Pre-existing condition coverage post-health reform

Country: USA

Partner Institute: Johns Hopkins Bloomberg School of Public Health, Department of Health Policy and Management

Survey no: (16)2010

Author(s): Krista Harrison and Gerard Anderson

Health Policy Issues: Role Private Sector, System Organisation/ Integration, Funding / Pooling, Access

Current Process Stages

Idea	Pilot	Policy Paper	**Legislation**	**Implementation**	Evaluation	Change

1. Abstract

Preexisting conditions were previously used as cause for exclusion from private insurance coverage on the individual insurance market in the United States. Congress changed this with the passage of the Patient Protection and Affordable Care Act (PPACA), which offers a two-phase solution for these patients: a temporary insurance plan for uninsured individuals with pre-existing conditions from 2010-2014, and a prohibition against denying coverage for such individuals after 2014.

2. Purpose of health policy or idea

The change to preexisting condition insurance coverage requirements were part of the overarching effort of PPACA (Public Law 111-148) to provide coverage to 95% of all Americans. By one estimate, 57.2 million non-elderly citizens have a preexisting condition that might have resulted in a denial of coverage if coverage had been sought on the individual insurance market before March 2010. (1)

Individuals with preexisting conditions are more likely to need high-cost health care services, and therefore more likely to purchase health insurance. Insurers call this adverse selection. Insurers considered these individuals to be "high risk", and historically tried to prevent adverse selection by either denying coverage or excluding coverage of treatment for the preexisting condition. (1) As a result, these individuals forgo care or become bankrupt seeking treatment for their conditions.

In response, PPACA contains **several measures** to ensure that individuals with diseases that might be considered preexisting conditions when seeking insurance receive coverage. **First**, the Act establishes an interim Preexisting Condition Insurance Plan (PCIP) to be operated at the state-level from July 1, 2010 to January 1, 2014. **Second**, as of September 2010, insurers (except in grandfathered individual health insurance plans) are required to cover children under 19 with preexisting conditions (4) and are prevented from dropping policyholders if they get sick. **Third**, as of January 1, 2014 all health plans will be prohibited from discriminating against or charging higher rates to any individual on the basis of preexisting conditions.

Main objectives

Section 1101 of the Affordable Care Act offers a temporary high risk health insurance pool program, **the Preexisting Condition Insurance Plan (PCIP)**.

Eligible individuals are those who: 1) are a U.S. citizen or a legal resident; 2) have a pre-existing medical condition; 3) have not been covered under creditable health coverage (as defined by Section 201(c)(1) of the Public Health Service Act) for the previous six months before applying for coverage. (5) The preexisting condition requirement can be met by demonstrating: a health-related refusal of insurance coverage, an offer of coverage with a preexisting condition exclusion, the existence or history of a medical condition specified by the Department of Health and Human Services (HHS) and documented with a clinician's note, or other criteria as developed by a PCIP program and approved by HHS. (2)

Twenty-nine states plus the District of Columbia chose to operate their **own plans**, while **HHS will administer the program in the remaining 21 states**. HHS-operated plans began enrollment on July 1, 2010 for coverage starting August 1, 2010.(1) Plans must offer comprehensive coverage with an actuarial value of 65 percent of total allowed cost and with out-of-pocket limits no higher than those permitted for high-deductible health plans accompanying health savings accounts. Premiums must be set at a standard rate for a standard population, and cannot vary based on age by a factor of more than 4 to 1. (2) Nevertheless, premiums will vary from plan to plan, affected by the age of applicants, state of residence, family composition and smoking status. (3)

Interim final regulations effective August 27, 2010 clarify that PPACA "prohibits any preexisting condition exclusion from being imposed by group health plans or group health insurance coverage and extends this protection to individual health insurance coverage. This prohibition generally is effective with respect to plan years…beginning on or after January 1, 2014, but for enrollees who are under 19 years of age, this prohibition becomes effective for plan years…beginning on or after September 23, 2010." (8) Until that time, the HIPAA rules regarding preexisting condition exclusions continue to apply, wherein preexisting condition is defined as "a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for the coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date." (8)

Additional protections for individuals with preexisting conditions are implemented with the interim rules. For plan years beginning on or after September 23, 2010, group health plans and health insurance issuers are prohibited from imposing lifetime or annual limits on the dollar value of health benefits (except for non-essential health benefits), or from rescinding coverage except in the case of fraud. In addition, insurers must notify plan participants of terms regarding designation of plan provider, notify them that they may choose any primary care provider willing to be their health care provider, and provide emergency service without prior authorization requirements or higher cost-sharing payments for out-of-network versus in-network providers, if emergency services are provided in plans.

