axene health partners
HEALTH ACTUARIES & CONSULTANTS

Premium Alignment in ACA Individual Markets

Patchwork State Responses, "Equity", Professionalism, and "Self-Regulation"

Middle Atlantic Actuarial Club
11/15/2021

Greg Fann, FSA, FCA, MAAA – greg.fann@axenehp.com

About Me

- Health Care Consulting Actuary (Temecula, CA)
  - Greg Fann, FSA, FCA, MAAA – Axene Health Partners, LLC (axenehp.com)
  - (3) Greg Fann | LinkedIn
- Focus on Major Medical Products, Pricing, Valuation, ACA, Strategy, Policy, Research
- First MAAC Meeting
- Active SOA Volunteer
  - Past Chair of the Social Insurance & Public Finance Section Council (served in Council leadership with Michael Stephens)
  - Lead Ind/SG Markets Subgroup for Health Section (open to anyone)
  - FSA Curriculum Committee Exam Chair (Design & Pricing)
- Personal
  - Married to Angie Fann, owner of AR Workshop Temecula
    - AR Workshop Temecula - Wine and Painting Wood Sign Studio and DIY Workshop
  - Mountain Trail Runner, Swimmer, Pickleball Player, Recovering Triathlete
  - Loved by 7 nephews and 7 nieces who call me “Uncle G”

Credits

- Kaiser Family Foundation
  - Slide 12

- Stan Dorn, Families USA
  - Slides 15, 31, 32, 33, 35, 38, 39

- Daniel Cruz, Axene Health Partners
  - Slides 17, 36, 40

History of Health Insurance in the United States

- Beginnings in 1800s
- Industrial Revolution: Self-Employment → Large Corporations
- Linkage of Employment and Health Insurance
  - Collective Bargaining
  - World War II wage controls: no prohibition on employee benefits
  - Tax Favorability
  - But…Everyone Did Not Have Employer-Based Coverage
- Social Security Amendments of 1965
  - Commonly known as Medicare/Medicaid
  - Set the stage for Federal Health Legislation of “Filling Gaps”
    - Population
    - Benefits

Significant/Monumental Health Legislation/*Action*

Years	Branch Control (House-Senate-WH)	Significant Federal Legislation
1961-1969	Democrats	Medicare and Medicaid
1969-1977	Split	Federal HMO Act
1977-1981	Democrats	*National health reform efforts stalled in the face of economic recession*
1981-1993	Split	EMTALA, COBRA, *NAIC Small Group Model Law*
1993-1995	Democrats	*Clinton's failed Health Security Act*
1995-2003	Split	HIPAA, State Children's Health Insurance Program
2003-2007	Republicans	Medicare Modernization / Part D
2007-2009	Split	
2009-2011	Democrats	HITECH, Affordable Care Act
2011-2017	Split	
2017-2019	Republicans	*Failed ACA Repeal,* Tax Cuts and Jobs Act (struck ACA Shared Responsibility penalty), *CSR Defunding*
2019-2021	Split	
2021-	Democrats	*Movement toward more government-centric framework versus expanded federal financial contributions in private markets*, Enhanced ACA Premium Subsidies through COVID-related legislation.

“Filling Gaps”

- Medicare: Elderly
- Medicaid: Low-income and vulnerable populations
- Medicare Modernization Act: Pharmacy Benefit in Medicare
- Affordable Care Act: Low Income and People with Costly Chronic Conditions
- Public Option in 2016?: The Platinum Public Option – Axene Health Partners, LLC (axenehp.com)
- How do we fill gaps?
  - Federal $$$
  - Federal Regulations
  - Sometimes administered by states
- ACA had Unique Challenges
  - Medicare Funding is unequal to ACA funding
  - High Premiums in Individual Marketplace
    - Community Rating
    - Essential Health Benefits
    - Age Compression
    - Eliminated Gender-based Rating
  - Federal Contribution Determination?
    - Medicare Benchmarks had benefits of 40 years of claims history
    - Loosely Copied Medicare Part D: let the market determine

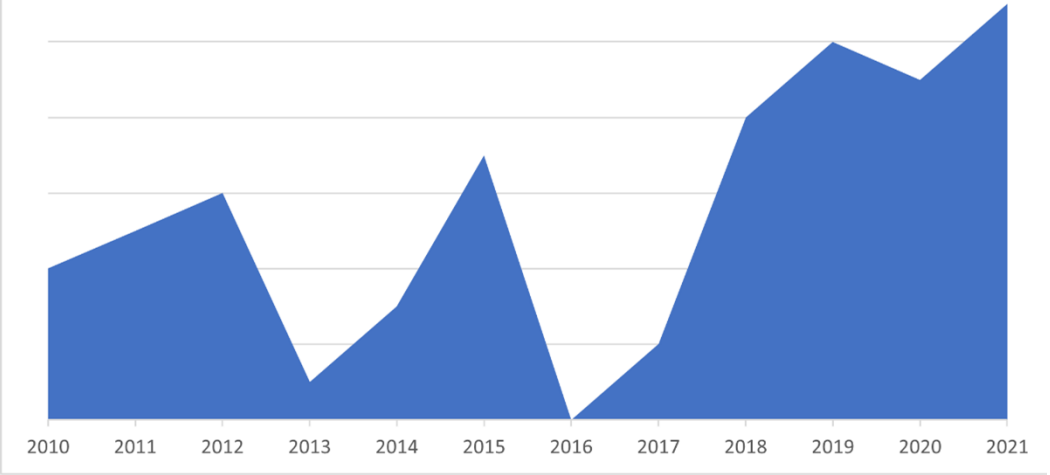
ACA Health Policy Background

- The Affordable Care Act (ACA) was passed in 2010.
- The ACA was the largest change in federal health policy since 1965, when Medicare and Medicaid were created by the Social Security Amendments of 1965.
- The ACA was a broad multi-faceted law.
- Impetus and primary focus was reducing the "uninsured rate" (percentage of Americans who do not have health insurance).
- Stable policy environment (45 years) allowed identification of gaps.
  - Low income
  - Chronic health conditions
- The ACA reduced the number of uninsured Americans from roughly 50 million to 30 million, primarily through Medicaid expansion. There is consensus agreement here.
- The impact of post-ACA changes are less certain and not well understood.
- Reducing the "uninsured rate" remains a primary policy goal and a primary data point.
  - Today's markets are in transition. Enrollment and policy changes are fluid. It's more difficult to connect policy changes to outcome, but the "uninsured rate" is a primary data point. The Temptuous Crisis Invitation | The Actuary Magazine

