Bad Ideas

A series examining proposals that could move private insurance in the wrong direction

AHPs: Bad Medicine for Small Employers

Association Health Plans (AHPs) are a major part of the President's package of health care proposals aimed at reducing the growing number of uninsured Americans. AHPs would allow small employers from different states that join together to purchase insurance to buy coverage that is exempt from the consumer protections provided by many state laws. In fact, small businesses can already band together to buy health coverage, so it is this exemption from consumer protection regulations that is the only "new" aspect of the President's AHP proposal. The net effect that this proposal would have is that it would raise the price of health care for the majority of those who work for small employers while at the same time providing fertile ground for fraud and abuse, which could leave defrauded workers with millions of dollars in unpaid medical bills.

A NOTE TO READERS: The President's AHP proposal was introduced in Congress as H.R. 525.[1] Another bill has surfaced recently in the Senate (S. 1955) that includes much of the language in previous AHP legislation. This latest Senate bill, however, would radically change not just the small group market, but also the individual and large group markets. The only substantive change in the small group language of the new bill is that self-insured AHPs would not be allowed. While this change eases our fears about fraud and solvency to some extent, all other criticisms of AHPs apply to this new legislation, as well.

AHPs: Not a Solution for the Uninsured

The President's AHP proposal (H.R. 525) would do little to decrease the number of uninsured Americans—and might actually increase the ranks of the uninsured. By avoiding state consumer protections, AHPs would make it easier for insurance companies to select healthy enrollees or "cherry pick." Insurers could target groups of small employers with younger and healthier workers, leaving small businesses with less healthy workers behind in the traditional insurance market with its higher premium rates. Many small businesses that wouldn't benefit from joining an AHP would be forced to drop coverage due to the increased rates, resulting in what is known as a "death spiral."

1. **AHPs could drastically increase the number of uninsured Americans.** A study by Mercer Consulting found that AHPs would increase the number of uninsured Americans by more than 1 million. Mercer found that some firms that offer traditional, state-regulated coverage would be forced to drop coverage for their employees. What's more, some small employers that join AHPs would be forced to drop coverage after one of their employees became sick because their insurance companies would raise their premiums to unaffordable levels.[2]
2. **The vast majority of people that would be insured through AHPs already have health insurance.** The Congressional Budget Office (CBO) estimated that passage of the President's AHP legislation would decrease the number of uninsured Americans working for small employers by just 1.8 percent and that 10,000 of the sickest Americans would lose their health insurance. The CBO found that more than 90 percent of people who would be insured through AHPs already have health insurance through their employer.[3]
3. **A similar analysis by the Lewin Group found that AHPs would insure only 1 percent of Americans without health insurance**.[4]
4. **AHP legislation would have no effect on California's uninsured population, the largest uninsured population in the country**, according to two independent studies by the Urban Institute and Georgetown University's Health Policy Institute.[5, 6]

AHPs: Not an Effective Way to Control Costs

The President claims that AHPs will help control the growing cost of health insurance. In January 2005 he stated, "The principle behind association health plans is that the more risk you're able to spread amongst beneficiaries, the lower your cost of health care."[7] Unfortunately, the opposite appears to be true. AHPs will increase health care prices for the majority of people who work for small employers. AHPs would be allowed to selectively market their plans, targeting employers with younger and healthier workers (a practice known as "cherry picking"). AHPs would be able to offer lower rates to these select employers only because they would offer to cover just the healthiest workers, a practice that would not be permissible if they were subject to state regulations.

The result is that AHPs will attract employers with younger and healthier workers, leaving employers with older and sicker workers behind in the traditional, state-regulated market. As the overall risk pool for the state regulated market begins to include only older, less healthy workers, the premiums in this market will increase. Far more firms would face higher premiums than lower premiums, and those price increases would be larger than the price decreases. Overall, AHPs would significantly increase the costs small employers must pay to provide health care for their workers.

1. **AHPs would drive up the cost of health insurance for the vast majority of small employers:** Only about one in five small employers would have lower premiums, while more than four out of five would actually see premiums go up. In terms of raw numbers, fewer than 5 million employees and their dependents would have lower premiums, while more than 20 million would have higher premiums. [8]
2. **AHPs would increase premiums for small employers who remain in the traditional market by more than the amount they would reduce them for those who join AHPs**. With the entry of AHPs into the market, firms that remain in traditional, regulated plans would have premium increases of 23 percent, on average. Firms that join AHPs would have premium reductions of only 10 percent.
3. **AHPs are less, not more, efficient than traditional insurance plans**. A study by Mercer Consulting found that AHPs would actually have higher administrative costs than other plans.[9]

As the American Academy of Actuaries writes, "While the goals of the legislation are laudable, the bills do not address the core problem, which is the cost of health care."[10]

AHPs: Fertile Ground for Fraud and Abuse

Since AHPs are essentially member organizations for small employers, one would think that they have their members' best interests at heart. However, AHPs and similar plans have a long history of defrauding their members and becoming insolvent. Under the President's proposal, the Department of Labor (DOL) would be charged with regulating AHPs, something the DOL readily admits would be better handled by experienced state regulators. Because the proposed AHP legislation lacks sufficient solvency standards, a significant portion of AHPs would become insolvent, leaving thousands of American workers without health insurance and millions of dollars in unpaid medical bills. Current AHP legislation would place small employers and their workers and dependents at risk of fraud due to the nature of AHPs and the federal government's inability to properly regulate them.

