



TEXAS PUBLIC POLICY FOUNDATION
LEGISLATORS' GUIDE TO THE ISSUES

Health Insurance Regulations

By The Honorable Arlene Wohlgenuth, Executive Director & Director, Center for Health Care Policy
& Spencer Harris, Health Care Policy Analyst

THE ISSUE

In recent years, lawmakers have enacted legislation requiring health insurance plans to cover a variety of conditions and forcing insurers to guarantee access to an array of health care providers.

The majority of health insurance mandates fall into three categories: those that force health plans to cover specific services or benefits, those that require access to specific health care providers, and those that mandate guaranteed coverage to particular individuals. All told, Texas has 58 mandates.

Of course, many motives lie behind legislation that mandates specific aspects of health care, not the least of which include guaranteeing reimbursement for providers, insuring coverage for individuals with chronic conditions or diseases, and extending health benefits to more individuals. Although usually well-meaning, these mandates ultimately harm consumers by making health insurance more expensive and requiring individuals to buy health benefits they would not choose if they had the option.

Legislation that defines the parameters of health insurance policies inflates the cost of health plans by requiring policies to cover an array of services, many of which consumers never use. A prime example is the Texas law requiring all insurance policies to cover in-vitro fertilization (IVF), a service that costs on average \$8,158 plus an additional \$4,000 in medication costs. It is estimated that insurance coverage of IVF treatments can increase health insurance costs by as much as \$2.00 per member per month, adding significantly to the cumulative effect of mandates.

Additionally, these predefined policies limit the opportunity for insurers to develop new and innovative products tailored to the individual and designed as valuable

investments. Instead, these mandates force consumers to buy all-inclusive, "Cadillac" health plans with few alternatives to the more expensive, heavily mandated plans.

Thus far, Texas has avoided the destructive, community-rating mandate and the guaranteed issue mandate, both of which have a crippling impact on the individual health insurance market. Community rating forces healthy individuals to subsidize the health care costs of more risky consumers by redistributing the cost of insuring more expensive, unhealthy individuals to those who use less health care. Similarly, guaranteed issue forces insurers to approve coverage for all individuals.

The incurred cost of insuring everyone, regardless of health status, eliminates the risk-based aspect of health insurance and, again, forces healthy consumers to compensate for the expense of less healthy individuals. However, these onerous mandates have been imposed on the small group health insurance market. As a result, small employers are struggling to provide affordable health insurance for their employees.

Unfortunately, both community rating and guaranteed issue will be required of all policies by 2014 under the new federal health law.

Although all of Texas' 58 mandates were passed with the intent of making health care accessible to more people, they have actually contributed to the growing uninsured population across the state.

THE FACTS

- ★ Texas' insurance plans are subject to 58 mandates, ranking the state as one of the country's five most heavily regulated. Insurance premiums in Texas increased 40 percent in five years, the third highest rate of increase in the nation.

continued on back

TEXAS PUBLIC POLICY FOUNDATION

Texas Mandated Benefits		
Alcoholism Alzheimer's Autism Spectrum Disorder Bariatric Surgery & Tests for Early Detection of Heart Disease Bone Mass Measurement Breast Reconstruction Cervical Cancer/HPV Screening Colorectal Cancer Screening Contraceptives	Dental Anesthesia Diabetes Self-Management Diabetic Supplies Drug Abuse Treatment Emergency Services Hearing Aid HPV Vaccine Home Health Care In-Vitro Fertilization Mammogram	Mastectomy Stay Maternity Stay Mental Health Parity Newborn Hearing Screening Off-Label Drug Use PKU/Formula Prostate Cancer Screening Prosthetic and Orthotic Devices TMJ Disorders Well Child Care
Texas Mandated Providers		
Acupuncturists Chiropractors Dentists Dieticians First Nurse Assistant Marriage Therapists Nurse	Practitioners Occupational Therapists Optometrists Physical Therapists Physician Assistants Podiatrists	Professional Counselors Psychologists Public or Other Facilities Speech or Hearing Therapists
Texas Mandated Covered Persons		
Adopted Children Continuation Dependents Continuation Employees	Conversion to Non-Group Dependent Students Grandchildren	Handicapped Dependents Domestic Partners

- ★ The combined effect of mandates drives up the cost of a basic health plan by as much as 50 percent.
- ★ One out of four uninsured individuals does not have health insurance because of the inflated prices resulting from insurance mandates.

RECOMMENDATIONS

- ★ Resist recent policy efforts that require individuals to carry health insurance via an individual mandate.
- ★ Unless required by federal law, do not force insurers to guarantee issue and community rate policies, focusing instead on efforts to make health insurance a more attractive product at better value.
- ★ Eliminate unnecessary state regulations that inflate the cost of health insurance plans.
- ★ Protect mandate-light plans, like the Texas Consumer Choice Plans, from additional mandates.

- ★ Unless required otherwise by federal law, consider making truly mandate-free policies available as Arkansas, Colorado, Florida, Montana, North Dakota, and Utah have done.

RESOURCES

Health Insurance Mandates in the States 2008 by Victoria Craig Bunce and JP Wieske, Council for Affordable Health Insurance (2008) www.cahi.org/cahi_contents/resources/pdf/HealthInsuranceMandates2008.pdf.

Mandating Expensive Health Insurance in Texas by Kalese Hammonds, Texas Public Policy Foundation (Mar. 2008) http://www.texaspolicy.com/commentaries_single.php?report_id=1809.

State Laws Related to the Coverage of Infertility Treatment by the National Conference of State Legislatures (Mar. 2010) <http://www.ncsl.org/default.aspx?tabid=14391>. ★

