

US INSURANCE BILL UPSETS STATES

By Daniel C. Vock - Kansas City Ino-Zine staff

A proposal before the U.S. Senate designed to help small businesses buy cheaper health insurance has many state officials up in arms because it could strip states of their power to regulate carriers and dictate what insurers must cover.

At least 39 state attorneys general, three governors and 16 state insurance regulators object to the legislation.

"This bill contains provisions that will erode state oversight of health insurance plans and eliminate consumer protections in the areas of mandated benefits and internal grievance procedures," 39 members of the National Association of Attorneys General said in a letter to U.S. senators.

The controversial measure would let trade associations buy coverage from insurance companies and offer it to members and their employees nationwide, even if the plans didn't comply with individual state laws

The legislation would let existing small business plans avoid state regulations too, in order to make sure new plans don't have an unfair advantage.

Business leaders argue that insurance companies are loathe to offer nationwide products today, because products they offer

must comply with at least 50 different sets of laws.

They point to the experience of the Associated Builders and Contractors, which shut down its 43-year-old health insurance plan after its insurance company quit and more than 50 others declined to take its place.

Carriers said they were unwilling to assume the business because state laws they would have to obey dictated how they could set rates, who must be eligible and what services they must provide.

"We were legislated out of business, effectively, by the states," Joseph E. Rossman, ABC's vice-president of fringe benefits, said.

The so-called Enzi Bill, named after U.S. Sen. Mike Enzi, a Wyoming Republican, grows out of an effort to help small-business groups such as ABC offer members the chance to buy health benefits.

Similar ideas have been floated for a decade, and the U.S. House has passed legislation clearing the way for the association health plans eight times. But Enzi's version is the first to pick up speed in the Senate, where it's expected to come up for a vote in early May.

Buying employee insurance is harder for smaller business than large companies because smaller shops don't bring in enough customers to be able to negotiate favorable deals.

Secondly, smaller businesses contend with state regulations that many large companies don't have to deal with. Many large companies bypass state insurance laws by insuring themselves rather than buying insurance from an outside carrier. Self-insured companies are regulated by a 1974 federal law, the Employee Retirement Income Security Act.

The average employee might not notice the difference between a self-insured plan and a "fully insured" plan purchased through an outside carrier, because companies that insure themselves usually hire an insurance company to manage the program.

The Enzi Bill would lower barriers small businesses face in buying insurance by giving them some of the same advantages that large companies have.

That's provoked outcries from consumer advocates and interest groups who lobbied hard to put protections into state laws.

States themselves are mainly worried about how the legislation would affect

their ability to require insurance companies to cover certain treatments, restrict the factors they can consider in setting rates and enforce consumer protection laws.

All 50 states require insurers to provide certain benefits. All mandate that policies of a new mother provide coverage for her child for the first 30 days of the child's life. Forty-six require insurance to cover diabetes treatment.

Beyond that, mandates vary greatly. Many New England states dictate that treatment for Lyme Disease be included. Other states require coverage for mammograms and prostate exams, birth control and mental health treatment. And types of treatments that must be covered vary from state to state.

Enzi's legislation would let carriers offer plans that skirt state requirements. An insurance company that wanted to offer one of the stripped-down plans also would have to offer an alternative with all the benefits given to state employees in one of the five largest states (California, New York, Florida, Texas and Illinois).

Critics say only sick people will opt for the more expensive full benefit packages. That, in turn, would make the higher-cost options even more expensive.

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There is a check, though, that would prevent premiums from the high-end plans from spiraling out of control. Any spike in the cost of the robust plans would be spread across all of the insurers' policyholders, not just the ones in the expensive plans

Still, the move is troubling for many state officials.

"Health care is delivered locally by local doctors and local health care providers... (Insurance companies) need to be held accountable to local entities, specifically the states," said Rhode Island state Rep. Brian Kennedy (D), secretary of the National Conference of Insurance Legislators.

Another controversial aspect would let national insurers consider gender, health, participation in wellness programs, group size and industry when setting prices, which is already allowed in 36 states.

Currently, 11 states prohibit insurance companies from using a person's health status when setting rates, according to the National Association of Health Underwriters. The "community rating" approach generally limits the factors insurers can consider to age, geography and family size, but states use different versions of that model.

The approach spreads the risk more evenly throughout

the state, meaning insurance is more affordable for sick people but more expensive for healthy people.

(Hawaii, Pennsylvania and Virginia impose neither approach).

Under Enzi's proposal, a customer with the most expensive in premiums could face prices 26 times greater than the person with the cheapest premiums. In states that use the more restrictive rating rules, the highest prices can be as little as two times the lowest prices.

"States are in the best position to determine whether what rating policies are best for their consumers - both healthy and sick - and we believe in its current form (the bill) will have a negative effect in many states," the National Association of Insurance Commissioners said in a letter to Enzi.

New Hampshire Gov. John Lynch (D) urged his congressional delegation to consider the Granite State's recent experience. It adopted standards in 2003 similar to the ones outlined in the Enzi Bill. According to Lynch's letter, that sent insurance rates "skyrocketing."