According to PPACA, **"essential health benefits"** fall into the following general categories: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care. (9)

Congress appropriated $5 billion to subsidize care for those Americans who enroll in the interim PCIP program between July 1, 2010 and January 1, 2014.(7) This money will subsidize health care claims and administrative costs that exceed the preimums collected for PCIP. (5) Subscription premiums in these interim PCIP plans are expected to be higher than premiums offered by 'regular' insurers, however, they will not exceed the cost of premiums for equivalent coverage on the invididual market. (1)

Monthly premiums are expected to range from $115 to $1,735, depending on age, smoking status, and state of residence. (1) For example, according to HHS the monthly premium of a non-smoking person age 45-54 would range from $330 in Hawaii to $556 in Florida (3). Out-of-pocket spending is limited to $5,950 for individuals and $11,900 for families, excluding premiums. (1)

The Congressional Budget office (CBO) estimates the new PCIP will prove more attractive than existing high-risk pools for two reasons: first, the premium would be lower (state high-risk pools typically charge a premium between 125 percent and 200 percent of the standard premium), and second, because new pools would provide immediate coverage for enrollees' preexisting medical conditions whereas current high-risk pools generally do not. (6)

Type of incentives

Financial

Groups affected

Uninsured individuals, State governments, Insurance companies

3. Characteristics of this policy

Degree of Innovation	traditional	innovative
Degree of Controversy	consensual	highly controversial
Structural or Systemic Impact	marginal	fundamental
Public Visibility	very low	very high
Transferability	strongly system-dependent	system-neutral

While not ideal, the policy makes significant improvements on the existing system, particularly once the 2014 prohibition against discrimination on the basis of preexisting conditions is implemented.

4. Political and economic background

This policy idea of eliminating denial of coverage for preexisting conditions was part of the national health policy goal of obtaining insurance coverage for uninsured Americans. The national goal itself stemmed from the 2008 presidential election, which resulting in a government change with the election of President Barack Obama.

Change of government

The national health reform effort, of which the pre-existing condition coverage was one policy element, was a major initiative of President Barack Obama since his election in 2008.

Change based on an overall national health policy statement

The change in preexisting condition coverage policy was part of the Patient Protection and Affordable Care Act (PPACA) legislation passed in March 2010, which made sweeping changes in the US health care system.

5. Purpose and process analysis

Idea | Pilot | Policy Paper | **Legislation** | **Implementation** | Evaluation | Change

Origins of health policy idea

Thirty-five states had high-risk pools predating the 2010 PPACA, many created in response to the 1996 federal Health Insurance Portability Act. In addition, seven states had requirements that insurance cannot be denied to individuals on the basis of preexisting conditions (guaranteed issue). However, neither effort included initatives to ensure that the resulting insurance would be affordable to enrollees. The policy changes related to pre-existing condition coverage were one part of the overall effort of PPACA to enable all Americans to have affordable coverage.

Initiators of idea/main actors

- Government: The U.S. Federal government passed the PPACA legislation in which the policies related to pre-existing condition coverage was contained. Federal and state governments will administer the PCIP plan from 2010-2014.
- Payers: As of 2010 all health plans are prohibited from denying or restricting coverage to children with pre-existing conditions. Denial of coverage or charging higher premiums will not be allowed for adults with pre-existing conditions beginning in 2014.

Approach of idea

The approach of the idea is described as: new: The existence of a federal high risk pool and the national prohibition against denying coverage based on pre-existing conditions are novel approaches. renewed: 35 states have high-risk insurance pools pre-dating 2010 health reform. 7 states also currently have guaranteed issue requirements.

Innovation or pilot project

Local level - The 35 states with high-risk insurance pools have worse coverage and higher premiums than the new federal program. 7 states with guaranteed issue requirements allow rates that may be unaffordable to those with pre-existing conditions.

Stakeholder positions

Before the passage of PPACA, individuals with pre-existing conditions such as diabetes, cancer, or obesity, as well as organizations advocating on their behalf, all supported changes to the policy regarding pre-existing condition coverage. These stakeholders remain supportive now that the interim Pre-Existing Condition Insurance Plan (PCIP) program has launched. A few conservative politicians voice opposition to the program, but it is generally supported by Americans.