ACA's First Decade

- The ACA@10 Archives - The Actuary Magazine
- Medicaid Expansion
  - 38 States
  - 20 million more people covered.
  - Population remaining a large contingent of 30M uninsured (18%)
    - 11% from 12 non-expansion states
    - 7% from 38 expansion states
- Individual Marketplace
  - Underwhelming Growth (35% of expected)
  - When combined with group markets, fewer Americans with private coverage in 2018 than 2009 The ACA's Changing Coverage Goals: From Obama/Biden to Trump – Axene Health Partners, LLC (axenehp.com)
- 2017 – ACA repeal attempts failed and Cost-Sharing Reduction (CSR) payments stopped, resulting in increased premium subsidies in 2018

ACA Ups and Downs

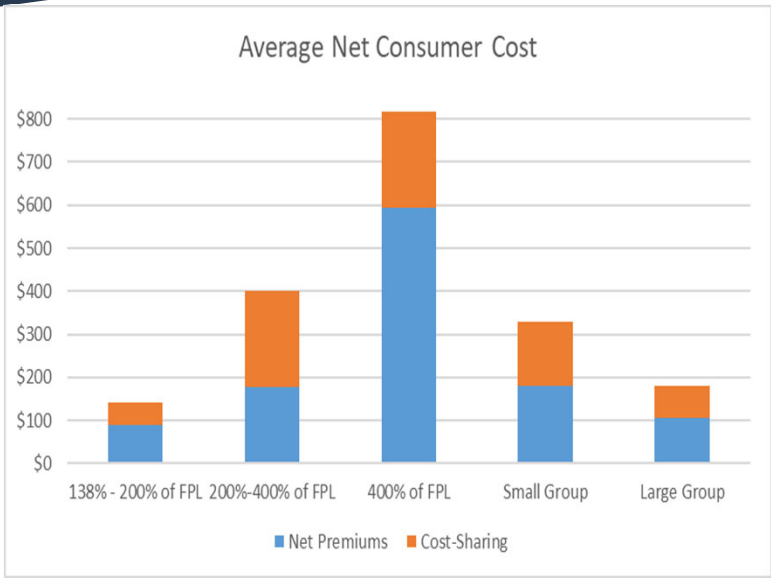


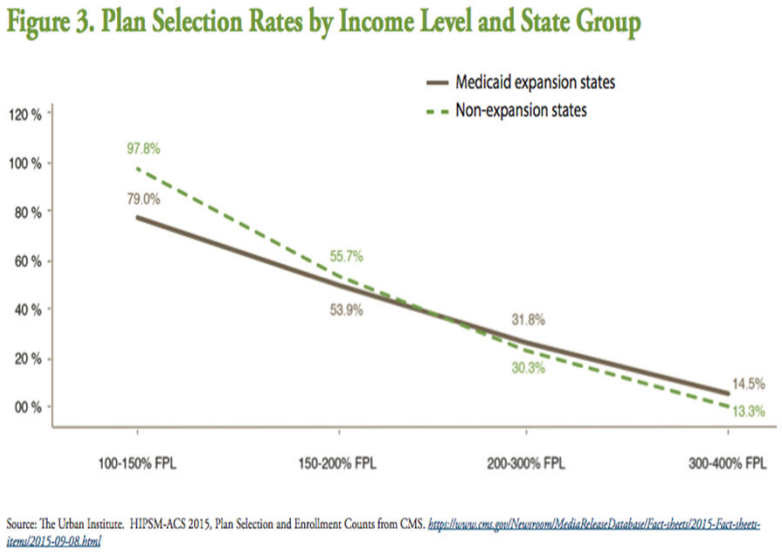
- Annual Market Strength Not Aligned with Traditional Politics
- ACA markets were struggling in 2016. Insurers were losing money and exiting markets. Enrollment was falling. Premium increases were high in 2017. Obamacare Marketplaces Are in Trouble. What Can Be Done? - The New York Times (nytimes.com)
- Marketplace enrollment fell for the first time in 2017. ASPE Issue Brief-ACA-Related Coverage by State.pdf (hhs.gov)
- The uninsured rate rose for the first time since the ACA was passed in 2017.
  - "Uninsured Rate" Measurements and Health Policy Considerations | SOA
  - Research Insights, a Society of Actuaries Podcast: "Uninsured Rate" Measurements and Health Policy Considerations (libsyn.com)
- While legislative repeal efforts failed in 2017, the Trump administration was very active on the regulatory front. Some changes were believed to help ACA markets, others were thought to reduce enrollment, and most people agreed there was additional policy "uncertainty".
- "Replace the ACA" versus "Fix the ACA"?
- ACA and Repeal Legislation: Primary policy levers are (1) government funding, (2) rating rules, and (3) mechanisms (e.g. risk adjustment) to mitigate risk and encourage insurer participation.
- In 2018, offsetting impacts were additional premium subsidies as a result of the defunding of CSR payments and reduced funding for outreach, enrollment assistance, and navigators.
- Movement toward premium alignment in 2021: (2) Cheaper by the Dozen: 12 Years of the Affordable Care Act | LinkedIn
- Increased enrollment in 2021, bolstered mid-year by American Rescue Plan enhanced subsidies

Underwhelming Growth, But Why?

