

The Death of the ACA’s Cost-Sharing Reductions

By [Mara Youdelman](#)

On Oct. 13, the White House Office of the Press Secretary announced the administration’s decision to cancel upcoming payments of cost-sharing reductions. Cost-sharing reductions (CSRs) were included in the Affordable Care Act (ACA) to reduce out-of-pocket expenses (including premiums, cost-sharing and co-pays) for individuals under 250% FPL. CSRs also cap annual out-of-pocket expenses, meaning consumers have to spend less for health care services before health plans pick up the full cost of covered services. CSRs, along with APTCs, are critical for individuals being able to afford their medically necessary health care services.

What are CSRs?

When individuals eligible for CSRs go to health care providers, they pay lower cost-sharing than the normal health insurance charges. The federal government then reimburses the insurance company for the millions of dollars of CSRs paid to clinicians, clinics, hospitals and other health care providers so they would charge eligible consumers less. Despite the President’s characterization, these funds are not a “bail-out” to insurers; they are repayments for the discounts the ACA requires insurers to give low-income consumers. Insurers must still provide CSRs even if they do not receive federal payments.

The size of the CSRs varies based on a consumer’s income. Lower income consumers receive greater cost-sharing reductions and lower deductibles.

	Silver Plan (no CSR)	Silver Plan with CSR (100-150% FPL)	Silver Plan with CSR (151-200% FPL)	Silver Plan with CSR (201-250% FPL)
Approximate amounts paid by insurer	70%	94%	87%	73%
Approximate amounts paid by consumer	30%	6%	13%	27%
Annual out-of-pocket limits	\$7,350 individual, \$14,700 family	\$2,450 individual, \$4,900 family	\$2,450 individual, \$4,900 family	\$5,850 individual, \$11,700 family

What happens if the Administration does not pay CSRs?

Without federal CSR payments, insurers have no choice but to increase premiums to make up for the lost funding or leave the marketplaces. Insurers are still required to

provide CSRs to eligible consumers regardless of the Administration's decision on federal payments. Before today's action by the administration, non-partisan experts estimated that Trump's threats to stop CSR funding has already raised premiums [20% or more](#). Further, cutting off these funds will not save taxpayers any money but actually increases the federal deficit by nearly \$200 billion over the next 10 years. Since everyone receiving CSRs is also eligible for premium tax credits, when insurers raise premiums to compensate for the loss of CSRs, the federal government will pay a higher amount in tax credits since an individual's premium contribution is capped by the ACA.

Lamar Alexander, the GOP Chairman of the Senate Health, Education, Labor and Pensions Committee, stated, "Without payment of these cost-sharing reductions, Americans will be hurt." State insurance commissioners – including those from [Maine](#), [Pennsylvania](#), [Tennessee](#) and [Washington](#) – have warned that not making the payments will mean that people will pay the price. Finally, if the federal government fails to repay the insurance companies the millions of dollars they are owed, it will also become much more likely insurers will abandon these insurance markets altogether.

What can Congress Do?

Bi-partisan efforts to stabilize marketplaces by Sens. Alexander (R-TN) and Murray (D-WA) have included funding of CSRs for two years. Congress needs to act quickly to fund CSRs so that consumers do not face higher costs or lose their health insurance.

Will the courts intervene?

Members of the House of Representatives had already sued HHS during the Obama Administration, claiming federal payments of CSRs were unauthorized and therefore unconstitutional. A single district court judge sided with the House of Representatives and ruled the cost-sharing program unconstitutional because it spends money that has not specifically been provided by Congress (even though Congress authorized the CSR program as part of the ACA). However, the judge stayed the ruling, thus allowing payment of CSRs to continue pending appeal.

The Obama administration appealed the district court judge's ruling to the United States Circuit Court of Appeals for the District of Columbia. On August 1, 2017, the Circuit Court [granted the motion](#) of attorneys general from 17 states and the District of Columbia to intervene in the case. The states wanted to intervene because of their interest in the action and their concern that the Trump administration would not adequately defend it. Indeed, the Department of Justice filed a notice of the administration's decision, along with a [legal opinion](#) from Attorney General Sessions, with the court soon after the administration announced the policy change. The case is now set to proceed.