



Affordable Care Act Repeal Contingency  
Planning:  
Preserving Stability in the Health Insurance  
Market Between Vermont Legislative Sessions

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# Recommendations

The Vermont Legislature is concerned that the Affordable Care Act could be repealed while the legislature is out of session raising the issue of what authority may be necessary to keep the health insurance markets stable and maintain the status quo until the Legislature is able to act.

1. **No revisions are necessary for the Board's principal rate review tool, 8 V.S.A. § 4062.** The statute's broad authority for review and approval of premium rates for comprehensive major medical health insurance is adequate for any foreseeable contingency.
2. **ACA repeal would eliminate the loss ratio requirements of 80% for individual and small group insurance, and 85% for large group insurance.** Accordingly, Board staff recommends striking or modifying the final clause "as required by the Affordable Care Act" from 33 V.S.A. § 1811(j) so as to ensure the individual and small group standard remains part of Vermont law in the event of ACA repeal.

# Recommendations

### **3. The Vermont Department of Financial Regulation (DFR) and/or the Department of Vermont Health Access (DVHA) would need additional time-sensitive authority to maintain the status quo regarding benefits provided by health insurers in Vermont. A non-exclusive list of current plan features includes:**

- The ACA's Essential Health Benefits, including pediatric dental and vision care, for individual/small-group plans
- Annual maximums on out-of-pocket expenses paid by policyholders
- Prohibition on exclusions for pre-existing conditions
- Prohibition on annual and lifetime limits for Essential Health Benefits under the ACA
- Prohibitions on cost-sharing for preventive services rated A or B by the United States Preventive Services Task Force
- Well-Woman visits, Well-Child visits, vaccine schedules
- Dependents up to age 26 eligible for coverage
- Requirement that individual/small-group plans have one of four defined total actuarial values or "metal levels"
- Requirement that large group plans provide a minimum actuarial value of 60%
- Merger of the individual and small-group markets into a single risk pool
- Maintaining open enrollment periods

Note: Although the focus of health care reform in Vermont and nationwide has been on the individual and small-group markets, in the event of a repeal of the ACA, the large-group market could see significant disruption as well. The quarterly renewal schedule of most large-group plans would result in early and persistent competitive pressure on insurers to reduce benefits and policyholders' contractual security for the sake of lower premiums.

# Individual Mandate

The individual mandate under the ACA may be repealed, separately from or as part of a full repeal of the ACA.

- Imposing a state-based individual mandate would require consultation and coordination with the Vermont Department of Taxes
- Assuming the Legislature decided to impose the mandate, there is a range of possibilities regarding the size of the penalty and the rigor of its enforcement, and an inverse corresponding range of effectiveness in combating adverse selection in the insurance markets