

Federal health care reform legislation, HR 3590 and HR 4872, included sweeping changes to the private health insurance industry to ensure coverage is affordable, care is accessible and insurers don't abandon patients to boost profits.

Despite the recent downturn caused by the recession, most Americans continue to receive their health coverage through private insurance plans. Many Medicare and Medi-Cal beneficiaries also receive at least some of their services through private plans.

The law requires most of the insurance market reforms to be enforced in 2010, with full implementation by 2014, when every Californian will be required to have health insurance. These reforms will be essential to making insurance available and affordable.

Individual Mandate

Beginning in 2014, every individual, with limited exceptions, must obtain health insurance. Individuals with lower incomes – earning from 133 percent to 400 percent of the Federal Poverty Level, which is from \$29,000 a year to \$88,000 a year for a family of four – will be given premium tax credits to help them purchase coverage. Individuals and small businesses will be allowed to select from a choice of private health plans offered through a Health Insurance Exchange that will regulate the plans and the benefits.

Federal High Risk Pool

Starting in June 2010, the federal government will establish high-risk pools for consumers who have been unable to secure affordable health insurance coverage for at least six months due to a pre-existing condition. States have the option to operate their own high-risk pools, or allow their residents to enroll in a larger pool run by the federal government. Although not all of the details have

been worked out, these new pools will work in concert with existing state high-risk pools, such as the Major Risk Medical Insurance Program (MRMIP) in California. After January 1, 2014, the individuals in the high-risk pools will be transferred into the Health Insurance Exchanges.

Health Insurance Exchanges

Beginning in 2014, every state is required to have a Health Insurance Exchange. The exchange will be a competitive marketplace where health insurance plans will offer coverage to individuals and small businesses. Individuals and small businesses will be given tax credits to make the insurance more affordable. The exchanges are intended to provide more affordable coverage, uniform benefits and market standards that protect patients.

Insurance Market Reforms

Federal health care reform legislation contains many provisions to curb the excesses and abuses of health insurance plans. These market reforms are required of all health plans, regardless of whether they are participating in the Health Insurance Exchange. They include:

- Requiring insurers to sell insurance to anyone who can pay for it, regardless of health history, and renew coverage for their customers who want it.
- Prohibiting health insurance plans from denying coverage based on pre-existing medical conditions. This provision takes effect for children in June 2010.
- Prohibiting cancellation of policies for patients who get very sick – a practice known as rescission – except in cases where the patient engaged in intentional fraud.
- Requiring insurers to spend a minimum of revenue directly on patient care. The “medical loss ratio” must be

no lower than 85 percent in the group market and 80 percent in the individual market.

- Giving the federal government and states new power to review premium increases.
- Establishing community rating that only allows limited variability in premiums based on age, geographic region, family size and tobacco use.
- Prohibiting annual and lifetime caps on benefits.
- Requiring plans to have adequate provider networks.
- Mandating administrative simplification and standardization of plan information for consumer comparison.

Concerns

While the insurance reforms in HR 3590 are now federal law, regulation of health plans will continue to be largely a state function. In California, the Department of Managed Health Care (DMHC) and the Department of Insurance (DOI) will play the same role in the market that they do today.

All of the reforms listed above will only work if DMHC and DOI aggressively regulate California's health insurance market. The Legislature may want to consider whether those two departments will need additional staff and resources as the federal reforms begin to take effect.

Also, as California establishes its Health Insurance Exchange, the Legislature will need to carefully consider how it will work with both DMHC and DOI. There will need to be substantial communication between the three entities, to ensure that products sold in the exchange meet all of the requirements of California law.

Next Steps for California Lawmakers

1. Begin exploring how to design the California Health Insurance Exchange and what needs to be done to meet the 2014 deadline.
2. Assess whether regulators have adequate resources to enforce the new market reforms or need greater funding.
3. Work with the federal government to spell out new regulations clearly. This is critical to ensure transparency for health insurers following new rules, such as a minimum medical loss ratio.