Health Affairs | Robert Wood Johnson Foundation

Health Policy Brief

April 30, 2010

Near-Term Changes In Health Insurance:

Newly enacted health reform legislation mandates dozens of health insurance changes. Many go into effect this year and next.

What's the issue?

In March 2010, Congress enacted substantial health reform measures intended to increase access to affordable insurance, reduce the number of uninsured people, and reform both the health insurance market and the health care delivery system. The lion's share of these reforms will take effect in 2014. However, some reforms go into effect well before that time. This brief summarizes and provides context for key immediate reforms to the private health insurance market that will take effect in 2010 and 2011.

What's the background?

Early insurance market reforms are associated with two goals of health care reform: reducing barriers to health insurance, and improving the availability of information in the health care marketplace.

Reducing barriers to health insurance: Although the vast majority of Americans have health insurance, millions don't, and millions of others struggle to get insurance and keep it. As of 2008, an estimated 46.3 million people in the United States—36 million of them U.S. citizens—were without health coverage. Another 10 million or so individuals don't get coverage through an employer and have to buy it on their own through the so-called individual insurance market. Still another group of Americans work for small businesses, which may or may not offer coverage—and if they do, it may be quite costly.

As a result, many of the initial health insurance changes that will take effect under the health reform law are aimed at beginning to reduce barriers to these groups' ability to obtain or keep health insurance. Such barriers include insurance industry practices that limit coverage for specific conditions; cancel policies that have already taken effect; apply lifetime or annual limits on coverage; and restrict the age of dependents on family plans. Other provisions that take effect soon focus on barriers associated with the cost of offering insurance—either for specific employers like small businesses, for specific individuals like early retirees, or for specific services like long-term care. (See Health Policy Brief, "Health Insurance Reforms," October 21, 2009, for additional background on the private insurance market and issues in expanding health insurance coverage: Health Insurance Reforms).

10.1377/hpb.2010.3

Still other early reforms apply not just to insurance in the individual or small-group market, but also to health coverage that large employers often help finance for their employees. Some of these changes that occur in the near term are outlined below.

June 21, 2010

A temporary national "high-risk pool" goes into effect for individuals with preexisting conditions who have not had insurance for at least six months.

September 23, 2010

Insurance plans can no longer exclude coverage for preexisting conditions for children up to age 19.

What's the law?

Temporary access to Insurance for people with preexisting conditions: Ninety days after the enactment of the legislation—in other words, on June 21, 2010—there is to be a new program that provides access to insurance for individuals with preexisting conditions who have not had insurance coverage for at least six months. The program, which would create a national "high-risk pool" or assist states in setting up or expanding their existing pools, is temporary. It will be in existence until new health insurance exchanges are implemented on January 1, 2014. The law sets aside $5 billion for the federal government to create the new federal high-risk pool or to assist states in running theirs.

In April 2010, Health and Human Services Secretary Kathleen Sebelius wrote to states asking whether they wanted to expand or create their own pools or would prefer to refer their residents to a new national pool. So far, one state, Georgia, has indicated that it would not expand its existing pool and would rely on the federal pool. The federal government is now sorting out various other details, such as whether people who are already covered through existing state high-risk pools will be able to switch over to a new federal pool, or whether they would see their premiums for state-pool coverage fall as a result of the new federal financial assistance.

No preexisting condition restrictions for children: Effective six months after enactment (September 23, 2010), the law also prohibits plans from excluding coverage for preexisting conditions for children up to age 19. As of mid-April 2010, several health insurers announced that they would honor this provision effective immediately with all newly written health insurance policies.

Restrictions on certain insurance practices: Effective September 23, 2010, the law generally prohibits insurance companies from rescissions—the act of cancelling health insurance policies that have already gone into effect because the insurer believes the insured might have had a preexisting condition that was not disclosed in advance. (The insurer can still cancel a policy if it believes a patient has committed a fraud or made an intentional misrepresentation of material fact.) As of the publication date of this brief, America's Health Insurance Plans, the industry trade group, had said that insurers would commit to stopping rescissions except in the case of fraud. WellPoint and UnitedHealthcare were among the insurers that said they would halt rescissions immediately.

As of September 23, the law will also prevent insurers from imposing lifetime limits on benefits—for example, capping total payouts on behalf of a single insured individual at $1 million over the lifetime of the policy. The law also requires the HHS secretary to develop regulations that restrict the use of annual limits on benefits in group plans and on new plans on the individual market.

