



NAHU'S HEALTHY ACCESS BRIEFING REPORT: ACCESS FOR ALL

All Americans should have access to affordable health care coverage. As important as affordability, however, is choice. There needs to be a wide range of private health insurance coverage options available for all Americans that wish to purchase coverage. The reality that is we are a diverse nation with diverse needs. One size does not fit all when it comes to health care.

1. Guaranteed Access to Health Insurance Coverage in Every State

Right now, in a number of states there are people with serious medical conditions and no access to employer-sponsored health insurance; they cannot buy health insurance at any price. Federal access protections in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) ensure that small-group health insurance customers and individuals leaving group health insurance coverage must always have at least one guaranteed purchasing option, but they do not apply to all everyone. People purchasing coverage in the traditional private individual health insurance market who are not transitioning from an employer's plan do not have federal guaranteed-issue rights. Most states, but not all, have independently established at least one mandatory guaranteed purchasing option. While the mechanism for access to health care coverage may vary from state, access should not be denied any American.

Of the states with their own guaranteed coverage options, the most common and effective approach is a high-risk health insurance pool. Risk pools provide affordable and quality private health insurance options for individuals with serious medical conditions who lack access to a group plan. The vast majority of these states also use these pools as an alternative mechanism to the guaranteed group-to-individual health insurance portability provisions required by HIPAA.

Another option a few states have independently employed is guaranteeing the issuance of health insurance in the individual market. When a mandate to issue coverage to all applicants is *not* tied to a mandate to purchase coverage, the results have been disastrous. In a guaranteed-issue individual market, the only people who have the incentive to purchase a policy are those who anticipate their annual claims will exceed the amount of their premiums. Healthy individuals do not need to apply for coverage, because they know they can easily obtain it whenever they become sick. When consumers can wait until their known costs exceed the cost of premium, the result is fewer carriers offering fewer plans at far greater cost than before.

Guaranteed Access to Health Insurance Coverage in Every State Recommendations:

- The federal government should require that all states have at least one private guaranteed purchasing option for all individual health insurance market consumers.

- The federal government should provide seed grants to states creating high-risk pools and to subsidize the expansion financing of existing stable state private individual market high-risk pool arrangements.
- Subsidies should be made available to low-income citizens who otherwise cannot afford coverage.
- Subsidies should be made available to older beneficiaries, who tend to be charged the highest rates, to help ensure continued coverage for early retirees.

2. Reinsurance

In any insurance pool of risk, a small number of insureds incur the majority of claims. This makes spreading risk difficult in every market segment. To deal with this challenge, many health plans obtain private reinsurance coverage. These arrangements allow insurance companies to protect themselves against unanticipated, large losses. Self-funded employers typically purchase coverage in a similar manner and project losses based on expected claims from their employee group. The premiums paid to reinsurers are factored into the overall premiums paid by employers and insureds.

Making it easier and more affordable for carriers to reinsure expenses related to extraordinary claims could prove to be an effective way to lower insurance premiums. By making coverage more affordable, this might result in significant savings for American families.

The concept of reinsurance is not new. What is missing, however, is a definitive understanding of its overall impact on health insurance costs and the proper role of government in these programs.

Reinsurance Recommendation:

- In considering reinsurance as part of an overall reform package, NAHU recommends Congress conduct a study to thoroughly analyze the efficacy of subsidizing existing private reinsurance programs. In conducting this study, NAHU urges the following standards be applied:
- The federal and state governments should avoid harming the existing market or imposing new mandates on plans that would increase, rather than decrease, their reinsurance costs.
- Reinsurance subsidies would need to be available across a market and must not segment markets. For example, if it were decided to provide reinsurance subsidies for the small-employer market, those subsidies would need to be available for every insurer in that market, not simply to insurers that offer coverage in a particular purchasing pool.
- Reinsurance subsidies should not be arbitrary. One of the reasons for the lack of success in some small-employer reinsurance pools is that the level of coverage is too low to be attractive to the large insurers that would make the pools more effective.¹

¹ A large employer or large insurer does not buy reinsurance today at the same level as does a smaller insurer or employer, and subsidies should reflect that dynamic. For example, if a self-funded employer were purchasing reinsurance against individual losses, a \$50,000 level would probably be selected only if expected claims were

- Reinsurance subsidies should be based on losses significantly in excess of those already expected.

