

Why Guaranteed Issue is a REALLY BAD IDEA in the individual market in Illinois

Submitted on July 31, 2006 by members of the Insurance Industry Working Group

1. From WSJ.com

Cheaper Health Insurance

A little competition can go a long way.

Monday, July 25, 2005 12:01 a.m. EDT

What's more, states like New Jersey and New York add two more ultra-expensive requirements: "Guaranteed issue" allows people to wait till they are sick and then buy insurance; "community rating" prevents insurers from charging different prices to people of different ages and health status. These may sound like compassionate ideas, until you realize they make insurance so expensive that millions of people are exposed to financial ruin because they aren't allowed to buy basic policies focused on catastrophic costs.

How expensive? A 2004 study by eHealthInsurance.com found that a typical insurance policy (\$2,000 deductible, 20% co-insurance) for a family of four could be had for as little in as \$172 per month in a reasonably regulated locality like Kansas City, Missouri. But in New York that family's only option--managed care--would run \$840 per month, and in New Jersey family policies run a whopping \$1,200-plus.

2. From NCPA

<http://cdhc.ncpa.org/commentaries/interstate-competition-in-the-individual-health-insurance-marketplace>

Two other insurance regulations that raise costs are guaranteed issue and community rating. Guaranteed issue means that any insurance company offering policies must sell coverage to all applicants who qualify, regardless of medical condition. While this sounds like it protects consumers, it actually harms them by driving up prices. When insurance companies are forced to accept all applicants, they raise premiums to guard against losses. As a result, insurance is a poor value for everyone except those with serious health conditions, and people often wait until they become sick to buy it. Subsequently, business dwindles, insurers leave the market and rates go up as competition diminishes. This has happened in all states that require guaranteed issue.

Community rating means that an insurer cannot adjust its premiums to reflect the individual health risk of consumers. While this regulation achieves a level premium for everyone, in reality, healthy people are charged more than they otherwise would be so that high-risk individuals can be charged less. Therefore, the majority who are healthy see their premiums rise. As was mentioned earlier, a plan for a healthy 25-year old male costs six times more in New Jersey than in Kentucky, largely due to community rating. Because of the higher cost, younger (or low-income) individuals with few health problems tend to drop insurance, leaving an increasingly unhealthy risk pool. This drives premiums ever higher — and fewer and fewer people can afford coverage.

3. From CAHI

http://www.cahi.org/cahi_contents/resources/pdf/guaranteedissue.pdf

New Jersey — New Jersey is the poster child for why a state SHOULD NOT implement guaranteed issue in the individual market. It passed the legislation in 1994, when the state's health insurance rates were already high. As shown in the figure on the previous page:

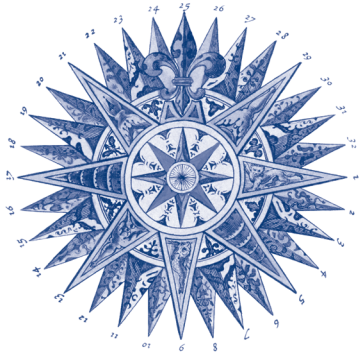
- In 1994, a New Jersey family policy (known as "Plan D") with a \$500 deductible and a 20 percent copayment (i.e., the insurer pays 80 percent) cost as little as \$504 a month and as much as \$1,076, depending on which of the 14 participating insurers the family chose.
- By January 2002, that same policy purchased from one of the 10 remaining companies cost between \$3,085 (Blue Cross Blue Shield) and \$17,550 (Trustmark) per month — *that's \$38,040 to \$210,600 a year.*

Maine — Maine passed guaranteed issue and community rating in 1993, driving up rates and driving out insurers. A 2001 report notes, "Rates have risen sharply in the past three years, especially for HMO coverage, making coverage unaffordable for many." Maine Sen. Susan Collins recently noted, "Anthem Blue Cross Blue Shield — the single remaining carrier in Maine's nongroup market — has increased its rates by 40 percent over the past two years."