- Is the Affordable Care Act “affordable”?
- President Obama said “people will buy insurance if it is a ‘good deal’”
- Millions of Uninsured Americans are Eligible for Free ACA Health Insurance | KFF
- The individual market remains very price sensitive
- ACA rating rules inflated premiums
  - Is “minimum Medical Loss Ratio” a constraint?
- Premium subsidy offset, somewhat analogous to group insurance
- Today’s policy proposals are not based on reducing costs, but rather increasing subsidies.
  - Land of the Free – Axene Health Partners, LLC (axenehp.com)
- Why haven’t the subsidies been enough?
  - Ignoring that millions of uninsured Americans have access to free coverage (larger societal problem, not distinct actuarial issue)
  - 1. “Budget Neutrality” – contentious legislation
  - 2. Uneven allocation, convoluted formula – Not proportional to cost or ACA impact; tripled cost for some people, free coverage for others, cheaper for older people
  - 3. “Premium Misalignment” – the least understood in the public sphere, primarily what we are going to talk about today

“Uneven Subsidy Allocation”: Age and Income

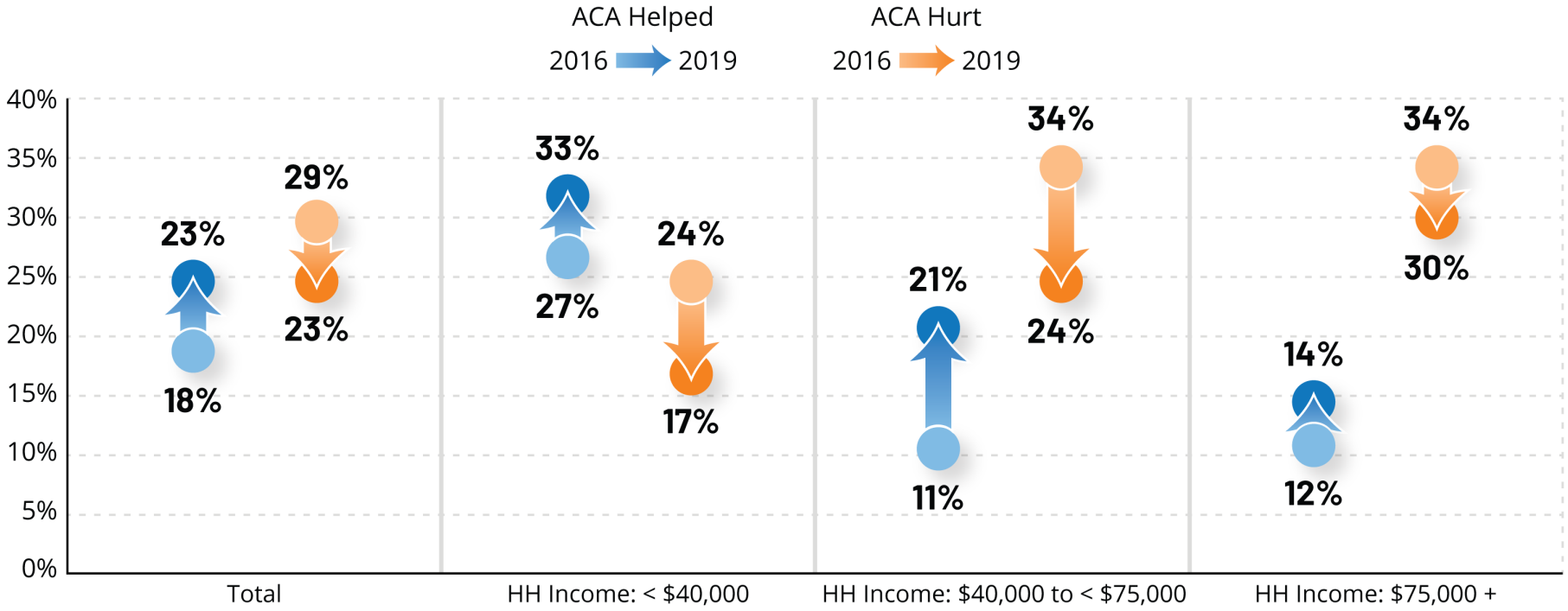




- ACA Structural Design: The True Cost of Coverage - The Actuary Magazine
- Disparate impacts largely ignored for years
- Recent focus has been on income (removing “subsidy cliff”)
- Proposed Legislation to Address Uneven Age Allocation Murphy and Shalala Introduce Bill to Reduce Number of Floridians Without Health Insurance | U.S. Representative Stephanie Murphy (house.gov)

Public Reaction to Changing Dynamics

Since 2016, More People Say the ACA Has Helped Them or Their Families, Fewer Say It Has Hurt



NOTE: "HH" = Household
SOURCE: KFF Health Tracking Polls, June 2016 and September 2019.

KFF
HENRY J KAISER FAMILY FOUNDATION

ACA Math

- ACA Math and 2020 – Axene Health Partners, LLC (axenehp.com)
- Gross Premiums do not align with what consumers pay; reducing costs saves taxpayers (not consumers) money; Section 1332 exception
- **Net Premium = (% of Income) + (Plan Premium – Benchmark Premium)**
- In general, "premium misalignment" results in lower Benchmark Premiums (2nd lowest cost silver) and higher non-silver premiums
  - Disadvantageous for enrollees with incomes above 200% of FPL
  - Premium Misalignment increases net premiums in two ways; higher Plan Premiums and lower Benchmark Premiums
- Net Premiums are lower in 2021/2022 for two reasons:
  - American Rescue Plan (lower % of Income)
  - Shift toward Premium Alignment (lower Plan Premium, higher Benchmark)

Federal Exchange States :

