INTRODUCTION

For the decade leading up to the Affordable Care Act (ACA), small-group coverage has been on the decline. Facing significant annual increases in premiums, the number of small employers offering coverage and the overall share of employees and their dependents covered under a small-group plan has steadily decreased. The ACA sought to address some of the limitations in the small-group market by making offering and enrolling in adequate coverage easier and more affordable for small employers. However, growing opportunities to purchase coverage outside of the ACA-compliant, fully insured small-group market have led to uncertainty about whether the law’s small-group market reform provisions are fulfilling their purpose. This paper explores, through interviews with critical stakeholders in 5 states—Arkansas, Montana, New Mexico, Pennsylvania and Vermont—trends in the market for small-business health insurance, including the effects of new incentives created by the ACA. In particular, we examine the continued existence of grandfathered or grandmothered (transitional) plans, the migration of employees to individual policies, and other coverage options available to small employers such as self-funding arrangements and coverage purchased through group purchasing arrangements.

RESEARCH FINDINGS

Some states are not closely monitoring enrollment in small-group markets:

Despite the value that data can bring to informing policy decisions about the small-group market and the SHOP, some state insurance departments are not proactively collecting or analyzing enrollment data to track trends in the small-group market. In addition since states do not directly regulate self-funded plans, they often lack data regarding the number of small employers in these types of arrangements. Consequently, although states’ picture of the small group market is often hazy, their picture of the self-funded small group market is generally nonexistent.

The SHOP continues to have a minimal enrollment:

There continues to be minimal interest in the SHOP among small employers, and few have enrolled. A shared perception exists among critical stakeholders that the SHOP does not add value to the coverage already available to small employers. They pointed to several factors preventing the SHOP from being an attractive option, such as the complexity of employee choice and the time-consuming eligibility process to receive the federal tax credit.
In some states, a significant proportion of small-group employers remain in non-ACA-compliant plans:

Though it varies across states and insurers, a significant portion of the small group market remains in “grandfathered” or “grandmothered” plans that are not required to comply with many of the small group market standards under the ACA. Most states left the decision of whether or not to maintain small employers in non-ACA-compliant plans entirely up to insurers. Stakeholders suggested that by continuing to allow these plans, dominant insurers were able to protect and maintain their share of the small-group market for as long as possible. The availability of non-compliant ACA plans has also limited the number of small employers interested in the SHOP, although it may also have delayed employers’ willingness to explore alternative coverage options, such as self-funding arrangements.

Some small employers are dropping health coverage with an expectation that employees will shift to the individual marketplace:

Small employers that have traditionally offered coverage to their employees have new incentives to consider dropping their group plan and shifting employees to the non-group health insurance marketplaces. Stakeholders report that some small employers, often “microgroups” (those with fewer than 10 employees), have dropped their group coverage with the expectation that their employees will shift to individual policies and potentially receive financial assistance. The ACA does not apply the employer mandate to employers with fewer than 50 employees; there is no penalty if such small employers choose not to provide health insurance.

More self-funded arrangements are available, although uptake among small employers is relatively limited for now:

Self-funded plans are exempt from most of the ACA’s market reforms, including the requirement to join the single risk pool, and to pay the health insurer fee. Although stakeholders report no significant uptick in the number of small employers self-funding, it appears that more health insurers, including many national carriers, are either marketing or contemplating the marketing of self-funded products for small employers. New product offerings often include “level-funded” or “bundled” self-funding arrangements, which may be particularly appealing because these products lower some of the major barriers to self-funding for small employers. However, state officials continue to report concerns about the considerable and unpredictable financial and legal risks for small employers.

In some states, small employers appear to be shifting away from association health plans, while other types of group purchasing arrangements may be gaining a foothold for future growth:

Depending on the state, small employers can also obtain coverage through group purchasing arrangements such as association health plans (AHPs), multiple employer welfare arrangements (MEWAs), professional employer organizations (PEOs) and group captives. These arrangements may attempt to claim large employer status under ERISA for the purpose of buying health insurance coverage or offer self-funding arrangement to small employer members, thus avoiding the small-group market reforms. Though the ACA appears to have caused a shift away from association health plans in some states, other types of group purchasing arrangements, such as self-funding MEWAs and group “medical stop-loss” captives, may be gaining a foothold for future growth.

The year 2017 will be critical for the future of the small-group market:

The year 2017 may be the moment to assess the true effect of the ACA on the fully insured small-group market. It marks the end of the Obama administration’s transitional policy, which will require insurers to discontinue all grandmothered policies. For many small employers, it will be the first opportunity to consider SHOP. Some stakeholders predict that it will be the moment when more “micro groups” drop coverage and send their employees to the individual market. That same year, in most states, employers with 51 to 100 employees will need to choose between joining the fully insured small-group market or shifting to an alternative coverage option. Insurer stakeholders with whom we spoke have designed level-funded, self-insured products and developed marketing strategies targeted to those younger and healthier midsize groups that could face premium increases if they move to the fully insured small-group market.
POLICY DISCUSSION

Since the passage of the ACA, there have been growing opportunities to purchase coverage outside of the ACA compliant fully insured small-group market leading to uncertainty about whether the law’s small-group market reform provisions are fulfilling their purpose. Certainly, at least in some states, many small employers, encouraged by insurers and brokers, have simply kept the status quo by maintaining non-ACA-compliant policies, such as grandfathered or grandmothered policies. And in so doing, a number of the ACA’s reforms, including the SHOP marketplaces, have not yet been fully realized.

Of greater concern to state and federal policy makers interested in maintaining a stable and robust fully-insured market in the upcoming years is the possibility that as employers shift off of transitional policies and midsize employers are considered small employers under federal law, many will have strong incentives to avoid complying with ACA small-group market protections. Some are likely to explore dropping their group plan and shifting employees to the non-group health insurance marketplaces or buying a level-funded self-insurance arrangement or seeking coverage through a group purchasing arrangement claiming large group status. Experts have long raised concerns about the potential for adverse selection and increased premiums in the small-group market when different regulatory frameworks exist for the same type of health plan purchaser, especially the ability to adjust premiums based on health status of the group. As policy makers contemplate decisions that would influence the stability of the small group market such as the regulation of self-funding arrangements, the applicability of small group rating rules to various group purchasing arrangements, or the definition of small employers, it is critical that they seek out policy solutions that avoid further separation of health care risks and consequent adverse selection in the fully insured market.
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The authors are grateful to Linda Blumberg for her comments and suggestions, Erik Wengle who provided research and data analysis, Ashley Williams for her assistance, and the many stakeholder respondents in the five study states (Arkansas, Montana, New Mexico, Pennsylvania and Vermont) who supplied helpful information and insights on recent trends in the small-group market.

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