Kentucky — The state adopted guaranteed issue and modified community rating in 1994 and required carriers to offer a limited number of state-designed, standardized health plans. As a result, 45 insurers left the state, leaving only Anthem Blue Cross, Humana in a limited capacity and KentuckyCare, the state-run plan (now Kentucky Access, a high-risk pool). Legislation passed in 2000 to reform the reforms encouraged three insurers to return. But premium costs are still above average.

New Hampshire — New Hampshire passed guaranteed issue and modified community rating reforms in 1994. Within three years, three of the six insurers left the market and the number of individual policies declined by almost half, while premiums for the Blue Cross policy nearly doubled. By 1998, New Hampshire's Blue Cross Blue Shield, which had lobbied for the reforms, withdrew from the individual market and canceled those policies.

New York — Did New York's 1992 legislation imposing guaranteed issue and community rating create affordable health insurance for everyone? When the law was passed, a 55-year-old healthy male paid about twice what a 25-year-old healthy male paid for a policy. As a result of the reforms, the 25-year-old male paid about 60 percent more, while the 55-year-old paid about 30 percent less — a great deal for the older person, who on average will have a higher income, but a disaster for the younger. The death spiral started and within a few years, both young and old were paying more than the 55-year-old paid when the law was passed. The situation has continued to deteriorate.



MainePoint

March 2004

A Publication of the Maine Public Policy Institute

To Improve Health Insurance Access, Repeal Guaranteed Issue

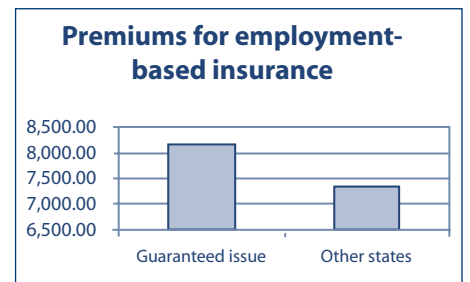
JOHN R. LA PLANTE

The Dirigo Health Plan is being advocated as a way to address the problems of uninsured Mainers. While the details of the plan are being worked out, a look at history of guaranteed issue will show that most government initiatives end up being counterproductive. If officials want to promote health insurance coverage in Maine, the first step may be to eliminate guaranteed issue.

Under a guaranteed issue mandate, an insurance company must underwrite a policy for all comers, regardless of health. This sounds compassionate, and a way to promote insurance coverage. But it turns the economic logic of insurance upside down in a way that hinders the goal of an insured population.

If you did not buy homeowners insurance until you noticed smoke coming from somewhere in your house, would you be able to get a last-minute policy? Of course not. But that's how health insurance works, thanks to Maine's guaranteed issue regulations.

Under guaranteed issue, healthy people have every incentive not to buy insurance until they see trouble coming. On the other hand, the people who are inclined to keep their insurance are the sickest. But when the people who have insurance are disproportionately sick, premiums must go up to cover the costs. This makes insurance even more unattractive, except for those with imminent health problems. The healthy then have an even stronger reason to wait to buy until the last minute. The result is what analysts call a "death spiral" in insurance, a phenomenon that has all but killed the market for traditional, individual insurance in Maine.¹ Repealing it is the first step in increasing private insurance coverage.



Source: Kaiser Family Foundation

GUARANTEED ISSUE AND DEATH SPIRALS

Guaranteed issue has been devastating in the states that have implemented it. It reduces consumer choice, such that in Maine, there is only one source for indemnity, individual insurance. In Washington, the guaranteed issue requirement drove so many companies out of the state that the legislature had to repeal many portions of that law. Kentucky and New Hampshire had similar results. Today, only Vermont, Massachusetts, New York and New Jersey join Maine in maintaining guaranteed issue.

Guarantee issue guarantees one thing: higher premiums. This is true in both the individual and the group market. The Kaiser Family Foundation conducted a nationwide survey of employer-sponsored insurance plans. The total cost of insurance (counting employer and employee contributions) was 11 percent higher in states with guaranteed issue requirements.²

“Guarantee issue guarantees one thing: higher premiums”

Guaranteed issue requirements work their damage in the individual insurance market as well. In Portland, a family plan with a \$500 deductible costs \$14,120 annually. By contrast, a similar plan can be found for much less in states without guaranteed issue: \$4,920 in Arlington, Virginia, \$5,124 in Indianapolis, and \$5,748 in Chicago.³ According to the Coalition Against Guaranteed Issue, it would be cheaper for a New Jersey resident to lease a late model Ferrari than to purchase the cheapest family plan sold there.⁴

