“Healthier Choices”: Will Relief from Current Benefit Mandates Reduce Health Insurance Costs and Increase Coverage?

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The Wisconsin Hospital Association, Wisconsin Association of Health Plans, and Wisconsin Manufacturers and Commerce have proposed Healthier Choices, a reform package of state and federal legislative changes, technology and training incentives and wellness education aimed at lowering health care and insurance costs.

Healthier Choices includes an array of elements that have attracted both support and debate throughout the industry. But one item has attracted perhaps disproportionate attention and controversy: Healthier Choices’ mandate-free policies would allow the sale of insurance policies that would not cover various benefits currently mandated by state law — policies that, depending on perspective, are variously viewed as “flexible,” “stripped-down,” “basic,” “no-frills,” or “bare-bones.”

The Healthier Choices plan does not propose that mandates be repealed. Insurers will still have to offer plans that include the mandated services, but companies will be allowed to reject them and design unique plans. In theory, this offers small employers and others who do not currently participate in insurance the opportunity to buy in at a lower cost than is currently available.

This issue brief reviews only one aspect of Healthier Choices: the proposal’s assertion that developing and offering mandate-free policies would enable affordable coverage to more groups and individuals. The following questions are addressed:

- Would freedom from mandates expand insurance coverage overall?
- Would ability to opt out of existing mandates reduce health costs?
- What would be the effect on various groups of health care consumers, including small employers, low-wage consumers and those individuals and groups with greater health care needs?

Employer-Sponsored Health Insurance in Wisconsin

The overall level of employer-based health insurance in Wisconsin is among the highest nationwide. Yet less than half of all small employers in the state offer health insurance to some or all employees. Overall, employees of small employers and low-wage employees have lower access to affordable health insurance coverage.

Further, employers tend to pay a larger percentage of the cost of health insurance premiums as their overall wage levels increase. Employees working in low-wage establishments are asked to contribute more than twice as much for coverage as employees working in high-wage establishments.

The Milwaukee Business Journal reports, however, that while small firms are less able to handle the premium costs of recent years, the number of small businesses in Wisconsin dropping employee health benefits because of high premium costs appears to have leveled off.

Wisconsin Office Director of the National Federation of Independent Businesses notes that “it’s not just the high premium costs that are impacting small businesses... It’s the degree of premium increases they incur.”

What effect do insurance mandates have on cost of insurance?

Supporters of benefit mandates argue that they provide health care consumers with greater access to important preventive services or for needed treatment of particular disorders. Absent a mandate, supporters argue, these services might be under-provided or underutilized.

Mandated coverage for preventive services, some argue, may ultimately reduce health care costs if disease is prevented or caught early, treatment is less expensive, absenteeism is avoided, and worker productivity improved. Mandates may also have the effect of spreading the risk for certain high cost care – HIV, diabetes, AODA – across a broader market of insured.

Healthier Choices proponents contend that additional coverage requirements result in higher costs to health plans and thus higher premiums. As a result, some employers may drop coverage or increase premium costs to employees, and cause consumers to decline coverage. Further, “flexible benefits” proponents argue that mandates may at times be established in response to advocacy groups, rather than
## Currently Mandated Benefits

<table>
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<th>Benefit</th>
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<td>Immunizations for children under the age of 6</td>
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<td>Diabetes equipment and supplies</td>
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<td>Lead screening</td>
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<td>Kidney disease treatment</td>
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<td>Mammography after age 45</td>
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<td>Newborn infant care</td>
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<td>Drugs for treatment of HIV infection</td>
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<td>Nervous and mental disorders, AODA</td>
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<td>Breast reconstruction following a mastectomy</td>
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<td>Home health care</td>
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<td>Skilled nursing care</td>
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<td>Hospital and ambulatory surgery center charges for certain dental services</td>
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<td>Temporomandibular joint treatment</td>
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<td>Services for adopted children and handicapped children</td>
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<td>Maternity care for all persons covered under the policy if maternity coverage provided for anyone</td>
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<td>Babies born to dependent children under the age of 18 who are covered by the policy</td>
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<tr>
<td>Certain services provided by chiropractors, nurse practitioners, and optometrists</td>
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<tr>
<td>Federal COBRA and state “continuation of coverage” mandates</td>
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Evidence-based reviews, and may not indicate a priority according to medical need. At the same time, these mandates may limit the flexibility that plans have in designing policies that match the preferences and the budget of a diverse set of purchasers.

