Path to Prosperity

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LD 1333 Explained:

FAQs About Maine's New Health Insurance Reform

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On May 17, 2011, Governor Paul LePage signed into law a significant health reform package to help contain the spiraling cost of health insurance for all Mainers. Before becoming law, the bill was known as LD 1333: "An Act To Modify Rating Practices for Individual and Small Group Health Plans and to Encourage Value-Based Purchasing of Health Care Services".[1]

Since its passage, there have been many questions about LD 1333's key provisions, and how they will expand choices and reduce costs for Maine's premium-payers. This report boils down the essential points of LD 1333 in a simple FAQ presentation.

WHY LD 1333?

Maine's insurance markets today are defined by regulations passed in the early 1990's—regulations that have driven up costs for Maine premium-payers. The Legislature sought then to ensure universal access to insurance, regardless of health status, by passing **guaranteed issue**, which requires insurers to give coverage to anyone who applies. Legislators also wanted to ensure affordable coverage for seniors through strict **community rating** laws, which set limits regarding how much an insurer can vary rates from one person to another, regardless of age.

Although well-intentioned, these regulations had devastating consequences.

While seeking lower rates for seniors through community rating, rates for younger people skyrocketed. Statistically a 64 year old adult consumes approximately five times (or 500 percent) the health care services over that of a 20 year old adult.[2] Yet Maine's community rating laws restrict insurers from varying the cost of coverage between the two by only 150 percent, even though the 20 year old is likely healthier and requires less costly services.[3] Our guaranteed issue laws have forced insurers to provide coverage for anybody who applies, regardless of health status, and prohibits insurers from inquiring into an applicant's health status to assess projected costs.

This combination resulted in younger, healthier people dropping out of the insurance pool. Because fewer people were in the pool to share the costs, rates rose for everyone, including older, sicker residents who had to maintain insurance despite continually increasing costs.

Insurance works on the principle of spreading risk. The more people enrolled, the less costly premiums are for all policyholders. In 1987, just before these regulations were implemented, 79% of all Maine residents were covered by private health insurance, about 16% of whom had non-group coverage. By 2005 the rate of privately insured had dropped to 66.5% in Maine with less than 9% with non-group coverage, resulting in far fewer people among whom to spread the risk (costs).[4] The number of insured has been steadily declining.

Besides Maine, only four other states have similar regulations, with Maine's among the most restrictive of all. These regulations have led to Maine having one of the costliest insurance markets in the nation. Today, if you compare Maine and New Hampshire Anthem premiums with a $5,000 deductible you find similar rates for a 60 year old ($528 in ME, $517 in NH) yet significantly lower monthly rates for a 20 year old in New Hampshire ($354 in ME, $136 in NH).[5] Anthem, which covers the vast majority of Maine's policyholders, insures just 163 18-24 year olds in Maine's individual market versus 1,727 insured in New Hampshire's.[6] This is commonly referred to as an insurance death spiral, and is one reason why LD 1333 is so badly needed.

How does LD 1333 work?

Reforms Guaranteed Issue: Guaranteed issue results in a shrinking pool of insured, with younger and healthier people dropping out as premiums increase, which causes premiums to spike further as the sickest maintain coverage. LD 1333 preserves guaranteed issue, while establishing an Idaho-style reinsurance system called the Guaranteed Access Plan (GAP) to ensure access and affordability.

Under this system, applicants for individual coverage will complete a health questionnaire. If identified by the carrier as having high cost health care needs, the carrier can designate that person as eligible for the GAP. The carrier must then contribute a certain percentage of the premium to the GAP and may then submit for reimbursement of claims over a certain threshold.

The GAP is a funding mechanism only. The applicant receives coverage guaranteed under whatever policy applied for at the same rate as any healthy applicant, consistent with current Maine law and the federal Affordable Care Act (ACA).

GAP funding comes from a per life assessment on all covered lives in the state, which spreads the cost of the few very high claimants from the current 40,000 individual policyholders to more than 500,000 policyholders. The assessment is capped at $4 per policy per month, but experiences in other states, including Idaho, indicate the pool will require much less. This assessment is introduced as the current DirigoHealth assessment is phased out, capping at approximately half the current annual Dirigo assessment, achieving a net savings for all Maine policyholders.