Even by its own logic—promoting access to health insurance—guaranteed issue fails. Rather than promoting insurance, it actually destroys insurance markets. Because of that, more people are forced into the substandard Medicaid system. (If you doubt that Medicaid is substandard, ask your doctor: Would you like to depend on it for your health care insurance?) More people are on Medicaid in states with guaranteed issue (13 percent) than in states without it (10.2 percent.)⁵ In other words, guaranteed issue increases by 27 percent⁶ the population that depends on the whims of the political process for something as vital as health care.





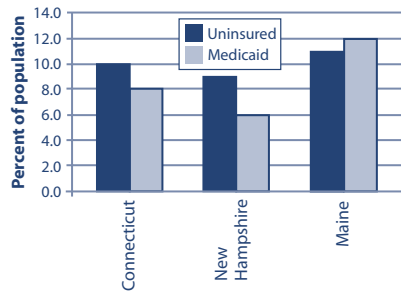
HIGH RISK POOLS CAN HELP

States have started to move away from guaranteed issue. So has the U.S. government. Currently, the HIPAA, a federal law, imposes a guaranteed issue mandate on the small group market. Last year, though, Congress considered, but rejected the idea of extending guaranteed issue for some markets. It is even currently considering legislation to remove the guaranteed issue portions of HIPAA. Maine should follow the federal government, and more importantly, other states, and start dismantling the guaranteed issue requirement.

There are, after all, better ways of promoting access to health insurance. Maine can, for example, reduce the number of mandated services.⁷ This would be one way of making insurance more affordable. It can also allow Mainers who are willing to buy insurance under the rules of another state the opportunity to do so. Let consumers decide who will serve as their regulator.

“In states with high risk pools, premiums for employer-based insurance are 11 percent lower”

Regulation and Insurance Coverage



Source: Kaiser Family Foundation

Maine can also, for the people with the most severe medical situations, establish a high risk pool. Currently, 32 states have such pools, including Connecticut and New Hampshire.⁸ Under a high risk pool, people who would otherwise be unable to obtain insurance can buy a policy at 25 to 50 percent above the average premium. That’s high, but not as high as the cost of guaranteed issue premiums. The chronically ill benefit, because they can get coverage. The rest of the population also benefits, because it can then buy insurance under normal market mechanisms. In states with high risk pools, premiums for employer-based insurance are 11 percent lower.⁹

By having a high risk pool and no guaranteed issue requirement, both Connecticut and New Hampshire have a more desirable situation than Maine. They have a lower percentage of the population that is uninsured (10 and 9 percent, respectively) than Maine does (11 percent). The percentage of people dependent on Medicaid is lower in those states (8 and 6 percent) than in Maine (12 percent). Maine, conversely, has fewer people (62 percent) with private insurance than does Connecticut (68 percent) or New Hampshire (71 percent).¹⁰

In Maine, the number that is should be high (percentage of population with private insurance) is low, and the numbers that should be low (percentage that is uninsured or on Medicaid) are high. It’s time to change this situation.

THE NEXT STEP

If Mainers are to move to a better health care financing system, they can embrace a wide, sweeping initiative that attempts to solve most problems at once. But they shouldn’t. The past record of insurance mandates and guaranteed issue shows that government regulations meant to help often do harm instead. In short, Maine doesn’t have to experiment, and wait for the Dirigo Health Plan, an idea without a track record. It can follow the proven record of other states by enacting a high risk pool and repealing guaranteed issue.

