

State Insurance Coverage Mandates Are At Risk

The issue –

The extra benefits, above those in the basic Affordable Care Act insurance policy, that each state requires insurance companies to offer (known as state mandates) are in jeopardy. Those benefits have historically been included in the cost of each insurance policy in the state.

The Secretary of HHS, at her discretion, may require that states assume the cost of state mandates (but few states have the funding to do so without raising taxes). This decision will be made in 2015.

It is critical that states maintain the right to require that insurance companies provide coverage that is best for their citizens. There are vast differences in the populations of Mississippi, Utah, New Mexico, Rhode Island, Louisiana, Nebraska, and other states, and the insurance offered in the states should reflect those differences. State mandates allow each state to craft basic insurance benefits that reflect the unique needs of their populations.ⁱ

Background –

Final passage of the Affordable Care Act (ACA) allowed each state to retain its unique requirements for insurance coverage in addition to those essential health benefits (EHB) required of every state by the federal government - but - the state was tasked with covering the cost of these state mandates.^{ii, iii}

However, in order to smooth the transition to the new health care delivery system created by the ACA, and because of the difficulty in determining how states might pay for the mandates, HHS created a transition period, 2014-2015, during which the cost of state mandates will continue to be included in insurance premiums, as they have been historically.^{iv}

At this point, no one knows what the Secretary will do about responsibility for payment of the state mandates beyond 2015. But it is critically important to the citizens of each state that the mandates (which include some important health screenings, drug benefits, and more) be retained.^v

What you can do –

- Let your Congressional delegation know that your state's unique insurance requirements are critical to the health of the citizens of your state - and that those benefits should continue to be included in the State Essential Health Benefit package.
- Let the Secretary of Health and Human Services know that state mandates should continue to be included in the State Essential Health Benefit package in coming years.

For more information, contact –

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(9-14)

ⁱ <http://www.cms.gov/ccio/resources/data-resources/ehb.html>

Additional Information on Proposed State Essential Health Benefits Benchmark Plans. Essential Health Benefits Benchmark Plans. (Benefits required by each state are listed.)

ⁱⁱ <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/html/PLAW-111publ148.htm> (Emphasis added.)

(1) In general.--An Exchange shall be a governmental agency or nonprofit entity that is established by a State.

(2) Offering of coverage.—

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(d) Requirements.--

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(B) States may require additional benefits.--

(i) In general.--Subject to the requirements of clause (ii), **a State may require that a qualified health plan offered in such State offer benefits in addition to the essential health benefits specified under section 1302(b).**

(ii) State must assume cost.--

ⁱⁱⁱ Federal Register / Vol. 75, No. 137 / Monday, July 19, 2010 / Rules and Regulations 41727 (Emphasis added.)

...are not to be “construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group or individual health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement” of the Affordable Care Act. Accordingly, State laws that impose on health insurance issuers requirements that are stricter than those imposed by the Affordable Care Act will not be superseded by the Affordable Care Act.

^{iv} <http://www.healthreformwatch.com/tag/hhs> (Emphasis added.)

Section 1311(d)(3)(B) of the ACA requires States to defray the costs of State-mandated benefits in excess of EHB. **For 2014 and 2015, however, HHS intends to create a transition period during which “if a State chooses a benchmark subject to State mandates – such as a small group market plan — that benchmark would include those mandates in the State EHB package.”**

But if a State chooses a benchmark that does not include all of the State’s mandates, such as the Federal Employees Health Benefits Program, the State will be responsible for the costs of those mandates.

^v The benefits required for all insurance policies in some states (state mandates), but not included in the federal Essential Health Benefits (EHB) package, are prostate cancer screening, hormone replacement therapy (HRT) for women, off-label drug use, and many more.

(over)