD plans in the Trump rule in 2019 and so did the D.C. Court of Appeals in 2020.^{11,12}

On January 28, 2021, President Joe Biden signed Executive Order “Strengthening Medicaid and the Affordable Care Act,” revoking Trump’s Executive Order “Promoting Healthcare Choice and Competition Across the United States,” which had prompted promulgation of

¹ https://content.naic.org/cipr_topics/topic_short_term_limitedduration_health_plans.htm

² https://www.aahd.us/wp-content/uploads/2018/05/ShortTermLimitedDurationHInsurancePlans_NHC_UnderstandingThem.pdf

³ “Healthier individuals who opt for a STLD policy are estimated to pay a premium that is about half of the average marketplace premium.” <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/Downloads/STLD20180406.pdf>

⁴ https://media4.manhattan-institute.org/sites/default/files/R-0519-CP.pdf?mod=article_inline

⁵ https://www.aahd.us/wp-content/uploads/2018/05/ShortTermLimitedDurationHInsurancePlans_NHC_UnderstandingThem.pdf

⁶ <https://www.govinfo.gov/content/pkg/FR-1997-04-08/pdf/97-8275.pdf> (p. 16928)

⁷ <https://www.healthinsurance.org/so-long-to-limits-on-short-term-plans/>

⁸ <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-26162.pdf>

⁹ <https://trumpwhitehouse.archives.gov/presidential-actions/presidential-executive-order-promoting-healthcare-choice-competition-across-united-states/>

¹⁰ <https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-16568.pdf>

¹¹ <https://www.healthaffairs.org/doi/10.1377/forefront.20190720.616648/full/>

¹² <https://www.healthaffairs.org/doi/10.1377/forefront.20200719.720906/full/>

the rule expanding STLD plans.¹³ Though the Trump-era regulation is still in effect, this signals that federal regulations for STLD plans may be revisited. Recently, the administration has received pressure from health advocacy groups to roll back STLD expansions.¹⁴ Current HHS Secretary Xavier Becerra notably opposes STLD plans.¹⁵ Federal legislation has also been introduced in the 117th Congress to overturn the Trump-era rule.¹⁶

Short-term, limited-duration insurance plans are not intended to replace employer or individual coverage but rather to give Americans options, especially in times of transition. For example, STLD plans may be well-suited for those who were previously uninsured, may have missed ACA enrollment, have a lapse in employment, have retired early, or have aged out of coverage on their parents' health insurance.¹⁷ Enrollment can happen anytime during the year and can be a particularly attractive option for individuals who are in relatively good health and are looking for a low-cost health plan.¹⁸

Despite the potential instability at the federal level, states can now ensure access to expanded STLD insurance plans by removing unnecessary restrictions and/or codifying federal regulation into state law. However, if federal law further restricts STLD plans in the future, those restrictions will supersede all state laws that exceed availability beyond the new limits and reduce consumer options.¹⁹

BENEFITS OF SHORT-TERM, LIMITED-DURATION INSURANCE

There are well-documented benefits to expanded short-term, limited-duration insurance plans.²⁰ As plans offered on the Obamacare exchanges become more and more unaffordable, Americans are looking for alternative options for healthcare coverage.²¹ An estimated 95 percent of people leaving the individual market will buy a short-term plan that provides them with meaningful financial protection, with premiums “as much as 60 percent lower than premiums for the lowest cost [ACA] bronze plan.”²²

As a result of the Trump Administration rule discussed above, STLD enrollment was projected to reach 1.9 million by 2022.²³ The overall number of individuals covered by STLD plans and the individual market was also projected to increase by about 0.2 million.²⁴ The HHS rule expanding STLD plans did not lead to higher premiums in the individual market,²⁵ which refutes the critical claim that the rule was intended to destabilize the ACA market.²⁶ Critics of STLD plans often claim that they are “junk plans,”²⁷ but in reality, they are a viable form of health insurance for Americans looking for a solution to expensive individual market plans that cover more than they need or want.

¹³ <https://www.govinfo.gov/content/pkg/DCPD-202100099/pdf/DCPD-202100099.pdf>

¹⁴ <https://www.lung.org/getmedia/8a510945-cd82-41fe-968e-d83faf2292eb/013122-letter-to-hhs-re-regulation-of-stldi-policy-preferences-final.pdf>

¹⁵ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/becerra-becomes-hhs-secretary-after-senate-confirmation.aspx>

¹⁶ <https://www.congress.gov/bill/117th-congress/senate-bill/942>

¹⁷ <https://www.forbes.com/advisor/health-insurance/best-short-term-health-insurance-companies/>

¹⁸ <https://www.forbes.com/advisor/health-insurance/best-short-term-health-insurance-companies/>

¹⁹ https://www.naic.org/documents/government_relations_160809_hhs_reg_short_term_dur_plans.pdf

