



## Massachusetts Health Care Reform: Lessons for Other States

### A Massachusetts Association of Health Underwriters White Paper

The Massachusetts Health Care Reform Law has captured the attention of the nation as an innovative experiment that extended health insurance to thousands of uninsured residents and drove better worksite access for employees through employer mandates and penalties.

Massachusetts should be commended for its unique ability to bring all parties to the table to fashion a consensus and to acknowledge a social and civic responsibility to insure all state residents. The individual mandate, combined with new programs, has resulted in Massachusetts having the highest percentage of insured residents in the nation.

However, nearly three years into the process, the state is feeling the law's unintended consequences and its long-term sustainability is in question. Even before the economy faltered, employers were frustrated with the complex regulations, while the new entitlement programs have outstripped the state's cost projections.

More disturbing is the possibility that Health Care Reform may set the stage for the unraveling of employer-provided coverage, especially among small businesses in recessionary times, by allowing them to opt out and pay less as long as a Section 125 plan is offered.

This brief summary by the Massachusetts Association of Health Underwriters (MassAHU) highlights the law's accomplishments, but also offers words of caution to the country and other states as they attempt to address the same issues.

### The Accomplishments of Health Care Reform

#### **The Individual Mandate & Social Responsibility**

The individual mandate has been one of the most successful accomplishments of Health Care Reform in terms of compliance and personal responsibility.

It mandated that residents over age 18 must have health insurance or pay a penalty, with waivers allowed for low-income residents. Through a well-orchestrated media blitz of ads, newspaper stories, direct mailings and broker education, residents got the message and responded.

A survey conducted last summer by the Urban Institute reported that only 2.6% or 167,300 of state residents were uninsured. The Massachusetts rate for working-age adults only is now between seven and eight percent. A more recent report, *The MassHealth Waiver 2009-2011...and Beyond*, states that 442,000 residents obtained coverage through new programs or their employer, driven by several factors.

- About 181,220 – that’s 41% of 442,000 residents enrolled in the newly created and subsidized Commonwealth Care plans. Previously, these individuals fell between the cracks – they did not qualify for Medicaid, but could not afford commercial coverage. If employed, they were not offered a group plan at work because they worked part-time or their employer did not provide health insurance.
- Another 39,780 individuals, or nine percent of the newly insured, who could afford their own individual commercial policies, enrolled in new commercial plans created under Health Care Reform. And, residents ages 19 to 26 were encouraged to enroll in the newly created Young Adult Plans with lower premiums and benefits designed for this age bracket.
- Some employers began offering group health plans for the first time to their employees.
- Meanwhile, employees who previously refused group insurance, enrolled in their employer’s plan to avoid the individual mandate penalty. A total of 145,860 or thirty-three percent of the newly insured joined Employer sponsored health plans with the help of brokers.

### **Improved Access to Individual Health Plans**

Health Care Reform required Massachusetts insurers to merge the risk pools for the individual and small group markets. Carriers reported that the merger caused small group rates to increase two to nine percent, depending upon the carrier, but individuals who had to buy their own coverage saw plan options expand and individual premiums decrease as much as 25% under Health Care Reform.

Equally important, premiums continue to be based upon age, with no evidence of insurability required. Long a critical underpinning of the state’s individual market, the principle of guaranteed issue ensures access to coverage, eliminates discrimination and protects people in their time of greatest need.

### **The Unintended Consequences of Health Care Reform**

#### **Affordability of Health Insurance**

Despite the broad reach of Health Care Reform, it has done little to control the state’s health care costs, health insurance premiums and utilization trends, which remain among the highest in the nation.

In a study, the state Division of Health Care Finance and Policy reported that health care spending in Massachusetts is 26% higher per capita than the rest of the country. Much of the cost is attributed to hospital spending and the clout of Massachusetts' renowned teaching hospitals.

Under a less publicized aspect of the law, the Health Care Cost and Quality Council was created to collect and publish information on health care outcomes. Consumers can now view information on-line for specific doctors and hospitals. However, it doesn't tell them how costs vary among providers based upon health plans and their specific contracts.

While the Council marks an important first step, true health care reform requires real transparency. Consumers must have the right to compare the total cost of an actual procedure at an actual hospital, but some carriers and providers continue to block such transparencies, citing proprietary contracts.

### **Employer Obligations**

Health Care Reform imposed unique and complex administrative burdens on state employers and resulted in unanticipated costs related to tracking employee coverage and satisfying state requirements.

Some employers saw significant increases in employee enrollment and, thus health plan costs. Others struggled with complex state formulas for calculating health plan participation, the daily tracking of participants and the monitoring of seasonal employees' status.

For employers with group health plans, the state mandated the minimum eligibility (35 hours or more a week,) employer contributions, employee waivers and Section 125 plans for both benefit and non-benefit eligible employees.

What is sometimes overlooked is that the law does not actually require employers to offer a group health plan. An employer can give employees a Section 125 plan and let them make pre-tax deductions for individual insurance. The employer is assessed an annual surcharge of \$295 per employee by the state, an option that employers may find increasingly attractive.

