



HB188 HEALTH SYSTEM REFORM - INSURANCE MARKET

A Foundation for Comprehensive Reform

A Utah Health Policy Project Fact Sheet

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OVERVIEW

HB188 Health System Reform – Insurance Market (Speaker D. Clark) is one of three Health Reform Task Force bills. This legislation aims to expand access and improve insurance market flexibility and transparency by:

- Extending the time an employee is eligible for mini-(state-based) COBRA, a program that allows eligible employees to stay on their employer's health plan for a specific time period.
- Allowing insurers to offer benefits that are exempt from specific state mandates.
- Creating NetCare, a limited benefit plan exempt from state mandates.
- Expanding the *portal*, a web based system for consumers to research, shop for, compare, and purchase health insurance created last year.
- Developing a defined contribution system where an employer can provide employees with a set or predictable dollar amount to purchase their own health insurance on the *portal*.
- Requiring additional transparency within the broker and insurance industry.
- Developing a risk adjuster mechanism to be applied to the new defined contribution market.
- Creating reporting requirements to monitor the changes.
- Extending the Task Force for an additional year to assess current efforts and make recommendations for next steps.

While HB188 *is not* comprehensive reform, UHPP supports the bill as a *foundation* for broader reforms. The bill contains a number of items that may bring fundamental changes to Utah's faltering health care payment and delivery systems. As with any change, it will take time to implement and monitor the results.

AREAS OF CONCERN

Mandate-lite and Limited Benefits – Most worrisome is the proposal for "mandate-lite" benefit packages and the creation of NetCare, a bare-bones benefit package that would be exempt from certain state mandates, because of the assumption that these plans will be affordable and meet peoples needs. Mandate-lite and limited benefit plans may actually draw some of the currently uninsured into the market *if they are lower cost*. Yet there is a significant risk of undermining current coverage plans. Research has shown:

- Mandates cost less than 1% when assessing both the cost and benefit of each mandate.¹
- Any needed, high cost benefit *not* covered will likely be cost shifted back to the commercially insured population.

Frequently Asked Questions

To reach the goals of true reform – containing costs, improving quality and expanding access – what necessary steps must be taken?

- Establish an ongoing council consisting of legislators, health experts and other stakeholders to *collectively* analyze and recommend administrative and policy changes.
- Utilize evidence based medicine to promote quality, reduce waste, and contain costs over time.
- Change the way we share and manage risk as a community.
- Ensure all Utahns participate appropriately in the health care system.

Are there any advantages to waiting before attempting comprehensive reforms in Utah?

Probably. National health system reforms will likely be introduced this year. There is growing support for a federalist approach, wherein states will have the option to design reforms on their terms but within certain, positive parameters. Thus if the political will to tackle some of the major paradigm shifts does not exist, it may not actually matter.

- Limited benefit plans promote *adverse selection*, whereby the older and unhealthy choose more comprehensive packages and the younger and healthy choose the stripped down, cheaper packages. In the end, comprehensive packages become increasingly expensive and out of reach for the populations that need them the most. ^{ii,iii}

HB188 includes mechanisms to monitor the take up rates and other systemic and structural impacts of limited benefit and mandate-lite packages. At the same time during the 2008 legislative session Rep. Dunnigan passed HB 60, *Legislative Review of Health Insurance Mandates*. The bill amended the process by which state health insurance mandates are reviewed the joint Business and Labor and Health and Human Services Interim Committees. To date the joint committees have not made any recommendations regarding the efficacy of Utah's mandates. Before allowing insurers to offer plans exempt from any mandates, each mandate should be vetted through the process established in HB60.

In the end, **mandate-lite and limited benefit packages DO NOT achieve affordability and really could undermine the goals of reform**. As a state we *do* want to increase the number of insured, but in the process we do not want to increase the number of people with insurance who still cannot access cost-effective, medically necessary care. All benefit packages should be designed in accordance with findings from evidenced-based medicine. This will minimize cost shifting and result in better cost management over the long term.

Risk Adjuster – To stabilize the new portal market, HB188 creates a risk adjuster that will spread risk more efficiently across all insurers. This is designed to stimulate competition by incentivizing insurers to better manage, rather than avoid, risks and costs.^{iv} Since Utah's reform efforts are focused on the private market, it is important to stabilize the entire private market – both inside and outside the newly created portal. Also, to achieve the biggest impact the risk pool should be as large as possible.^v Therefore, any risk adjuster should benefit the entire small group market, inside and outside the portal.

To this end the bill forms a board, comprised mainly of insurers, to develop and maintain a new risk adjustment mechanism. Fortunately, the pathway to risk adjustment is well marked, and therefore Utah should make a point of learning from the extensive experience of other states and localities that have come before us on this point. A *retrospective system*, a back-end adjuster, will have the greatest impact on the market because it accounts for true claims experience. They are also easier to design, will not encounter significant operational issues in the long run and can be implemented quickly.^{vi} Yet HB188 sets a course that promotes a prospective system. The provisions in HB188 that set this course should be deleted so the board can figure out what will be most effective for the overall system.

Last, the risk adjuster board's responsibilities go beyond the risk adjuster to include developing the new defined contribution market within the portal. While insurers must be involved in this process, they have a vested interest in seeing the new market function in ways that may be in conflict with other stakeholders' or the general public's interest. Therefore these responsibilities should be decoupled and a more inclusive group of stakeholders should be formed to work out the details of the new marketplace.

CONCLUSION

HB188 is an incremental step towards comprehensive reform, which UHPP supports. Yet the bill should be strengthened by:

1. Removing the mandate-lite provisions and basing benefit packages on evidence-based medicine.
2. Including the entire small group market – inside and outside the portal – in the risk adjuster.
3. Deleting the provisions that confine the risk adjuster board to develop one particular type (in this case, “prospective”) of risk adjustment system.
4. Creating a diverse board that includes provider and consumer representatives to work out the details of the defined contribution, portal market.

Vote Yes on HB188, but strengthen it by adopting the amendments listed above.

ⁱ McAndrew, Claire. *Limited-Benefit Plans: Expanding Coverage or Holding Your State Back?* Families USA, October 2008, available at: <http://www.familiesusa.org/assets/pdfs/limited-benefit-plans.pdf>.

ⁱⁱ Ibid.

ⁱⁱⁱ Friedenzohn, Isabel. *Limited-Benefit Policies: Public and Private-Sector Experiences*. State Coverage Initiatives Vol. V, No.1 July 2004.

^{iv} Haislmaier, Edmund F. *State Health Care Reform: A Brief Guide to Risk Adjustment in Consumer-Driven Health Insurance Markets*. Heritage Foundation, No. 2166, August 1, 2008.

^v Ibid.

^{vi} Ibid.