1. **Plans similar to proposed AHPs have defrauded hundreds of thousands of Americans, leaving them with hundreds of millions of dollars in unpaid medical bills**. In 1992, the General Accounting Office (GAO) took a look at Multiple Employer Welfare Associations (MEWAs), which were precursors to AHPs. GAO found that MEWA failures stranded up to 400,000 Americans with more than $123 million in unpaid medical claims.[11] As the popularity of MEWAs has increased, so too has the fraud that accompanies them. By 2003, the GAO reported that MEWAs had accounted for more than $250 million in unpaid claims. Only about 20 percent of those claims had been recovered for policyholders.[12]

2. **The minimum requirements for AHP solvency are too low, leaving consumers and providers at risk**. The American Academy of Actuaries claims that these low requirements will lead to "potential AHP insolvencies, resulting in unpaid claims for consumers and providers." One major problem with the proposed federal solvency standards is that the capital requirements for solvency do not increase as the AHP grows, leaving inadequate funds in case of disaster.[13] While states have levied tougher solvency standards in the wake of MEWA scandals, the proposed AHP legislation would weaken existing state standards.

3. **AHPs would shift the responsibility of regulating AHPs from experienced state offices to the inexperienced federal bureaucracy**. The National Association of Insurance Commissioners (NAIC) strongly opposes federal oversight of AHPs, stating that the DOL is incapable of ably preventing "fraud and mismanagement." The NAIC also echoes the American Academy of Actuary's view that solvency standards must be significantly raised, as the current legislation "would result in disaster." States have already taken many of the steps necessary to make small employer grouping a safe and beneficial practice, but current AHP legislation would undermine these reforms by giving regulatory authority to an unprepared federal government.[14]

4. **The Department of Labor (DOL), the federal arm that would be tasked with regulating AHPs, has testified that it would not be able to properly regulate AHPs**. Testifying before the Senate Labor and Human Resources Committee in 1997, Assistant Labor Secretary Olena Berg asserted that, if the DOL were forced to regulate AHPs, it would only be able to review each health plan once every 300 years. The DOL recognized that state regulators, which have more experience and resources than the DOL, would be much better suited to regulate AHPs. "An infrastructure adequate to handle the new responsibilities [for association health plans], replicating the functions of 50 state insurance commissioners, simply does not exist." If AHPs cannot be properly regulated, both consumers and small employers are at risk of [facing] monumental debts, bankruptcy, and loss of coverage.[15]

AHPs are inherently risky, which means they must be properly regulated to ensure solvency and the protection of their members. Under the proposed AHP legislation, proper regulation and oversight simply aren't possible. Regulation would be much better left to state regulators, who have cleaned up problems with similar plans (self-funded MEWAs) after the federal government made it clear that states do have regulatory authority.[16] The millions of dollars of unpaid claims affect not only those whose AHPs become insolvent, they also drive up premiums for everyone.

Endnotes

[1] H.R. 525, the Small Business Health Fairness Act of 2005, was introduced in February 2005 by Rep. Sam Johnson (R-TX).

[2] Beth Fritchen and Karen Bender, *Impact of Association Health Plans on Premiums and Coverage for Small Employers* (Washington: Mercer Risk, Finance & Insurance, June 2003).

[3] James Baumgardner and Stuart Hagen, *Increasing Small Firm Health Insurance Coverage through Association Health Plans and Health Marts* (Washington: Congressional Budget Office, January 2000).

[4] John Sheils, *Healthcare Coverage Proposals of the Presidential Candidates* (Washington: The Lewin Group, September 2004).

[5] Mila Kofman and Karl Polzer, *What Would Association Health Plans Mean For California?* (Washington: Georgetown University, January 2004).

[6] Linda Blumberg and Yu-Chu Shen, *The Effects of Introducing Federally Licensed Association Health Plans in California: A Quantitative Analysis* (Washington: Urban Institute, January 2004).

[7] The White House, *President Participates in Conversation on Health Care*, Press Release, available online at http://www.whitehouse.gov/news/releases/2005/01/20050126-5.html; accessed on December 9, 2005.

[8] James Baumgardner and Stuart Hagen, op. cit.

[9] William Mercer, *Association Health Plan Legislation: Impact on Health Plan Administrative Costs for Small Businesses* (Mercer Human Resources Consulting: March 1999).

[10] Karen Bender, Letter to Representative John Boehner (Washington: American Academy of Actuaries, April 2003).

[11] Eleanor Hill, *Preemption of State Oversight Would Place Consumers and Small Employers at Risk* (Washington: King & Spalding, May 2002).

[12] *Private Health Insurance: Employers and Individuals Are Vulnerable* (Washington: Government Accountability Office, February 2004).

[13] Karen Bender, op. cit.

[14] Testimony for the House Education and Workforce Committee (Washington: NAIC, March 2003).

[15] Eleanor Hill, op. cit.

[16] FAQs on AHPs (Washington: American Academy of Actuaries, March 2005).

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