¹ See *Insurance Market in Critical Condition*, MPPI MainePoint, February 2003.
² See *State Health Facts Online: Average Annual Cost of Employment-Based Health Insurance, Family Coverage*. Kaiser Family Foundation, www.kff.org
³ “Pence Measure Would Repeal Guaranteed Issue Mandate,” *Health Care News*, October 2003.
⁴ The Council Against Guaranteed Issue, of which the Maine Public Policy Institute is a member, is at www.CAGIonline.org.
⁵ See the *State Health Facts Online: Health Coverage and the Uninsured*, Henry J. Kaiser Family Foundation, www.kff.org.
⁶ 13 is 27 percent higher than 10.2
⁷ See *Mandates Cause Uninsurance*, MainePoint, May 2003.
⁸ *States with High Risk Insurance Pools: September 2003*, Infectious Disease Society of America.
⁹ *State Health Facts Online: Average Annual Cost of Employment-Based Health Insurance, Family Coverage*
¹⁰ See the *State Health Facts Online: Health Coverage and the Uninsured*, Henry J. Kaiser Family Foundation, www.kff.org.

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BRIEF ANALYSIS

No. 251

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Monday, January 12, 1998

Explaining the Growing Number of Uninsured

The number of people without health insurance continues to grow. The most recent U.S. Census Bureau estimate places the number at 41.4 million people, or 17.7 percent of the nonelderly population — up from 35.7 million, or 16.6 percent in 1990.

After several years of relatively low growth in health care costs — and, as a result, relatively low growth in the percentage of uninsured — some policy analysts fear that health insurance premiums may grow by 8 to 10 percent in 1998.

Why is the number of uninsured growing at a time when unemployment is at its lowest level in decades and national income is growing? Blame government policies.

Source of the Problem: Government. Many believe that government has not yet done enough to ensure universal access to health insurance at affordable prices. The truth is that the growth in health care costs and the uninsured is a direct result of government intervention at the federal and state levels. For example:

- A standard family health insurance policy in New Jersey purchased by the family itself (i.e., not employer-provided) costs about \$18,000 a year.
- 45 of Kentucky's insurers have left the state, leaving only Anthem Blue Cross, which lost \$60 million in 1996, and Kentucky Kare, the state-run program which lost more than \$30 million between August 1995 and March 1997.
- The General Accounting Office (GAO) reports that the Kassebaum-Kennedy health insurance reform bill that passed in 1996 is driving up premiums for some people by 125 percent.

One wonders how much more government help people can afford.

The common denominator among the health care policy failures is a government that tries to make health insurance available to anyone regardless of their health, a practice known as "guaranteed issue."

Guaranteed Issue in the Kassebaum-Kennedy Health Insurance Reform Bill. The Kassebaum-Kennedy bill created guaranteed issue for small businesses. Thus small employers who might have been denied a group health insurance policy because one or more employees had a costly medical condition must be accepted. In addition, those with group health insurance who leave their jobs and need to purchase individual health insurance cannot be denied coverage.

During the debate over the bill, the American Academy of Actuaries suggested that premiums might rise between 2 and 5 percent. Proponents of the legislation quickly seized on the lower number to suggest that Kassebaum-Kennedy benefits outweighed its costs. However, those who closely examined the Academy's analysis found it showed that some premiums would eventually increase between 125 and 167 percent. The recent GAO study mentioned above verifies the prediction.

Guaranteed Issue in New York. The New York legislature passed a bill in 1993 that required both guaranteed issue and "community rating," in which everyone is charged the same premium. To achieve a level premium for everyone, healthy people have to be charged more so that sick people can be charged less. And because most people are healthy, most people see their premiums rise.

Consider the impact on policies sold by Mutual of Omaha, one of the largest sellers of individual health insurance policies in the state:

- Before community rating was instituted in New York, a 25-year-old male on Long Island paid \$81.64 a month for health insurance, and a 55-year-old paid \$179.60.
- After community rating, both paid \$135.95, a 67 percent increase for the 25-year-old and a 25 percent decrease for the 55-year-old.
- Because young, healthy people began cancelling policies, by 1994 both paid \$183.79 — more than the 55-year-old was paying *before* community rating was implemented — and by 1997 that community-rated premium had risen to \$217.59 a month.

Could You Afford These Health Insurance Premiums?*

(New Jersey, 1997)

	Monthly	Annual
Time Ins. Co.	\$2,930	\$35,160
Time Ins. Co. (PPO)	\$2,344	\$28,128
Metropolitan Life Ins. Co.	\$1,969	\$23,628
Connecticut General Life Ins. Co.	\$1,869	\$22,428
Average**	\$1,559	\$18,708
Oxford Health Ins. Co.	\$1,434	\$17,208
Aetna Ins. C. & Health Plans of NJ	\$1,351	\$16,212
Blue Cross Blue Shield of NJ	\$1,101	\$13,212
PFL Life Ins. Co.	\$830	\$9,960

* Family major medical policy, \$500 deductible, 80/20 percent copayment.