Reforms Community Rating: LD 1333 provides greater flexibility for insurers to vary the cost of health insurance between different aged applicants in both the individual and small group markets. Currently, Maine's community rating law allows carriers to vary rates between a young adult and an older adult by no more than 150 percent, or 1.5:1. So, if a 20 year old is charged $100 for a policy, then an insurer could charge a 64 year old no more than $150 for the same coverage, even though the 64-year-old will likely require significantly more health services.

LD 1333 expands those bands (on a phased-in schedule) to 3:1, which is the standard under the federal ACA. The bands could expand further after 2014 should the ACA be repealed or amended to allow additional flexibility. Expanding the rating bands allows the cost of health insurance to come down for younger applicants, making coverage more affordable and thereby increasing the total number of insured. This, in conjunction with the GAP, is expected to lower the cost of health insurance for even the oldest applicants.

Repeals Rules 850 and 750:[7] These Rules are unique to Maine. Rule 850 establishes geographic access standards; requirements for carriers to have in-network providers within a certain driving distance of someone's home. In a rural state like Maine, specialists are often not available within certain distances of many residents, resulting in carriers having to pay charges as billed, whatever those charges are. This results in little negotiating power with specialists. Carriers in other states often incentivize policyholders to see high quality, lower cost providers by offering tiered networks.

Ironically, legislators exempted Maine state government employees from Rule 850 to incentivize state workers to see providers identified as meeting certain cost and quality standards. Legislators also voted to exempt themselves from this requirement. The exemption from Rule 850 has shown documented cost savings and no adverse impact on rural residents. However, for private policyholders, under Rule 850 health insurance costs in rural areas are 30-50% higher than in urban areas. Repealing Rule 850 increases competition in the provider community and allow insurers to offer incentives for patients who choose designated providers.

Rule 750 requires insurers to offer certain mandated plans in the individual market. The plans are extremely expensive, and almost no applicants have purchased them. By repealing Rule 750, insurers can reduce administrative costs by eliminating the need to maintain plans that people do not purchase.

Allows individuals to shop across state lines: LD 1333's provision allowing Maine individuals to purchase health insurance plans available in New Hampshire, Massachusetts, Rhode Island or Connecticut significantly expands choices for consumers. The effective date of this provision is set for 2014. By then, the federal ACA will have required the enactment of "minimal essential benefits" and consistent rating practices for all insurance providers nation-wide. This levels the playing field and ensures any out-of-state plan will meet a uniform set of federal standards.

How soon before my health insurance costs drop?

The provisions of LD 1333 phase-in over time for specific and often technical reasons. For example, the GAP takes effect July 1, 2012 to allow time to identify members of an oversight board and for the GAP to be established. This involves setting the assessment and creating the health questionnaire that will be used by carriers to identify applicants with known high cost health conditions, among other things.

Additionally, the age bands phase-in over multiple years in order to allow the insurance market to adjust with as little disruption as possible. The phase-in is also timed to ensure LD 1333 maintains compliance with the federal ACA.

Overall, by late 2012 premiums within the individual insurance market will likely drop. Additionally the cost of health insurance should begin to stabilize in the small group market, which will continue with the various phase-ins through 2014.

Conclusion

Although LD 1333 is an important step toward reducing premiums and expanding access to affordable health coverage, it is no silver bullet. It is important to recognize that the primary driver of health insurance premiums is underlying health care costs. Provided those costs continue escalating far faster than inflation, our insurance premiums will continue to reflect those increases.

Notes and Sources:

[1] To view the legislative language of LD 1333, now Public Law, Chapter 90, see: http://www.mainelegislature.org/legis/bills/bills_125th/chappdfs/PUBLIC90.pdf

[2] Based on correspondence with Anthem

[3] To view Maine's existing health insurance regulations under Title 24A, see: http://www.mainelegislature.org/legis/statutes/24-A/title24-Ach0sec0.html

[4] U.S. Census Bureau

[5] Taken from ehealth.com (NH) and Anthem.com on April 11, 2011; NH-$1,250 HSA-eligible 0% coins, maternity rider additional; ME-$1,500 deductible, 20% coins

[6] Anthem data provided to the Insurance and Financial Services Committee on April 27, 2011 with respect to LD 1333

[7] To view Maine's existing Bureau of Insurance Rule Chapters 750 and 850, see: http://www.maine.gov/sos/cec/rules/02/chaps02.htm

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