²⁰ <https://www.healthaffairs.org/doi/10.1377/forefront.20200813.226193/full/>

²¹ <https://americafirstpolicy.com/latest/20220131-expanded-aca-subsidies>

²² https://www.cbo.gov/system/files/2019-01/54915-New_Rules_for_AHPs_STPs.pdf

²³ <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/Downloads/STLD20180406.pdf>

²⁴ <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/Downloads/STLD20180406.pdf>

²⁵ <https://galen.org/2021/individual-health-insurance-markets-improving-in-states-that-fully-permit-short-term-plans-2/>

²⁶ <https://www.fiercehealthcare.com/payer/azar-short-term-plans-absolutely-not-attempt-to-destabilize-individual-market>

²⁷ <https://blog.petrieflom.law.harvard.edu/2021/10/25/biden-stldi-junk-plans/>

Short-term plans were an option for Americans during the COVID-19 pandemic. One company that offers STLD plans found in a November 2020 survey that 54 percent of members who purchased a plan were previously uninsured or had lost employer coverage.²⁸ STLD plans are also much cheaper than COBRA coverage,²⁹ so newly unemployed individuals who need health insurance could use STLD plans as a more affordable option.³⁰ For context, U.S. employment at the end of 2020 was 10 million less than the year's peak in February, demonstrating the significant job loss due to the pandemic.³¹

Short-term, limited-duration plans increase choices for Americans and provide access for those who do not want or cannot afford expensive, one-size-fits-all, ACA-compliant coverage.

SHORT-TERM, LIMITED-DURATION INSURANCE PLANS AND STATES

Some Americans who want to sign up for a short-term plan may be limited by restrictive laws in their state of residence. One policy solution that provides more choice for Americans is to permit STLD plans to be offered in states to the full extent of expanded federal regulations.

States have varying degrees of restrictions on STLD plans that range from permitting plans to the full extent of the federal law to effectively banning the sale of STLD plans. As of 2020, 5 states effectively ban STLD plans,³² 11 states limit the initial contract duration of an STLD plan to less than 1 year, and 8 states limit the total length of time a consumer may be enrolled to less than 1 year.³³ Criticism of STLD plans is centered on perceptions of decreased consumer protection and impact on the stability of the individual market. On the contrary, a positive relationship between expanded STLD policies and ACA exchanges exists:

“Relative to states that have restricted short-term plans, states that fully permit short-term plans have had a smaller loss of individual market enrollment— particularly exchange enrollment—have had far more insurers entering the exchanges to offer coverage and have had a greater reduction in exchange plan premiums.”³⁴

States that permit STLD plans in congruence with HHS's 2018 rule did not see an adverse effect on enrollment, the number of insurers, and premiums in their individual markets as some predicted but instead saw some benefits.³⁵

Several state legislatures have proposed policies that would expand STLD plans to the regulatory extent allowed by federal law. These policies can take the form of passively expanding STLD plans by striking any current state restrictions, like in a current Virginia

²⁸ https://cdn.pivohhealth.com/resources/content/pdf/Pivot_Health_Member_Satisfaction_2020.pdf

²⁹ This is continuation of health coverage for workers from the Consolidated Omnibus Budget Reconciliation Act (COBRA). More information available at: <https://www.dol.gov/general/topic/health-plans/cobra>

³⁰ <https://blog.ifebp.org/index.php/short-term-limited-duration-health-insurance>

³¹ <https://www.bls.gov/opub/mlr/2021/article/covid-19-ends-longest-employment-expansion-in-ces-history.htm>

³² These states effectively ban STLD plans by prohibiting the sale of medically underwritten plans or prohibiting the sale of short-term plans altogether. These states are California, New York, New Jersey, Massachusetts, and Rhode Island.

³³ <https://www.commonwealthfund.org/publications/issue-briefs/2020/jan/states-make-individual-coverage-more-affordable-federal-needed>

³⁴ <https://galen.org/assets/Individual-Health-Insurance-Markets-Improving-in-States-that-Fully-Permit-Short-Term-Plans.pdf>

³⁵ <https://galen.org/assets/Individual-Health-Insurance-Markets-Improving-in-States-that-Fully-Permit-Short-Term-Plans.pdf>

bill,³⁶ or they can specifically codify current federal regulations that plans may last up to one year in duration and may be renewed up to three times, such as in a current Kansas bill.³⁷

Americans will benefit from having access to expanded STLD plans that match federal regulations. STLD plans provide an affordable alternative to expensive COBRA coverage after losing employment, serve as a low-cost option for those who would otherwise be uninsured, and allow Americans the flexibility to choose a plan that they think is best for them in a system of largely one-size-fits-all coverage that is failing many.

³⁶ <https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+HB237+hil>

³⁷ http://www.kslegislature.org/li/b2021_22/measures/documents/sb199_00_0000.pdf