Year	2018	2019	2020	2021	2022
Gold/Silver	1.16	1.15	1.14	1.09	1.06

Definitions

- "*The aim of ACA risk adjustment is to foster the development of markets where health plans compete on quality, efficiency, and value*, not on *risk selection*; moreover, *the objective is to preserve consumer choice in plan generosity* to lessen the likelihood of *market dynamics in which more generous plans are eliminated from the market by their adverse selection of health risks*." Risk Transfer Formula for Individual and Small Group Markets Under the Affordable Care Act (cms.gov) (intended to foster was plan/enrollee indifference)

- **Premium Alignment** – premium relationships between benefit plans reflect pure benefit differences, not the different populations expected to enroll in various benefit plans
- **Premium Misalignment** – strategic discriminatory pricing by metal level to gain competitive advantage on profitable ACA population subsets, aka "Metalball" Metalball: Gold < Silver 'Gets on Base' (axenehp.com)
- "Maybe we got lost in translation, Maybe I asked for too much,
  But maybe this thing was a masterpiece 'til you tore it all up" –Taylor Swift

Why play Metalball?

CSRs are Key to Success

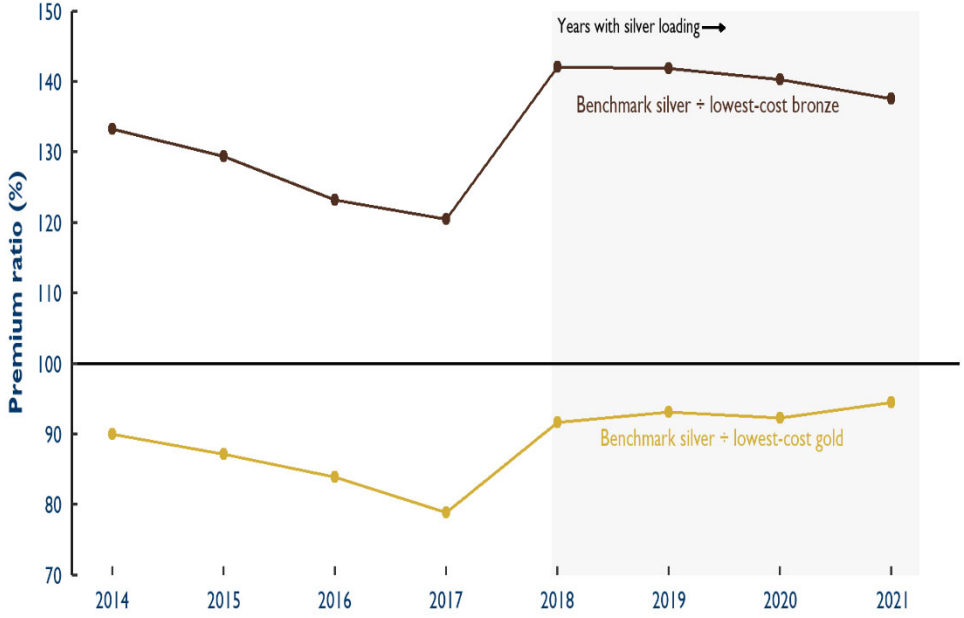
Risk Adjustment vs. Claim Cost by Metal

Comparison of Cost and Risk Score by Market and Metal			
Market / Metal	**Relative Risk Score**	**Relative Cost**	**Cost Relative to Risk Score**
Individual			
Catastrophic	0.19	0.21	8%
Bronze	0.55	0.55	0%
Silver Std	0.99	1.06	7%
Silver 73%	0.93	0.87	-7%
Silver 87%	1.09	0.72	-34%
Silver 94%	1.12	0.83	-25%
Gold	1.20	1.50	25%
Platinum	1.63	2.32	43%

Lost in Translation

- Community Rating (2014) vs. Experience Rating
  - Group Insurance Transition from Manual Rates
- "Premium Alignment" is:
  - Compliance with Community Rating
  - Single Risk Pool
  - Price differentials aligned with actuarial value
  - Compliance enforcement response to premium misalignment
  - Objective view of benefit values
  - Consistent relationships from 2014-2017
- "Premium Alignment" is not:
  - Response to CSR Defunding
  - "Revenue sufficient to cover costs"
  - "Maximizing Subsidies / Silver Loading"
  - Accommodating "state uniqueness"

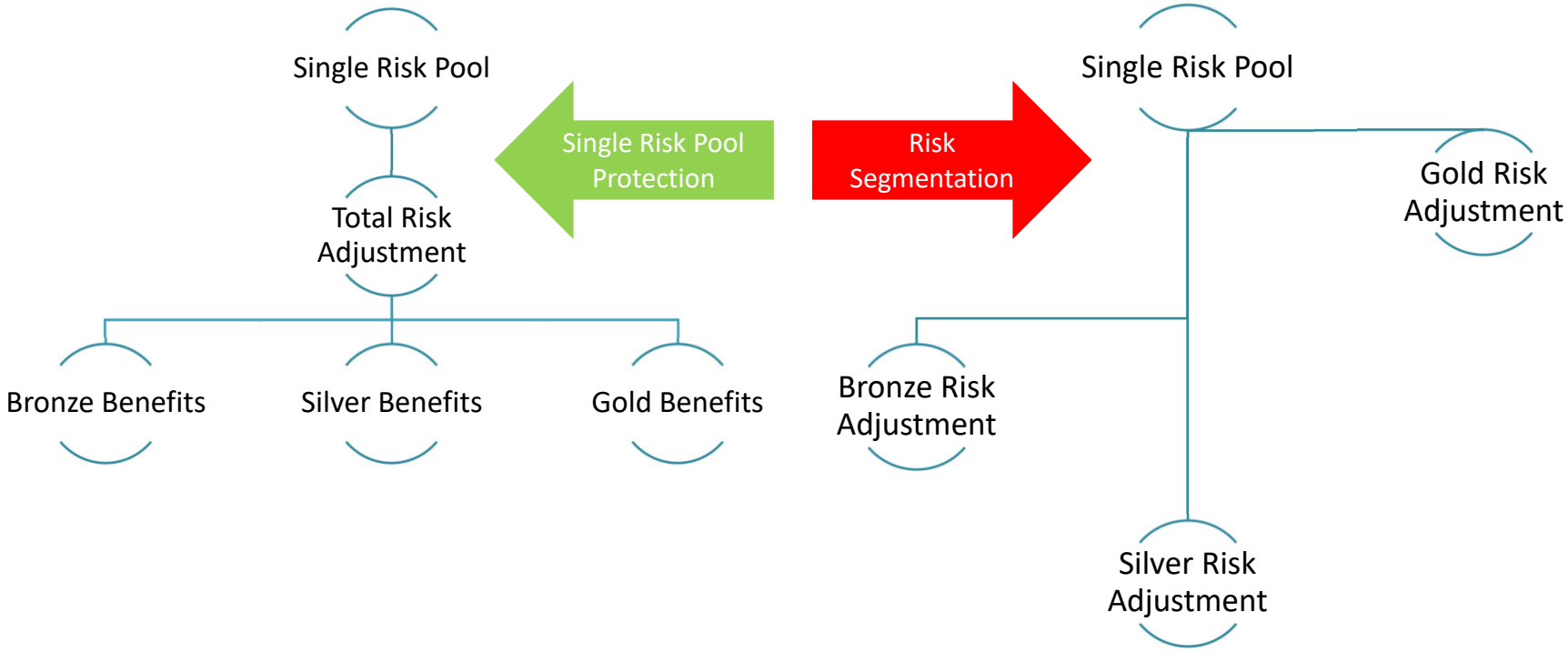
Figure 1: Benchmark Silver vs. Lowest-Cost Bronze and Gold Premiums