2. Affordable Access Grants to States

Health insurance is primarily regulated at the state level. As such, health insurance access and affordability vary greatly on a state-by-state basis. In some states, over-regulation of the health insurance market has decreased competition and placed complex burdens on private health plans, increasing premium costs. The worst state health insurance regulations actually create perverse incentives for individuals to forgo health insurance coverage while driving up the cost of insurance for those who maintain it. Conversely, states implementing market-friendly measures have greater competition among more carriers, provide consumers with greater choice, have lower premiums and lower numbers of uninsured.

Similarly, states have taken different approaches to expanding access to health insurance. For example, using very different program structures, Oregon and Oklahoma have both implemented very successful private premium-subsidy programs using health insurance producers for outreach and targeting individuals purchasing coverage either in group or individual markets. The Healthy New York program attempts to provide reduced cost coverage to low-income individuals, small businesses and the self-employed through a reinsurance mechanism. Maine created a state-run health insurance program, Dirigo Choice, which competes with the private individual and small-group health insurance markets. The results have been unsuccessful in reaching the previously uninsured or in controlling costs.

Based on states' experience, NAHU believe states should be encouraged to create regulatory climates that ensure the availability of many affordable coverage options. We further believe states should be encouraged to offer premium subsidies to targeted populations in need of such support.

Affordable Access Grants to States Recommendations:

- The federal government should make block grants available to states to encourage and reward state-level health insurance innovations that utilize the strengths of the existing private health insurance marketplace. To be eligible for these grants, states should enact a reasonable number of these reforms:
 - Create broadly funded high-risk pools to serve individuals with serious medical conditions purchasing coverage in the individual health insurance marketplace.
 - Allow for the assessment of insurable risk in the individual and small-group health insurance markets for effective risk-management.
 - Limit the cost-impact of unnecessary health insurance mandated benefit requirements through the creation of effective independent state-level mandated benefit review commissions and/or allowing the availability of limited mandates health benefit plan options.

\$500,000 for that year. This would represent a fairly small employer and would be a ridiculously low level for a large insurer or employer.

- Enact statewide medical liability reforms that limit non-economic damage awards, allocate damages in proportion to degree of fault, and place reasonable limits on punitive damages and attorney fees with a statute of limitations on claims.
- Create state-level subsidies of private health insurance premiums. Subsidies could target individual purchasers or employers offering coverage to employees, or both. Subsidies could also be indirect through a private and voluntary reinsurance mechanism.
- Modify their state Medicaid and/or State Children’s Health Insurance Programs to allow for the subsidization of private health insurance coverage for eligible beneficiaries. Such subsidies could be created for use in either the employer-sponsored health insurance market (if such coverage was available to the beneficiary) or through the individual health insurance market. For individual market purchasers, Medicaid dollars could be used to fund individually controlled health care accounts, which could be used to purchase health care coverage in the private market, as well as to pay any health care related expenses that might not be covered by the private market plan due to deductibles or other cost-sharing arrangements.
- Provide state-level income and payroll tax incentives for the purchase of health insurance coverage. This could include refundable tax credits for the purchase of private-market health insurance coverage, allowing for the deduction of health insurance premiums for individual and group health insurance purchasers, exclusion of Health Savings Account contributions from state income tax liability and/or other means determined by the states.

3. Tax Equity

The vast majority of privately insured Americans receive their health insurance coverage through either their employer or the employer of their spouse or parent. Employer-sponsored health insurance coverage has many advantages including the spreading of risk, federally guaranteed consumer protections like portability rights, the ease of group purchasing and enrollment, and the economies of scale of group purchasing power. Group coverage ensures millions of people access to quality health insurance products, it reliably pays for those products and results in many more insureds than if individuals were expected to apply separately. To help encourage the provision and acceptance of employer-sponsored health insurance, there is a current federal tax exclusion in which amount of an individual’s group health insurance coverage premium paid by an employer is excluded from the employee’s gross income for income and payroll tax purposes. NAHU strongly supports employers contributing toward the cost of their employees’ health insurance coverage and we believe the preservation of the federal employer deduction and employee exclusion is critical.