Insurers, including those offering plans on the self-insurance market and large employers who self-insure, historically oppose covering these high-risk individuals because the cost of their care is likely to be greater than the revenue generated by their premiums. In short, individuals with pre-existing conditions are more likely to cost an insurer money than to add to profits. However, when combined with a mandate that all individuals obtain insurance, payers were assured enough additional customers to pool risks in a way that would allow them to remain profitable. As such, their opposition was less intense than might otherwise have been expected.

Anti-abortion groups opposed the PCIP plans, after observing that HHS had received PCIP applications that appeared to cover elective abortions prohibited under federal law.(2) In response, HHS clarified that both federal and state-administered high-risk pools will comply with existing federal law that requires plans to cover abortions only in the case of pregancy resulting from rape or incest or where the life of the woman would be endangered if the pregancy were continued. (1)

Actors and positions

Description of actors and their positions

Government		
Congress	very supportive	strongly opposed
State governments	very supportive	strongly opposed
Payers		

Insurers	very supportive	strongly opposed

Influences in policy making and legislation

The policies regarding federal changes to pre-existing condition coverage were part of the overarching initative that resulted in the PPACA legislation. In general, liberals, Democrats, and physicians supported and continue to support health reform, while conservatives, Republicans, and insurance companies opposed it and continue to attempt to change major elements. The public remains fairly split in their support of health reform.

Legislative outcome

success

Actors and influence

Description of actors and their influence

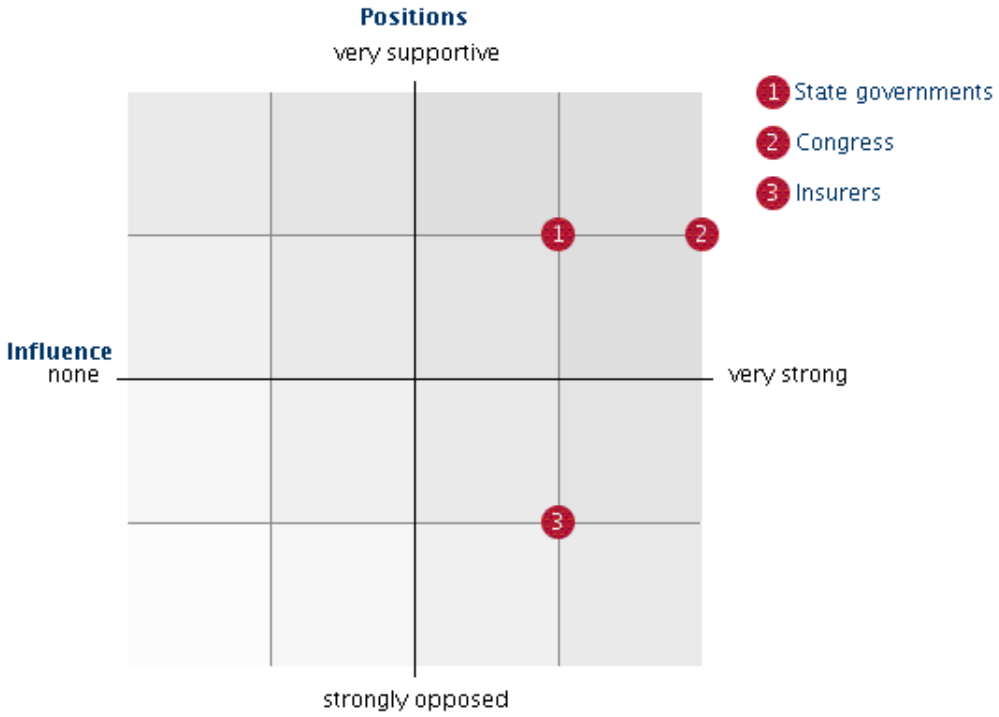
Government

Congress	very strong	none
State governments	very strong	none

Payers

Insurers	very strong	none

Positions and Influences at a glance



Adoption and implementation

Both federal and state government officials will be responsible for implementing the PCIP program. States can operate their own "high-risk pool" for individuals with preexisting conditions, either setting up new ones or building on

existing programs to expand coverage for such high-risk individuals. Twenty-eight states have opted to administer their own plans. Alternatively, states can choose to have HHS run their PCIP program; HHS has contracted the non-profit Government Employees Health Association Inc. to administer plans in the twenty-two states that have chosen the federal option. (1) The PCIC program will end in 2014 when the prohibition against denying or restricting coverage in any health plan will come into effect.