Source: CMS premium landscape and open enrollment public use files; author's calculations.
Note: Analysis limited to 33 states that used HealthCare.gov in all years. Counties that lack a bronze, silver, or gold plan in at least one year are excluded; these counties account for less than 3% of the sample by enrollment. Plotted series are ratios of weighted average premiums. Weights are 2021 county plan selections.

USC Schaeffer BROOKINGS

Risk Adjustment vs Risk Segmentation



Not What Was Expected (Silver=Platinum) in 2015

HHS ASPE explaining results of CSR Defunding - "The result would be a new distribution of consumers across Marketplace health plans, with silver plans likely enrolling only those individuals eligible for the two highest CSR tiers. Without enrollees at the 70 and 73 percent AV levels, silver plans would have to be priced even higher to cover insurers' costs. Specifically, with all enrollees entitled to 87 or 94 percent AV coverage, **the new average AV in silver plans would be about 90 percent**, and **plans would have to be priced accordingly.** Footnote: Under certain assumptions, individuals eligible for CSRs that raise the AV of a silver plan to 87 percent would also be better off buying gold or platinum rather than silver plans. In that case, only individuals eligible for the highest CSR tier would remain in silver plans, which would be priced for an actuarial value of 94 percent." ASPE_IB_CSRs.pdf (hhs.gov)

The Long Arm of the Law

"You can hide out for a while, He says with a smile, But you can't outrun the long arm of the law" –Kenny Rogers

- The law is clear.
  - Induced demand for a benefit plan is demand that induced by the underlying benefits.
  - Mitigation for risk adjustment concerns is not an allowable rating factor.
  - Models that show "lower induced demand" for "higher benefits" are not measuring 'induced demand'. Actuaries know this…and NOW non-actuaries know this.
- Like a police chase, it may be fun and suspenseful to watch live, but we know how it always ends. The only question is how long it will last.
- ACA Individual Market Equilibrium
  - Medicaid Expansion in every state (it took 17 years for Arizona to implement Medicaid)
  - Migration out of "dominated (lower value, higher premium) plans"
  - Premium relationships in single risk pool compliance
  - The Affordable Care Act Makeover – Part 4: A Country under Construction | LinkedIn
- Premium Alignment - are actuaries being pursued or leading the pursuit?

Not an Actuarial Secret Anymore

- With Obamacare Plans, Cost of 'Silver' Is Seen as Too Cheap (bloomberglaw.com)
  –Sara Hansard, Bloomberg
  - "Insurance companies have financial incentives to aggressively under-price silver and make up for it by raising premiums at other metal levels."
  - "What that means is that plans are being overpaid for their silver enrollees and underpaid for all their other metal level enrollees."
  - "The people hurt the most are people like moderate income folks who earn between twice the poverty and four times the poverty level. If things are priced properly, they could enroll in low-deductible gold and pay less than they pay now for high-deductible silver."
- President-Elect Biden Can Take Administrative Action To Dramatically Cut Consumers' Health Care Costs And Cover Millions Of Uninsured | Health Affairs
  -Stan Dorn and Frederick Isasi, Health Affairs
  - "Realign metal-level premiums to fit coverage generosity...encouraging states to enforce basic requirements for setting premiums, federal officials can fix this misalignment and save money for the vast majority of people who are covered through the individual market."

States Taking Action & Using Actuarial Language

- Colorado passed a law in 2020 allowing Commissioner to "*adopt rules designed to assure premium pricing that complies with the requirements in the federal act for modified community rating".* In 2022, Colorado is applying induced demand formula being used in Pennsylvania. https://doi.colorado.gov/es/node/11146
- Texas passed a law in 2021 bringing effective rate review back to the state. "Through 'focused rate review' at the state level, Texas can not only ensure that rate increases are reasonable, but it can also remedy a misalignment in premiums across the different metal tiers of coverage in the health insurance marketplace, resulting in more affordable coverage." Supplement: TX SB1296 | 2021-2022 | 87th Legislature | Analysis (Senate Committee Report) | LegiScan

State Rating Guidance: Premium Alignment through “Focused Rate Review”