However, the employer-sponsored health insurance system does not work for everyone. The availability of employer-based coverage has declined in recent years as costs have increased. Employer-based coverage is also not always an option for early retirees or the self-employed. As such, NAHU also supports equity in the tax treatment for individuals and families purchasing health insurance coverage on their own and equal tax treatment for the self-employed. NAHU believes federal tax laws should be updated to provide the same federal tax deductions to

individuals and the self-employed that corporations have for providing health insurance coverage for their employees.

Tax Equity Recommendations:

- Congress should take action to:
 - Remove the 7.5 percent of adjusted gross limit of medical expenses on tax filers' itemized deduction Schedule A form.
 - Allow the deduction of individual insurance premiums as a medical expense in itemized deductions.
 - Equalize the self-employed health insurance deduction to the level corporations deduct by changing it from a deduction to adjusted gross income to a full deductible business expense on Schedule C.
 - Clarify that individual health insurance policies purchased by employees with no premium paid by the employer are not the same as group health insurance policies and are not subject to the group insurance requirements specified in HIPAA. The employee owns these policies and they stay in force when workers leave their job. In particular, the federal requirements regarding individual policies sold on a list-bill basis, whereby the employer agrees to payroll-withhold individual health insurance premiums on behalf of their employees and send the premium payments to the insurance carrier but does not contribute to the cost of the premiums, need to be clarified. Furthermore, insurers should recognize the individual insurance plan as a valid coverage option for the accounting of participation guidelines of the insurer.
 - Clarify that employers implementing list-billing arrangements for their employees may also establish Section 125 premium-only plans for their workers. This would enable employees to pay for their individual policies on a tax-favored basis. If an individual participated in a Section 125 plan for a list-billed policy, those premiums would not be eligible for deduction as a medical expense under Schedule A.
 - Establish that all individual health insurance policies sold under a list-billed arrangement are subject to all insurance regulations governing the issuance of traditional individual insurance policies in the state in which the policy was sold, including rating requirements, issuing requirements and the requirement that such products only be sold by licensed health insurance producers.

4. Public/Private Producer Community Education Partnership

Many uninsured Americans are eligible for state and federal coverage-assistance programs but fail to enroll in them. These individuals may not be aware that they are eligible, may be confused about the program options available to them, or may find the public program application process too daunting. All health insurance consumers, both private and public, should have access to quality information and assistance regarding their health care coverage. Licensed professional health insurance producers can help consumers of all types find the best plan for their particular needs. These agents are experts who know the market and related laws. In addition to servicing millions of private health insurance policies sold nationwide, health insurance producers already help service the health insurance needs of Medicare beneficiaries regarding Part D, Medicare Advantage and Medicare supplemental policies. Licensed producers

also help enroll beneficiaries in state high-risk pools and many state premium-subsidy programs. NAHU believes extending the services of licensed health insurance producers to more individuals eligible for public program coverage would help lower the number of uninsured and lead to more educated health care coverage consumers.

Public/Private Producer Community Partnership Recommendation:

- A Public/Private Partnership should be implemented among the federal government, the states and not-for-profit insurance agent professional associations, such as the National Association of Health Underwriters. NAHU would assume responsibility for training insurance agents in all coverage options both public and private through the creation of a designation program—the Certified Health Care Access Advisor. The CHCAA training program would include both national and state-specific components, and NAHU would make available to the public the list of insurance advisors who have agreed to help this population of people find coverage. Trained advisors would help increase access and overall coverage rates by helping individuals determine what options were available and best suited to their individual needs. In addition, this program would help save administrative and marketing dollars, allowing the savings to be used in a better direction—toward providing more individuals with health care coverage.