Mandates, and their associated costs, are generally considered more onerous to small and medium-size businesses, as larger employers often self-insure or have the option of doing so, and thereby avoid state insurance mandates.

Considered individually, a mandate to add a benefit to a health insurance policy may add only one or two percent to the total costs, but the accumulation of coverage mandates over time could add considerably to the total annual cost of a health insurance premium. Thus, mandates may contribute to higher premiums and lower coverage rates in the aggregate.

Evidence does tend to support the claims that federal and state mandates have contributed to both increased health insurance costs and reductions in insurance coverage. The sources supporting these findings include the Congressional Budget Office, the U.S. General Accounting Office, PricewaterhouseCoopers, and the Health Insurance Association of America.

Other states beside Wisconsin have also been considering the repeal of mandates as a potential cost-saving measure. But in many of those states, the mandates under review cover discretionary services that are not mandated in Wisconsin, such as fertility treatments. And the National Conference of State Legislatures points out that health insurance costs are rising as fast or faster even in states that lack most of the common state mandates. The New York Times reported recently on analysts’ opinions that cutting back mandated benefits will neither yield substantial savings nor slow the increase in costs associated with medical advances. And a 1992 GAO report also noted the very limited impact on costs of repealing benefit mandates.

**Healthier Choices** proponents agree that flexible benefits will not yield major savings. But some maintain that even the potential 5% reduction in small employer premiums is sufficient to merit the trade-offs. As well, flexible benefits in **Healthier Choices** were not intended as a stand-alone fix to rising insurance costs, but rather part of the broader package of proposed elements intended to address the underlying drivers of health care costs.

### What do Wisconsin data show?

Wisconsin’s Office of the Commissioner of Insurance (OCI), in separate 2001 and 2002 reports, concluded the following regarding insurance benefits mandates in Wisconsin:

- Most studies of mandates concentrate on total cost of services provided and do not measure marginal cost of the mandate (costs beyond what would have occurred in absence of the mandate). While several studies attribute 15% of insurance costs to mandated services, Maryland’s 1999 report quantified the marginal costs of mandates at 3.9% of premium across all insurance products.
- Self-funded plans tend to match or exceed mandates.
- Wisconsin is about average among states in the number of mandates.
- Small employers, who have high turnover, are more severely affected by the cost of federal COBRA and state “continuation of coverage” mandates. (Adverse selection, under COBRA mandates, has been attributed to cause a 4% increase in premiums)
- The 2002 study by OCI reports that mental health/AODA contribute 3.23% and chiropractic contributes 1.24% of the cost of benefits. Of the benefits studied, only these two mandates contributed more than 1% to the costs of total benefits paid.
- In 2001, OCI concluded: “Mandates do not add greatly to the cost of benefits or premiums.”

Even with this information, critics of benefits mandates point out that the legislative choice of mandates may be driven by politics more than by considerations of public health and sound cost-benefit analysis. Wisconsin’s Insurance Commissioner is now required by law to prepare a report on the social and financial impact of any health insurance mandate contained in any proposed legislation.
What is the effect of mandate-free policies on utilization and costs?
A 2002 analysis by the Commonwealth Fund develops several alternative insurance policies that would cost 30% less than a current basic benefit plan and examines the implications of these policies for purchasers. It concludes:

...to achieve a significant reduction in premiums, policies would have to include major cuts in benefits. In any of the alternative plans discussed, consumers would lose a key benefit or increase the deductible substantially, or both. Although bare-bones policies are meant to make insurance more affordable for low-income consumers, they do so only with enormous risks. Out-of-pocket costs could easily exceed 10% of income for low-wage people, leaving them to face catastrophic costs well in excess of their annual income.

The researchers in the Commonwealth study conclude that, to the extent that employers move in the direction of a basic benefit package, a wraparound benefit is needed to cap individual risk. Such wrap-around coverage might be provided through Medicaid, BadgerCare, or other publicly-funded safety net programs. Thus, if certain services are not covered, there could be a cost-shift to other payers or government programs when people who need such services cannot pay for them.

Reducing mandated benefits may expand employer-sponsored insurance coverage by making it more affordable. However, to the degree that it eliminates coverage for needed rather than discretionary services, and it does so for predominantly low-wage employees, the costs for those uncovered services may be shifted onto public sector programs or, in some cases, onto providers in the form of uncompensated care.