State	Authorizing Legislation (Year)	2022 CSR Defunding Adjustment	2022 Induced Demand
Colorado	106-16-107 (2020)	None	Formulaic
Maryland	No	None	None
New Mexico	No	1.44	Metal Level
Pennsylvania	No	1.22	Formulaic
Texas	SB 1296 (2021)	None	None
Virginia	No	None	Metal Level
Wyoming	No	None	None

State	Literature	Webinar/Podcast/Legislative Hearing
Colorado	ACA Directions to "Gold"en Colorado?	The ACA's future: Cyclical Pattern or a New Direction?
Maryland	None	Improving Affordability and Coverage in the Individual Market
New Mexico	ACA Premium Alignment in 2022	Improving Affordability and Coverage in the Individual Market
Pennsylvania	It Didn't Cost a Pennie	It Didn't Cost a Pennie
Texas	Texas 2036 Health Coverage Policy Explorer	SB 1296 Hearing (2:16:45-2:22:45)
Virginia	)Metalball: Gold < Silver Gets on Base	None
Wyoming	Actuaries versus Experts: Lost Sheep Astray on Route ACA – Axene Health Partners, LLC (axenehp.com	None

- New Mexico CSR Defunding Adjustment reflects “Rational Consumer Behavior”
- Texas is currently one of three states without Effective Rate Review
- Voluntary Compliance in Wyoming (historically a monopoly state)

State Resistance to Address Premium Misalignment

- Things are working OK.
- Our actuaries are comfortable with current practice.
- This is stuff only actuaries complain about.
- The ACA is going away soon. It's not worth the effort.
- We're happy to have carriers in our market. We don't want to tell them to change premiums.
- This is a Trump thing. We don't want to support it.
- We're busy with COVID-19 priorities.
- The Biden administration will resolve this.
- "Premium alignment makes sense. If we had started that way, it might have worked. But we are used to what we have now and we're not having many problems. We had serious market challenges and lost a few brand name insurers in the initial years, but things are now stable. It would be disruptive to change the market rules, and people at the state think things are smooth and now working well…and this is simply not a priority. Our leaders ask us about the COVID-19 impact. They ask us when Blue Cross will stop paying MLR rebates. They ask why United is reducing its market footprint. They are not asking about 'metal level premium misalignment'."

Actuarial Resistance to Premium Alignment

- If premiums are aligned, “some consumers may be able to purchase gold plans for zero net premiums due to higher federal premium subsidies. This may encourage consumers who are eligible for cost sharing subsidies to choose comparatively leaner gold plans due to the zero premiums and then are faced with unexpected out of pocket expenses.”
- “If you are adjusting premiums on a post-risk adjustment basis, you are in compliance with the letter and the spirit of the law. Risk Adjustment is what we have, imperfect as it may be.”
- “Unanticipated increase in government expenditures (due to increased subsidies associated with Premium Alignment) are unknown and may be wide ranging.” This is backwards thinking…policymakers are making decisions based on current reality of premium misalignment…premiums will ultimately be aligned. Subsidies will be inflated due to policymakers not recognizing future corrections for premium misalignment.
- Do these responses reflect preferred outcomes or actuarial professionalism?

Fellow Actuaries: Who is Responsible for Premium Alignment?

- Patchwork State Action?
- Federal Guidance?
  - Regulations and Rating Instructions
  - Largely deferential to “effective rate review” states on enforcement
  - Unified Rate Review Instructions related to premium differential is generally verbatim from the law.
- Self-regulate?
- Not a genuine concern. “If risk adjustment is working as it should, factors are appropriate”.
- Actuaries are mostly silent. It is uncomfortable to talk about.

Why Actuaries Cannot Remain Silent

- “It is our challenge to write standards we can live with before someone else writes standards we cannot.”- Walter Rugland, September 1984
- With regard to Precept 13, what is the appropriate response to a violation of the Code that is systemic in the profession, not specific to one actuary?
- There are legitimate actuarial concerns with premium alignment. Premiums are misaligned for profitability and risk mitigation reasons. This has been professionally expressed by actuaries.
- There are also many actuarial statements in the public domain that would be embarrassing to the profession if explained in the public sphere and unwarranted attacks on actuaries for assisting states with premium alignment guidance.
- It’s an issue that needs to be discussed with professional courtesy.

SELF-REGULATION AND THE ACTUARIAL PROFESSION

- American Academy of Actuaries Discussion Paper (June 2020) SelfRegulation.pdf
- "This paper was developed to encourage discussion among actuaries about self-regulation of the U.S. actuarial profession, and particularly to:
  - Raise actuaries' awareness of the importance and value of self-regulation, and
  - Identify actuaries' responsibilities with respect to maintaining self-regulation of the actuarial profession in the United States"
- "governments may rely on a profession to regulate itself because of its specialized knowledge and understanding of standard practices, provided that the self-regulation assures competent and ethical services"
- **"Specialized knowledge**—Actuaries have a rigorous and specialized course of study, have experience doing actuarial work, and are required to obtain continuing education. **Responsibility to the public**—The profession recognizes that the work of actuaries affects the financial well-being of individuals and companies and that the public depends on this work."

Disclaimer: The contents of this presentation have not been reviewed or approved by the American Academy of Actuaries. My remarks do not necessarily reflect the opinions of the American Academy of Actuaries or the Committee on Professional Responsibility.

“Every Actuary Is Responsible for Preserving Self-Regulation”

- **Exemplify professionalism**— “speak up when questionable strategies are being considered, and speak often about the professional responsibilities of actuaries“
- **Monitor other actuaries** — “By showing that the profession holds its members accountable for their professional and personal conduct, actuaries can help earn and maintain the trust of the public every day.”
- **Summary --** “continue to build and support the solid, long-standing reputation of the actuarial profession and our privilege to remain self-regulated”
- 2019 Health Meeting Session
  - *“How does presentation square with single risk pool requirements?”*
  - “I’m not a regulator.”
- Are we a “self-regulating” profession?
- You can’t outrun the long arm of the law.