Lynch said small companies couldn't grow and many considered dropping coverage altogether, so the state reversed course. It dictated that the highest premiums could only be 3.5

times greater than the lowest premiums for the same plan. Now, he said, the insurance market has improved.

Two other governors - Mike Rounds (R) of South Dakota and Ted Kulongowski (D) of Oregon - also expressed concerns about states' ability to enforce their consumer protection laws if the Enzi Bill passes, echoing concerns from the attorneys general.

They're concerned that insurers could haul states into federal court if the states don't allow them to sell the newly authorized products, while states would lose many of their enforcement powers.



Loss of Competition Is Seen in Health Insurance Industry

By **ROBERT PEAR**

New York Times

WASHINGTON, April 29 — Federal investigators have found that a handful of companies account for a growing share of the health insurance policies sold to small businesses in most states, leaving consumers with fewer options and higher costs.

The Government Accountability Office, an investigative arm of Congress, said that the largest insurer had 43 percent of the market for small group coverage in a typical state, up from 33 percent in 2002. In nine states, the largest carrier — a Blue Cross and Blue Shield company — has more than 50 percent.

Small businesses and doctors also report a steep decline in competition in health insurance markets, a problem Congress is trying to address.

Within two weeks, the Senate plans to take up legislation that would make it easier for small businesses to band together and buy health insurance through trade associations and chambers of commerce. The main purpose of the bill, strongly supported by President Bush, is to make coverage more affordable.

In the face of soaring health costs, small businesses have struggled to find affordable insurance for their employees. The legislation would set uniform

federal standards for insurance products that have long been regulated by the states. The standards would supersede state laws requiring coverage of specific services like cancer screenings in the individual and group markets.

The House has passed similar legislation several times. The prospect of a Senate vote has touched off a battle between small businesses, which contend that state requirements drive up costs, and consumer groups, which see them as indispensable protection for patients.

Paul B. Ginsburg, president of the Center for Studying Health System Change, a nonpartisan research institute, said: "There is a strong trend toward more concentration in health insurance in local markets. Being large seems to be more important than ever. Small plans are losing market share to large plans."

Senator Olympia J. Snowe, Republican of Maine, chairwoman of the Committee on Small Business, said the concentration of markets meant that "small businesses have extremely limited choices when seeking health insurance for employees."

In Maine, Ms. Snowe said, Blue Cross and Blue Shield carriers have 63 percent of the small group insurance market, up from 39 percent in 2002, and the five largest carriers have 98 percent.

Trade and professional groups can help members obtain insurance, but they cannot offer a uniform national product because the coverage must meet each state's standards.

The Census Bureau estimates 45.8 million Americans have no

health insurance. More than half of uninsured workers are self-employed or working in businesses with 50 or fewer employees.

In a study of 294 metropolitan areas, the American Medical Association found a "remarkable reduction in the number of competing health plans." In 95 percent of those regions, a single insurer had at least 30 percent of the market, and in 56 percent of the areas, a single insurer had a share of 50 percent or more.

Karen M. Ignagni, president of America's Health Insurance Plans, a trade group for the industry, said, "There certainly have been some large insurance company mergers in the last few years." But, she said, "The data do not show a link between concentration of insurance markets and rising health care costs."

The National Association of Realtors and the National Federation of Independent Business are leading the campaign for federal legislation.

Todd A. Stottlemeyer, president of the federation, said that health insurance was "the No. 1 concern of small business owners." Under the legislation, he said, small businesses could pool their buying power and obtain coverage at rates like those available to Fortune 500 companies.

But the legislation has formidable foes, including AARP, the American Cancer Society and the American Diabetes Association.

In advertisements, those groups say the Senate bill undermines

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state laws that "require insurance companies to cover such vital benefits as cancer screening, mental health services, diabetes supplies and education, and well-child care."

Daniel E. Smith, a vice president of the American Cancer Society, said: "We are all for increasing access to insurance, but not if it means degrading the quality of coverage for people who already have it. The Senate bill is beyond repair."

William D. Novelli, chief executive of AARP, said, "The bill would make it much harder for older workers to get health insurance, or even to get a job." Insurers, he said, could more easily raise premiums for small businesses that employ older workers with high health costs.

The bill's sponsor, Senator Michael B. Enzi, Republican of Wyoming, said it would "preserve the primary role of the states" in regulating insurance.

But in a letter to the Senate this week, the attorneys general of 38 states expressed "strong opposition." They said it would "erode state oversight of health insurance plans and eliminate consumer protections."

In New York, the insurance superintendent, Howard Mills, said the legislation could cause havoc by pre-empting a state law requiring insurers to set rates for small businesses and individuals

without regard to age, sex, health status or occupation.

Mr. Mills said it would undermine the Healthy New York program, championed by Gov. George E. Pataki as a way to provide affordable coverage to small businesses and uninsured workers. Healthier people would seek coverage through the "small business health plans" envisioned by Congress, he said, while sick people would stay in the state program and face higher premiums.