Many stakeholders worry that the PCIP program will be significantly underfunded. The Congressional Budget Office (CBO) estimates that "If the program covered about 65 percent of enrollees' costs for health care, federal spending through 2013 would probably fall between $10 billion and $15 billion-or $5 billion to $10 billion more than the cap specified in PPACA. Total enrollment in the federal high-risk pool program would be expected to grow from roughly 400,000 in 2011 to about 600,000 or 700,000 in 2013." (6) However, only $5 billion was appropriated by Congress to fund the program, which would likely be exhausted in 2011 or 2012. Administration officials are expected to adapt the program (through adjustments to premiums, changes in the benefits the plans would be required to offer, and limits on new applications) to ensure that the $5 billion lasts until 2014. (1)

However, as of mid-August 2010, only a few thousand people had applied and half those approved for state plans that were up and running at the beginning of July.(3) As of mid-September HHS had not yet begun a marketing campaign.

Public and private insurers will be required to change their own policies to comply with the prohibition against denying coverage based on pre-existing conditions. This prohibition will apply to children as of 2010, and adults as of 2014. Federal and state public officials will ensure that insurers meet these requirements.

Monitoring and evaluation

No requirements for monitoring and evaluation were specified in the PPACA legislation or interim final rules issued by HHS.

Review mechanisms

n/a

Results of evaluation

n/a

6. Expected outcome

As a result of this legislation, many individuals who would have been historically denied coverage are expected to be able to obtain it. Children under 19 will be immediately impacted, along with those individuals able to afford coverage under the interim PCIP program. While the PCIP program will likely not provide coverage to all those individuals in need, due to funding restrictions, most individuals should be able to acquire insurance when PPACA is fully implemented in 2014 and insurers are prohibited from discriminating against those with preexisting conditions. Early indications are that fewer people will apply to PCIP than orginally expected.

Quality of Health Care Services	marginal		fundamental
Level of Equity	system less equitable		system more equitable
Cost Efficiency	very low		very high

This policy makes a substantial improvement in equitable access to insurance coverage in the United States for

people with pre existing condiitons.

7. References

Sources of Information

- 1. Health Policy Brief: Pre-Existing Condition Insurance Plan. Health Affairs and the Robert Wood Johnson Foundation; 2010. Available at: http://healthreform.kff.org/scan/2010/august/policy-brief-explores-pre-existing-condition-insurance.aspx [Accessed September 22, 2010].
- 2. Jost T. Implementing Health Reform: Pre-Existing Condition Coverage. Health Affairs Blog. 2010. Available at: http://healthaffairs.org/blog/2010/07/30/implementing-health-reform-pre-existing-condition-coverage/ [Accessed September 23, 2010].
- 3. Galewitz P. New Plans For Uninsured Off To Slow Start. Kaiser Health News. 2010. Available at: http://www.kaiserhealthnews.org/stories/2010/august/19/high-risk-pools-health-insurance.aspx?referrer=search [Accessed September 23, 2010].
- 4. Pear R. Insurers to Comply With Rules on Children. The New York Times. 2010. Available at: http://www.nytimes.com/2010/03/31/health/policy/31health.html?_r=1 [Accessed September 23, 2010].
- 5. PCIP - Pre-existing Condition Insurance Plan - Home. Available at: http://www.pciplan.com/ [Accessed September 22, 2010].
- 6. Elmendorf D. Letter to Senator Michael B. Enzi; Ranking Member; Committee on Health, Education, Labor, and Pensions; United States Senate. 2010.
- 7. OCIIO. Fact Sheet - Temporary High Risk Pool Program. US Department of Health & Human Services and SAMHSA. Available at: http://www.hhs.gov/ociio/initiative/hi_risk_pool_facts.html [Accessed September 22, 2010].
- 8. Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Office of Consumer Information and Insurance Oversight, Department of Health and Human Services. Patient Protection and Affordable Care Act; Requirements for Group Health Plans and Health Insurance Issuers Under the Patient Protection and Affordable Care Act Relating to Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections; Final Rule and Proposed Rule. June 28, 2010. 2010;75(123):37187-37241.
- 9. The Patient Protection and Affordable Care Act of 2009.; 2010. Available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_public_laws&docid=f:publ148.111 [Accessed September 13, 2010].

Author/s and/or contributors to this survey

Krista Harrison and Gerard Anderson

Suggested citation for this online article

Krista Harrison and Gerard Anderson. "Pre-existing condition coverage post-health reform". *Health Policy Monitor*,

October 2010. Available at
http://www.hpm.org/survey/us/b16/1