



MAKING HEALTH REFORM WORK FOR UTAH KIDS

Protecting Access to Affordable Health Insurance for Uninsurable Children

A Utah Health Policy Project Issue Brief

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Summary

Under an early provision of the Affordable Care Act (ACA) [federal health reform], insurers may no longer apply pre-existing condition limitations for children under age 19. This provision of the law was interpreted by HHS to mean that all children would have “guaranteed issue” (meaning health insurance could be purchased for children at any time irrespective of health status). This created a situation in which there is no requirement to purchase or maintain health insurance coverage for children, yet coverage could be obtained for a child at any time they suffered an illness or injury. This HHS ruling prompted most carriers across the country to either stop selling “child only” policies or drop out of the individual market entirely. To prevent any further disruption to the market, federal officials issued guidance to insurance regulators for minimizing risk in these markets.ⁱ

Carriers in Utah have responded in a variety of ways to the HHS guidance attempting to protect current enrollees from high premium increases to cover the additional costs of “guaranteed issue” policies. However, local carrier actions have also led to much confusion, frustration and concern on the part of advocacy groups, policymakers and regulators. Accordingly, this brief describes what the state has done so far to mitigate the impact of the new provision and what else the state could do, based on actions in other states, to offer consistent and sustainable mechanisms to protect access to health insurance for children in Utah.

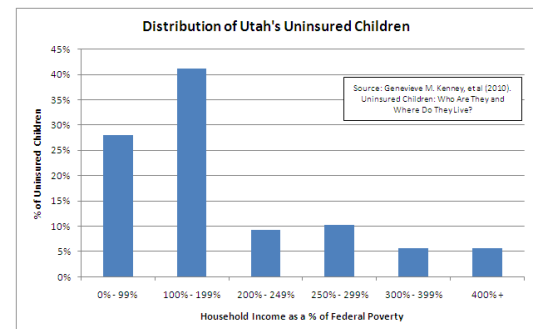
UTAH’S EMERGENCY RULE A GOOD START

In an effort to minimize disruption to the insurance market for children, the Utah Insurance Department issued an emergency rule in late September.ⁱⁱ The emergency rule states that all insurers in the individual market must open enrollment to all children twice a year, with the first open enrollment period scheduled for November 1 through December 15 for coverage effective in January, and the

HOW MANY UNINSURED KIDS ARE WITHOUT OPTIONS?

Of the estimated 107,000 Utah children without health insuranceⁱⁱⁱ, approximately 69% or 74,000 live in homes with incomes that would allow them to qualify for coverage under Medicaid or CHIP. Utah has the second worst rate of participation in public programsⁱⁱⁱ, though the state has made significant progress over the past year.^{iv}

Of the remaining 33,000, some qualify for coverage through HIPUtah, although the actual percentage is difficult to pin down, according to HIPUtah, the state’s high risk pool. Of those not eligible for HIPUtah, most, if not all, have or could have access to coverage through a parent. The biggest barrier for these children and their families is cost.



As Utah legislators and regulators search for ways to improve access to health insurance and health care providers, it is critical they also consider ways to ensure coverage and care is also affordable.

second period scheduled for the summer of 2011. The emergency rule is designed to spread risk across all carriers participating in the individual market. HHS released guidance warning insurers that they could not open the market only to healthy children outside of that open enrollment period.^{iv} This is a good start, but the emergency rule is ambiguous on this point, and it does not address all of the situations in which children may be left without options. For example, a child whose parents are uninsurable may not be able to secure commercial coverage in Utah, despite open enrollment periods.

OTHER OPTIONS

There are other options that may help mitigate the impact of the loss of child only plans.

1. **CHIP/Medicaid Buy-In** for children who cannot get commercial coverage through one of their parents. Medicaid and CHIP do not discriminate against children with pre-existing conditions. Depending on how it is designed, the buy-in option can be affordable for families and the benefits more suitable for medically fragile children. About 14 states have implemented this option, most *before* the ACA.^v Given the relatively small number of children who would be eligible, this would not represent a significant cost to the state. If families were expected to pay the full premium, this proposal could be budget neutral to the state though participation may not be as high due to affordability barriers.
2. **High-Risk Pool as Fail Safe.** Open HIPUtah as a fail-safe to children with pre-existing conditions who cannot obtain affordable coverage on the private market. HIPUtah is already intended as a fail safe for these families, though high costs have kept enrollment low. Of the 4,200 enrollees in HIPUtah, only 294 are children. Enrollment in HIPUtah is, however, currently limited to children who are otherwise uninsurable. Opening the pool to children who are insurable but do not have access to commercial insurance through their parents would not require any additional state funding and could actually improve the financial performance of the pool.

RECOMMENDATIONS

Above all else, health reform should not make it harder for children to access health insurance and health care providers. Until a fix can be found at the federal level, however, it is up to states to address the consequences of this admittedly shortsighted provision of the ACA. Utah regulators have taken a good first step in establishing open enrollment periods in the individual health insurance market, though they will need to ensure all carriers are applying the open enrollment periods fairly and uniformly. Utah should go further by allowing children without access to coverage, to buy into CHIP or Medicaid. In the time it may take to implement this option, legislators should consider expanding eligibility into HIPUtah for these children. These two options, in combination with uniform open enrollment periods, provide the best opportunity to offer coverage to children who otherwise would be left without coverage in the reformed market until 2014.

ⁱ HHS (2010). October Letter to NAIC (National Association of Insurance Commissioners). <http://www.hhs.gov/news/press/2010pres/10/20101013a.html>.

ⁱⁱ Salt Lake Tribune (2010). New Insurance Rule Aimed at Protecting Children. <http://www.sltrib.com/sltrib/home/50390495-76/health-coverage-insurance-enrollment.html.csp>.

ⁱⁱⁱ Genevieve M. Kenney, et al (2010). Uninsured Children: Who Are They and Where Do They Live? <http://www.urban.org/publications/1001446.html>.

^{iv} HHS (2010). October Letter to NAIC (National Association of Insurance Commissioners). <http://www.hhs.gov/news/press/2010pres/10/20101013a.html>.

^v Georgetown University Center for Children and Families (2010). Medicaid and CHIP Buy-In Could Help Children Excluded from Private Market. <http://theccfblog.org/2010/10/medicaid-and-chip-buy-in-could-help-children-excluded-from-child-only-private-market.html>.