** Average of 17 companies offering similar coverage in New Jersey.

Source: Individual Health Coverage Program Board of New Jersey.

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As a result of the departure of thousands, the uninsured population in New York City grew from 20.9 percent in 1990 to 24.8 percent in 1995, according to one report, while the national rate grew from 16.6 percent to 17.4 percent over that same period.

Guaranteed Issue in New Jersey. The most astonishing case is that of New Jersey, which publishes its health insurance rates. As a result of New Jersey's guaranteed issue and community rating law:

- A standard family health insurance policy (\$500 deductible, 20 percent copayment) averages \$1,559 per month, or \$18,708 a year, as of June 1997 — with the lowest rate being \$830 and the highest \$2,930 per month, or \$35,160 a year. [See the table.]
- In April 1995 that same plan cost on average about \$750 per month — less than half the current amount.
- Even the state's most restrictive HMOs cost more than \$700 a month for family coverage — nearly twice the national average.

By contrast, neighboring Pennsylvania, which has not implemented guaranteed issue and community rating, has relatively low premiums — about \$300 per month for a 37-year-old head of family in Reading, Pa. — for a policy similar to that in New Jersey.

As a result of New Jersey's intervention in the health insurance marketplace, coverage in the individual health insurance market has declined by about 15 percent since the end of 1994.

Guaranteed Issue in New Hampshire. New Hampshire passed guaranteed issue in 1995. Now Blue Cross Blue-Shield of New Hampshire, the state's largest provider of individual policies, is pulling out after millions of dollars in losses. And the five remaining insurers are losing money as people transfer from their Blue Cross policies to the other insurers. According to a recent statement by the state's insurance commissioner, "individual health insurance is not readily available in New Hampshire."

To halt the deterioration of the individual health insurance market, health insurers in the group market will be assessed \$2.16 per covered person. Of course, that action will raise the cost of group insurance and may lead some employers to cancel their policies immediately or as the assessment grows.

Why Only Individual and Small Group Markets Are Affected. Because of the way the health insurance

marketplace has evolved, a relatively small percentage of people bear the brunt of these increases. Companies that self-insure under the federal Employee Retirement Income Security Act (ERISA) are exempt from state laws creating guaranteed issue and community rating, as well as many other state laws and taxes, and so avoid the health insurance price increases that small groups and individuals experience. Thus the latter must pick up all of the costs of guaranteed issue. And these are the people most likely to cancel their coverage if the costs become prohibitive.

For example, in 1996:

- Only 5.2 percent of New Jersey's population and 4.5 percent of New York's had individually purchased private health insurance.
- In Philadelphia, 7.3 percent of the population had individual coverage.

More Uninsured in the Future? Worse yet, the Patient Access to Responsible Care Act (PARCA), sponsored by Sen. Alfonso D'Amato (R-N.Y.) and Rep. Charles Norwood (R-Ga.) and cosponsored by more than 200 members of Congress, has a guaranteed issue provision. As a result, PARCA could impose guaranteed issue nationwide, even on ERISA companies.

How to Decrease the Number of Uninsured. If Congress really wants to address the problem of the uninsured, it should:

- Change the tax system so that it encourages everyone to obtain a basic health insurance policy.
- Avoid imposing mandates that make health insurance and managed care more expensive.
- Expand the availability of Medical Savings Accounts.

Each of these reforms would reduce the cost of health insurance and health care and encourage more people to become insured.

Conclusion. There is no mystery as to why the number of uninsured as well as health care costs are growing: Congress and several state legislatures keep trying to make health insurance more accessible and affordable. If they would quit trying to help, the growth in health insurance premiums would decline — as they did in the early '90s when national health care reform failed — and so would the number of uninsured.

This Brief Analysis was prepared by NCPA vice president of domestic policy Merrill Matthews Jr.