As well, there remains the risk that consumers may delay care or forego needed preventive care in response to lack of coverage or high out-of-pocket costs. Findings from the RAND health insurance experiments and recent research has shown that, while cost sharing does effectively reduce utilization, it is a blunt instrument that does not distinguish appropriate from unnecessary utilization. Mandate-free policies may be analogous in that they increase consumer exposure to risk for "out-of-pocket" expenditures.

**Should employers be able to tailor coverage based on their own groups' needs?**
Recall that the Healthier Choices plan does not propose that mandates be repealed. Insurers will still have to offer plans that include the mandated services, but companies will be allowed to reject them and design unique plans. This offers small employers and others who do not currently participate in insurance the opportunity to buy in at a lower cost than is currently available. In this way, more businesses may be able to offer at least some level of health insurance coverage to their employees.

Others counter-argue that allowing such individual tailoring of plans will further segment an already segmented small and medium group market. **Healthier Choices** allows those employers who currently offer coverage the opportunity to avail themselves of a more limited policy, thus reducing the consumer pool across which risks are spread in the more comprehensive plans. This may cause risk-spiral for more comprehensive plans, raising premiums as fewer (likely higher need) groups continue to seek coverage that includes mandated benefits. Thus, those businesses that do need and want to maintain coverage for those mandated benefits will face higher premiums for them, and may find themselves unable to maintain comprehensive coverage.

But will more people have at least some insurance coverage?
Indeed, there may be some increase in employers that offer coverage, albeit scaled-down, to their employees. It is not clear how many employees would participate in these plans. This would depend, among other things, on the amount of cost-sharing that would be required, individual risk tolerance, and personal perception of needs.

Those newly covered by employer-sponsored insurance may not represent an absolute net gain in overall coverage in Wisconsin. Some of the low-wage employees who gain access to this coverage do not come from the ranks of the uninsured but from Wisconsin's BadgerCare program. To be sure, public policy is well-intended to encourage private coverage over reliance on the state safety net. It is, however, possible that those persons who were previously eligible for BadgerCare become completely uninsured if, facing higher cost-sharing and much reduced benefits in their employer-sponsored policies, they opt to forego participation entirely.

**How will consumers attain those services for which they remain uncovered?**
With regard to services that are generally considered medically necessary (such as mammograms, diabetic supplies, HIV medications), costs will be incurred, regardless of whether the services are covered through an insurance mandate or otherwise.

When insurance no longer covers certain services, those costs are shifted to the public sector or to providers in the form of uncompensated care. For example, when health plans do not cover immunizations, health departments may provide them at public expense. As well, when mammograms are not covered, more women seek services through the Wisconsin Well Woman program, and other women will not receive the needed service. Those persons needing mental health or AODA services may find themselves in county social service or the criminal justice system before they receive the help they need.
Beyond “Flexible Benefits”

The debate around Healthier Choices would certainly benefit from modeling to provide more definitive estimates: How many more persons would actually become insured? Would the coverage gains offset losses in coverage for medically necessary services? How much service cost would be shifted to or off of uncompensated care and public programs? How does coverage and non-coverage of mandated service actually affect utilization and health outcomes? At this point, we can only rely on the published literature and data from experience elsewhere, presented throughout this brief.

Ultimately, the debate around coverage mandates addresses where the cost for certain health care services will be borne directly — by the insurer, the employer, the consumer, or by a public sector program, or by providers in the form of uncompensated care. To the degree that coverage for services affects care-seeking behavior, it may have an impact on the timeliness and the location of care.

It appears that, while mandate-free policies may provide limited relief to certain employers, the State may find itself facing the growing occurrence of so-called “under-insurance,” along with the ongoing challenge of how to promote coverage for needed care for all Wisconsin residents.

In the meantime Healthier Choices proponents point out that the “flexible benefits” proposal was not offered as a stand-alone fix to rising insurance costs, but rather one part of the broad package of proposed elements intended to address a range of cost drivers, technology challenges, and the need to advance wellness and consumer education. It may well be that these other elements hold promise for common ground and genuine impact, without inviting the polemics and downside risks of the “flexible benefits” proposal.

Certainly, Wisconsin can only benefit from a worthwhile debate on the merits of each individual element of the plan.

Principal author of the Brief is Donna Friedson, MPH

References

5. see http://www.cbo.gov/showdoc.cfm?id=2796&sequence=0.
16. See http://ogi.wi.gov/finmpct.htm for summaries and links to the OCI social and financial impact reports.