“Equity”

- American Academy of Actuaries Health Equity Work Group
  - ”The work group will examine health actuarial practices and methods to assess the extent to which they may affect health disparities and recommend changes when appropriate, educate actuaries and other stakeholders on health equity issues, and apply an equity lens to the Academy’s health policy work.” Health_Equity_Discussion_Brief_3.21 (actuary.org)
  - “What are the implications for premiums and plan incentives to better meet the health needs of underserved populations? Can actuarial methods of pricing benefits foster inequity?”
- Premium Alignment = The Writing on the Wall?
- Consumer Advocates
  - “Racial disparities are reflected in people of color being more likely to be uninsured and more likely to go without care due to cost.”
  - “How would premium alignment impact Marketplace consumers who are Black, Indigenous and people of color?”
- Actuarial Fundamentals – Objective Compliance, role of actuaries.
  - “Only do what only you can do.” - What is this for actuaries?

Practice Note Out of Date?

- ***2015 American Academy of Actuaries Practice Note:***

"The actuary considers the following items with respect to the AV and cost-sharing adjustments…

Benefit richness adjustment to reflect variation in utilization across different plan designs. This adjustment does not include any estimates of variation in costs due to selection of a plan design by members (sometimes called utilization due to selection). The actuary provides discussion on how this value was developed and how it does not include any adjustment due to selection or differences in health status." RRPN_120315.pdf (actuary.org)

- ***Case Study on 12/1 Webcast***

Actuarial Professionalism: Judge & Jury Webcast | SOA

Premium Misalignment Mechanics Since 2018

Explicitly or implicitly experience-rating CSR members

Varying risk adjustment's application by metal level

Gaming projected enrollment in CSR variants

Federal Rules/Instructions

Single-risk-pool rule: "Several commenters also requested clarification on the method for applying plan-specific premium factors, particularly whether issuers may adjust the index rate for anticipated difference in … risk adjustment payments and reinsurance payments through plan design… Response: … **[W]e would expect issuers to proportionally allocate anticipated reinsurance and risk adjustment payments and charges based on plan premium by applying the risk adjustment/reinsurance adjustment factor as a constant multiplicative factor across plans. We believe that this modification would prevent issuers from differentially allocating risk adjustment and reinsurance payments and charges across plans in a manner that would reintroduce risk selection differences into plan premiums** (emphasis supplied)."

Uniform rate review (URR) instructions: "Risk Adjustment Payment/Charge: Under the single risk pool pricing requirements, issuers are required to make a market-wide adjustment to the pooled market-level Index Rate to account for federal risk adjustment payments and charges … Consistent with this adjustment, **anticipated risk adjustment revenue must be allocated proportionally based on plan premiums for all plans within a risk pool by applying the risk adjustment transfer adjustment factor as a market-level adjustment** (emphasis supplied)."

Maine Rate Review

Question 4: "Premiums should reflect the expected value of claims to be paid for the plan. Based on projected enrollment by CSR the Gold plans appear to be over-priced compared to most of the Silver loaded exchange plans. Our analysis of the weighted AV for Silver based on enrollment in CSR level coverage exceeds the AV value for Gold. Please provide an explanation and revision of rates."

Answer: "While the AV may provide a very general sense of the relative value of a specific plan, we do not use it for the development of plan level rates. Instead, modeled benefit relativities and standard utilization assumptions, as well as **post risk adjustment and reinsurance experience are used to set plan level rating factors**. **Our approach incorporates actual experience by metal level in the determination of the utilization adjustment among plans in the Individual marketplace. The experience is reviewed after applying the impact of risk adjustment and reinsurance**.... This approach is consistent with prior years and with other carrie[r]s in the market. While we would have competitive concerns if we were to modify our approach, as with other questions, we will consider the Bureau's comments as we prepare our refiling (emphasis supplied)."

Premium Alignment in Maryland: "Rational Consumer Challenge" Is a Red Herring

- One argument against premium alignment is that consumers are not rational. https://www.linkedin.com/pulse/aca-underinsured-greg-fann/
- It is narrowly focused on CSR defunding and Silver plans, not holistically on ACA dynamics.

Distribution	Benefit	Base AV	AV Load	Variant
8%	70%	78.1%	1.000	78.1%
7%	73%	78.1%	1.017	79.5%
44%	87%	78.1%	1.199	93.6%
41%	94%	78.1%	1.231	96.2%
Current Distribution	87.4%			92.3%
Rational Consumer	90.4%			94.8%

Ranking	2020	2021	Ranking	2020	2021
1	IA	ND	11	ID	KS
2	MD	MD	12	NC	MT
3	OK	OK	13	CT	NE
4	ND	IA	14	MT	RI
5	**NM**	PA	15	OR	NC
6	WY	HI	16	NE	ID
7	DE	VA	17	RI	OR
8	KS	DE	18	VT	AK
9	VA	WY	19	AK	CO
10	HI	**NM**	20	PA	CT

Unique Market Dynamics - "straw house" (IA, OK, SC)
Insurer Monopoly - "stick house" (AK, DE, WY)
Regulatory Review - "brick house" (MD*, PA, VA)
2nd Annual ACA Consumer Value State Rankings – Axene Health Partners, LLC (axenehp.com)

New Market Entrant in California

The methodology used to derive the induced demand curve was as follows: allowed claim costs for each metal tier and CSR variant were summarized, and in order to remove possible morbidity differences between products, results were normalized for risk adjustment transfers by metal and variant. The induced demand curve does increase monotonically in the absence of Silver CSR variant plans. While the 87% and 94% variants do have higher actuarial values, they also have significantly lower risk transfer payables compared to the other CSR variants and Bronze plans. Because BHC anticipates enrolling a large portion of CSR members within those variants, the total silver CSR induced demand factor is projected to be lower than the bronze factor.