Reporting requirements: Beginning January 1, 2011, health plans must report information on their medical loss ratios, or the portion of premium dollars collected that are spent on medical care. Such reports will be made available on the Internet. The law requires that the minimum medical loss ratio must be 85% in the large-group market and 80% in the small-group and individual markets. The HHS secretary has the authority to make adjustments to the requirements in the individual market if there is a risk of market destabilization. Plans that pay out less than that threshold will have to return premium dollars to enrollees.

Small-business tax credit: For 2010 through 2013, small businesses that purchase health insurance for their employees will be eligible for a tax credit, depending on the firm size and their total payroll. Businesses with up to 25 employees and average annual wages of $50,000 will be eligible for a credit; businesses with 10 or fewer employees and average annual wages of less than $25,000 will be eligible for the full credit of 35 percent of the employer contribution.

Expanded dependent coverage: Adult children under age 26 may be covered as dependents on their parents' health insurance, effective September 23, 2010. This is because many adult

children have had difficulty obtaining affordable coverage on their own after they have graduated from college and have lived at home for a while. Insurance carriers are required to adapt new proposals to cover these young adults under parents' policies. As of the publication date of this brief, several insurers—WellPoint, Humana, and UnitedHealthcare—have said that they will allow college students who are about to graduate to stay on their parents' policies until the new provision allowing them to be covered to age 26 takes effect in September.

January 1, 2011

Health plans must report information on their medical loss ratios.

Coverage and access provisions: Effective September 23, 2010, new plans must cover recommended preventive services and immunizations without requiring cost sharing. New group and individual plans must have internal and external appeals processes for coverage determinations and claim denials. New plans covering emergency services or obstetrical and gynecological services, or both, cannot require preauthorization for those services. Plans cannot limit access to primary care providers in the plan network who are willing to accept new patients.

Expanding access to information on health insurance: By July 1, 2010, HHS is required to establish a Web site to provide information about health insurance options in each state for individuals and small businesses. By March 23, 2011, HHS is required to develop standards for how information on coverage and cost sharing is presented in health insurance documents and how health insurance and medical terms are defined. Those uniform standards and definitions will be used by insurers in summary of benefits and coverage explanation documents effective March 23, 2012. For tax years after 2010, employers will be required to include the value of the health insurance coverage on the W-2 form provided to the employee.

Retirees' access to health insurance: The law creates a temporary "reinsurance" program that subsidizes employers for the cost of health insurance for their retirees ages 55–64, as well as their families. The program will reimburse employers for 80 percent of costs between $15,000 and $90,000 per enrollee and is effective June 21, 2010.

Access to long-term care insurance: The law requires the creation of a voluntary long-term care insurance program funded by enrollee premiums that would cover community living assistance services for adults who become disabled. This measures is known as the Community Living Assistance Services and Supports (CLASS) program. The program is to be effective January 1, 2011.

Under Age 26

Adult children under age 26 may be covered as dependents on their parents' health insurance, effective September 23, 2010.

What's next?

The new health care reform law is complex. As all of these provisions are implemented by agencies within the Departments of Health and Human Services, Labor, and Treasury, new regulations will be adopted, and details may change. This activity will be a largely new role for the federal government, since most insurance regulation and enforcement is currently performed by the states.

Many steps to implement these provisions will be undertaken by HHS, which has now created a new Office of Consumer Information and Insurance Oversight to help carry out the changes. The Obama administration will have to establish a framework for the continued role of state government agencies in regulating health insurance and will also have to forge a working partnership with state health insurance departments. Differences of opinion are likely to emerge as these regulations are developed and implementation of the law is begun.

Although members of the public differ in their support of or opposition to the overall health reform law, there is broad support for the insurance market changes. An April 2010 poll of a nationally representative sample of 1,208 adults age 18 and older, conducted by the Kaiser Family Foundation, showed that 74 percent of respondents supported allowing children to stay on their parents' policies to age 26; 75 percent favored the new high-risk pool; and 81 percent supported the ban on rescissions.

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Health Policy Briefs are produced by *Health Affairs* with the support of a grant from the Robert Wood Johnson Foundation.

Cite as:
"Health Policy Brief: Near-Term Changes In Health Insurance," *Health Affairs*, April 30, 2010.