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The Massachusetts Health Plan: *Proceed with Caution*

By Grace-Marie Turner

Massachusetts has enacted legislation designed to make the Bay State the first in the nation to achieve universal health coverage. The legislation was signed into law April 12, 2006, by Republican Gov. Mitt Romney, who was flanked by leaders of the Democratic legislature, demonstrating bi-partisan support for the new law.

While the legislation has received positive attention from leading newspapers and other opinion leaders around the country, the law contains many mandates and enforcement provisions that should be of concern to those who believe in individual liberty and free markets.

MANDATES

The first concern is the requirement that every individual in the state must purchase health insurance or face financial penalties. Mandates are very difficult to enforce, even with the fines and other enforcement provisions in the Massachusetts law. Political leaders will find resistance from citizens when the mandate takes effect July 1, 2007.

In 1974, Hawaii was the first state in the nation to impose a mandate that all employers must provide health insurance to their workers. Yet, 32 years later, Hawaii's uninsured rate hovers around 10 percent, just under Massachusetts' current 11 percent uninsured rate. Many Hawaiian employers escaped the mandate by relying more heavily on contract workers, who are exempt from the health insurance mandate.

The Massachusetts law also contains a back-door employer mandate. The legislature inserted in

the law a provision that forces employers with 11 or more employees to pay a \$295 annual fine for any employee without health insurance and to pay health costs above \$50,000 a year for any uninsured worker. The Governor vetoed the provision, but leaders of the heavily Democratic House and Senate overrode the veto.

House Speaker Salvatore DiMasi called the governor's veto disingenuous, saying the law was crafted with concessions and compromise. "To change anything will disturb the delicate balance that made this law possible," DiMasi said. Note to employers: \$295 is only the beginning.

Of further concern is the reach of the state in specifying what kind of insurance people are required to buy. The legislation provides a new "Connector" purchasing pool for health insurance, which also is a funnel for subsidies to lower-income workers to help them purchase insurance.

But the legislation stipulates that the Connector policies must cover all of the state's 40 mandates on what the insurance must pay for, from hair prostheses to *in vitro* fertilization. And it stipulates that the policies must have first-dollar coverage (a "zero deductible"), with no copayments or premium charges for lower-income workers.

Actuaries contracted by the state estimated that the cost of coverage through the Connector would be about \$200 a month, but insurers already are saying they don't see how they can offer policies at that price that abide by all of the expensive mandates and regulations in the legislation.

While the Connector is designed to offer choice, it

actually is taking away the ability of insurers to freely compete with different product offerings and for people to purchase the coverage of their choice at a price they can afford to pay.

An integral provision of the new law is the requirement that every employer with more than 10 employees – think your local automotive garage – must offer a Section 125 cafeteria plan so employees can use pre-tax money to pay their insurance premium contributions.

And that's just another of the mandates, reporting requirements, penalties, and other enforcement provisions in the new law, for example:

- The law requires every employer and employee in the state to sign "under oath" a Health Insurance Responsibility Disclosure form, testifying to whether the employer has offered insurance and whether the employee has accepted or declined.
- It creates at least 10 new boards and commissions to create and run the new health system, such as the Health Care Quality and Cost Council, the Payment Policy Advisory Board, and the Health Access Bureau.
- New and existing state agencies will be checking on individuals' insurance status, monitoring their income to see if they qualify for subsidies, and tracking individual health habits (like smoking and wellness activities) to determine how much they should pay for their health insurance premiums.

There also is a major expansion of Medicaid and the State Children's Health Insurance Program to cover children in families with incomes up to 300% of poverty (about \$50,000 a year for a family of four). The legislation makes it clear that it is trying to maximize collection of federal matching Medicaid money to help finance the new plan.

COSTS

Another serious concern is the financing. The state says it is just moving money around – redirecting about \$1 billion in uncompensated care

money and other fees to subsidize health insurance for those under 300% of poverty.

But there is nothing in the law to keep health insurance costs from soaring. And the legislation does not relax the expensive mandates and regulations that have made insurance in the private marketplace so expensive in the first place.

Policies offered through the health insurance Connector must offer Cadillac coverage, with none of the tools that the private sector is using to engage consumers as partners in managing health costs. Experts say that the \$200 estimate premium costs are unrealistically low and will quickly lead to higher taxes and "assessments" on individuals and employers.

Gov. Romney will leave office when his term ends this year, and he likely will be spending a lot more time testing the presidential waters in Iowa and New Hampshire than in Massachusetts. That will leave implementation of the new plan to the next governor and, of greater concern, to the regulation writers in state offices.

It will take at least several years to see how the new plan turns out, but this Republican governor in a Blue state may have laid the foundation for what could become a very intrusive, onerous, and expensive health plan for Massachusetts. Other states, which are warming up their Xerox machines now to copy Massachusetts, should wait to see how the plan works out before rushing to follow its lead.

RESOURCES

Text of Legislation

<http://www.mass.gov/legis/laws/seslaw06/sl060058.htm>

Health Care Reform Conference Committee Bill PowerPoint Presentation

<http://www.mass.gov/legis/presentation.pdf>

Summary and Fact Sheets

<http://www.mass.gov/legis/summary.pdf>

Section by Section Summary

<http://www.mass.gov/legis/sections.pdf>