- Attractive Silver Premiums, no Gold or Platinum enrollment.
- Low Induced Demand Factors offset high actuarial value. For example,
  - 70% AV has induced demand factor of .90.
  - 90% AV has induced demand factor of .70.
  - No “CSR Loading”
  - Distribution does not matter; 70% plan is priced the same as 90% plan. The issue is the rating development, not the enrollment distribution.

Two States with Comparable Benchmark Premiums

- New Mexico implemented rate guidance that limited metal level pricing factors (induced demand) and mandated standard CSR Adjustment factors. https://www.osi.state.nm.us/wp-content/uploads/2021/06/OSI-2022-Rate-Guidance-Final-05282021.pdf

2022 Individual Market Gross Premium Rates

40-Year Old, 300% of FPL	New Mexico	California	Difference
Lowest Bronze Gross Prem	$239	$272	-12%
Lowest Gold Gross Prem	$292	$354	-17%
Benchmark Gross Prem	$341	$345	-1%
Estimated Subsidy	$155	$159	-2%

2022 Individual Market Net Premium Rates

40-Year Old, 300% of FPL	New Mexico	California	Difference
Lowest Bronze Net Prem	$83	$114	-27%
Lowest Gold Net Prem	$137	$195	-30%

*Excludes state specific subsidies from California. NM Rating Area 1 (Albuquerque) and CA Rating Area 16 (Los Angeles) used in the comparison.

Rational Consumer Behavior is Indicative in Data: Enrollment Patterns are an Output of Premium Relationships, not an Input

Irrational consumer behavior is a result of insurers predicting irrational consumer behavior (and other techniques to hyperaggressive compete on silver) and regulators allowing it.

Where premiums are aligned, consumers make wiser choices.

CBO: “Gold plans would attract a larger share of enrollees under the policy.”

State	Silver	Benchmark	Gold	Silver/Gold	Gold - Benchmark
Colorado	$353	$358	$385	0.92	$27
Nebraska	$667	$711	$613	1.09	($98)
Oklahoma	$527	$601	$521	1.01	($80)
Wyoming	$875	$881	$732	1.20	($149)

Gold Enrollment	Colorado	Nebraska	Oklahoma	Wyoming
2017	6%	0%	2%	3%
2018	4%	4%	4%	46%
2019	5%	30%	17%	54%

Existing Issuer in California

Question: "Please explain the reasonableness of Silver 87 and Silver 94 variants having Induced Demand Factors of 1.06-1.07 while lower value Gold plans have Induced Demand Factors of 1.243.

Answer: "…. Members in silver plans (both CSR and non-CSR) behave fundamentally differently from members who choose gold metal level. Therefore, even though CSR variant plans have richer benefit cost structure, members from this plan will be very different from the gold population. Thus, the silver (including CSR) induced demand factor is lower than the gold induced demand factor."[4]

Question: "Please explain in more detail what you mean by the following: 'We expect that silver CSR variant members behave similarly to non-CSR silver members'…."

Answer: "CSR variant plans offer lower cost sharing which helps eligible members to pay less for deductible, coinsurance and copay. Lower cost sharing offered in CSR variant plans make [sic] their coverage of benefits similar to that of gold and platinum metal level plans. Despite similar plan design and benefits, induced demand may not be alike. CSR plan's eligiblity [sic] depends on income level and member's sensitivity to cost sharing is likely to vary with members' income."[5]

Research Report (holistic impact of Premium Misalignment on Current Enrollees)

- In 2020, if metal-level premiums had been proportioned to coverage generosity, while total premium revenue stayed unchanged:
- 97% of exchange consumers would have spent less
- On net, exchange consumers would have saved $5.9 billion
- People earning between 200% and 400% of FPL would have saved the most, averaging $938 in annual savings
    - Many would have saved money on both premiums and out-of-pocket costs by moving from high-deductible silver plans to lower-deductible gold premiums
- People with incomes above 400% of FPL, ineligible for PTCs, would have saved $702, on average
- The proportion of uninsured, PTC-eligible adults with access to zero-net-premium plans would have increased from 30% to 51%
- Misalignment between Premiums and Coverage Generosity Imposes Heavy Cost Burdens on Consumers in Health Insurance Exchanges - Families Usa

2022 Lowest Gold to Silver Ratios

State	2021 Gold to Silver Ratios	2022 Gold to Silver Ratios	Change in Gold to Silver Ratios
WY	82%	85%	3%
NM	99%	86%	-13%
AK	90%	91%	0%
MD	96%	93%	-3%
ND	93%	94%	1%
CT	93%	95%	1%
PA	97%	96%	-2%
HI	94%	96%	2%
IA	92%	97%	5%
TX	102%	97%	-5%
OK	100%	97%	-2%
VA	99%	98%	-1%
DE	99%	98%	-1%
NC	103%	99%	-4%
CO	111%	101%	-9%

Summary

- Metal Level Premium Misalignment is the Largest Abuse in ACA Individual Markets.
- It predates CSR Defunding and applies across all metal levels.
- Metal level pricing relationships in ACA individual markets vary widely across the country for reasons not explained by allowable benefit differences.
- In states where abuse is rampant, low-income consumers are generally harmed.
- Slow transition to full compliance with federal rules could result in misinformed policy decisions. 'Policymakers would be wise to let the ACA fully develop before making substantial changes' The Temptuous Crisis Invitation | The Actuary Magazine
- In a minority of states, health plans have aligned premiums without regulatory intervention. Self-regulation? There is no guarantee that those markets will not shift backwards. Pennsylvania example:

	2018	2019	Change
Benchmark	$636	$465	-27%
Lowest Gold	$539	$517	-4%
Gold / Benchmark	0.85	1.11	31%

- States that align premiums to only reflect benefit differences and not vary premiums based on characteristics of populations expected to enroll in different metal levels will have stronger, stable markets.
- Actuaries need to seriously consider Professionalism ramifications. It will be fixed. Will we fix it?