### **Minimum Creditable Coverage**

Beginning January 1, 2009, the state mandates the minimum coverage that residents must carry with their health insurance or face a penalty. This part of the law has been particularly problematic and controversial. In the opinion of MassAHU, the current standards jeopardize affordability and set the bar too high.

The standards also fail to address the realities of the workplace and marketplace. Take the example of a resident who works for an out-of-state employer. That employee's group plan

– issued in another state – does not meet the Massachusetts minimum standards. The employee is in an untenable position – he can't meet the standards with his group plan, yet he can't beef up his coverage because supplemental plans are not available in Massachusetts.

### **Distribution of Commercial Health Plans**

In addition to managing the Commonwealth Care subsidized plans, the Massachusetts Connector Authority also functions, in essence, as an insurance broker, marketing commercial health plans to individuals and small employers.

MassAHU questions the state resources devoted to creating a duplicative distribution center for commercial plans. Any individual or employer can purchase the same plans directly from the insurance carrier. Indeed, half of the newly enrolling individuals purchased plans directly from carriers.

The Connector initially expected 65,000 residents to enroll in the non-subsidized Commonwealth Choice plans. However, the Connector reported 2008 enrollment of 18,000. Another 14,000 residents enrolled in plans directly with the carriers.

Even before the state budget crisis, many argued that the state dollars would be more wisely spent supporting Commonwealth Care instead of selling commercial insurance. (It should be noted that the Connector is partnering with brokers, including MassAHU members, to market plans, so we are less concerned about the impact on brokers, although this could change.)

### **Expanded Entitlement Programs**

As discussed above, the Commonwealth Care program provided a much-needed safety net for residents who lacked access to a group plan yet did not qualify for Medicaid.

However, MassAHU worries that Commonwealth Care may have been overly ambitious from the start, offering rich benefits and greatly underestimating the demand for health care. As the state wrestles with falling revenue and budget shortfalls, the program's long-term viability from a financial perspective is now in question.

For fiscal 2008, the state budgeted \$472 million for Commonwealth Care, but costs were \$625 million because of the larger than expected enrollment.

In a few cases, Commonwealth Care has had the perverse effect of encouraging employers to reduce benefits. Employers in low-income industries may limit benefits to full time employees so their part-time workers can qualify for Commonwealth Care. And, some small employers cancelled their group plans so their full-time employees could eventually qualify for Commonwealth Care.

## **The Working Poor**

The full-time, low-income worker who can't pay his share of employer sponsored premiums remains no better off under Health Care Reform – uninsured, unable to afford the employer plan and ineligible for Commonwealth Care. The state reported that highest percentage of uninsured residents remains adults earning less than 300% of the federal poverty level.

In 2007, the state reported that 69,000 residents went uninsured, but were exempt by their low income from the Individual Mandate penalty.

## **Words of Caution on Health Care Reform**

From this state's experience with Health Care Reform, MassAHU offers the following advice:

- Use individual mandates to require residents to obtain health insurance coverage within a reasonable timeframe, but provide a safety net for those who need it.
- Strive for moderation and affordability when setting minimum standards for state or national health plans. The Massachusetts Minimum Coverage rules, effective January 1, 2009, would fail in most states and may eventually be undone by cost.
- Consider national uniform regulations, timeframes and reporting requirements for the non-group and group markets so employers operating in multiple states are better able to manage their obligations.
- Engage employers and clearly communicate their obligations, but do not overwhelm them with costly and complex regulations. Small businesses, in particular, are the backbone of the country and have struggled the most under Health Care Reform to manage costs and the administrative burden of the reporting requirements.
- Leverage the existing infrastructure of commercial insurance carriers and their broker distribution channels, instead of a Connector, to manage the Individual and Small Group plans. The success of commercial plans in Massachusetts flowed from regulations that allowed the creation of new, more affordable plans in marketplace.
- Require true transparency from insurance carriers and providers so consumers can make well-informed decisions. This information must be accessible, easily understood and well communicated to the public.
- Maintain attractive and diverse commercial health plan options for individuals and provide them with access to Section 125 plan pre-tax deductions at work.

- Encourage lifestyle changes with tax incentives for employers that offer worksite wellness programs and for employees who participate and adopt healthy behaviors.
- Build upon existing programs to expand coverage to the uninsured through the workplace. For example, Massachusetts could save money by expanding its worksite Insurance Partnership, which captures the employer contribution and would require smaller state subsidies.

Universal health care is the core principle of the Massachusetts Health Care Reform Law and it is a noble objective. MassAHU believes that true health care reform should require all stakeholders to participate in responsible reform.

Individuals must assume responsibility for enrolling in a health plan and participating in the cost. Employers must provide access to health insurance and a minimum funding level if employer-sponsored plans are to continue.

Carriers need to provide competitively price products and manage risk effectively. Providers need to disclose both the cost and outcome of their services, while being rewarded for improving quality and protected from frivolous lawsuits.

The Massachusetts Association of Health Underwriters (MassAHU), a chapter of the National Association of Health Underwriters, is a not for profit organization of brokers who specialize in employee benefits. Emphasis is placed on promoting common business interests and ethical practices to insure the best possible application of all health insurances, related products and services within the Commonwealth of Massachusetts