



# The Council for Affordable Health Insurance's ISSUES & ANSWERS

Solutions for Today's Health Policy Challenges

No. 104

May 2002

## *What Were These States Thinking? The Pitfalls of Guaranteed Issue*

In recent years, several states have experimented with reforms intended to make health insurance more accessible and affordable. Some of the experiments such as the establishment of high-risk pools have indeed helped. Other reforms such as “guaranteed issue” have backfired in the worst possible way, as premiums have skyrocketed and insurers have fled the states.

**What Is Guaranteed Issue?** Guaranteed issue requires insurers to accept everyone who applies for health insurance, regardless of the condition of his or her health. This is comparable to allowing a person to purchase auto insurance *after* being involved in a car wreck.

**What Happens When Guaranteed Issue Is Implemented?** Guaranteed issue legislation leads to some very predictable outcomes.

*Premiums Begin to Rise* — If people know they can get health insurance when they get sick, they won't buy it when they're healthy. Younger and healthier people cancel their policies — or decline to buy one in the first place. As the health insurance pool gets smaller and sicker, premiums go up, which forces even more people to drop out. This process is known as the “death spiral,” as escalating premiums drive out all but the sickest people with the most expensive health care needs. Is

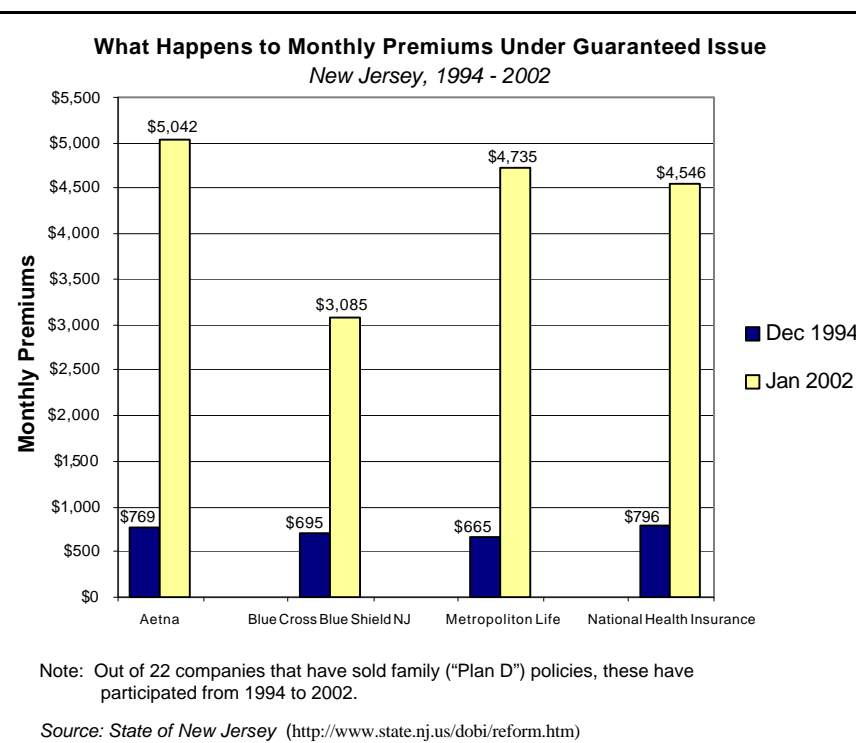
there a way to avoid the death spiral? Two options are available:

*Mandating Coverage* — One option is to force everyone — young and old, healthy and sick — to have health insurance, just as most states require drivers to have auto insurance, although many drivers choose to remain uninsured. The failed Clinton health care plan would have included such a provision, and several state legislatures have toyed with the idea. Only Hawaii requires employers to provide health insurance coverage.

The biggest problem with mandating coverage is that it is largely unenforceable at the state level. Employers who self-insure come under the federal law known as ERISA, so states can't regulate their coverage. In addition, many employers can move across state lines to escape the mandate.

*Level Pricing* — Perhaps the most common approach to ensure that premiums stay affordable, even in the death spiral, is to impose community rating.

**What Is Community Rating?** Community rating has two general forms. Under “pure” or “flat” community rating, insurers are required to charge every policyholder the same rate for coverage, without regard to individual risk factors such as health status or age. Modified community rating allows for small variations in rates due to health status, age or other factors. And while some states may prohibit the use of health status to set premium rates, they may allow the use of demographic factors such as age.



**The Results of Guaranteed Issue Legislation.** The quest during the early 1990s to make health insurance accessible and affordable for everyone led a number of state legislatures to pass guaranteed issue and community rating legislation in the individual (i.e., nongroup) health insurance market, which quickly collapsed under the weight of the reforms. Some of those states have spent much of the latter part of the 1990s trying to reform the reforms — with relatively little success. Here are a few examples.

*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.

**Can Guaranteed Issue Be Made to Work?** Legislators, having seen what guaranteed issue has done in other states, often think they can make it work by creating a longer waiting period before an uninsured person is eligible to enroll or by limiting the number and scope of those eligible to participate.

But guaranteed issue is not about closing loopholes, it's about offering bad incentives. It rewards people for remaining uninsured until they need coverage. Even trying to encourage young, healthy people to stay in the pool by providing a tax credit will not solve the problem if they have to pay something out of pocket for the insurance. Paying nothing to be uninsured is cheaper than paying something for coverage that they don't feel they need and that they can easily get when they do need it.

**Ensuring Access to Affordable Health Insurance.** State legislators pass guaranteed issue legislation in order to keep health insurance accessible and affordable for their constituents — *but it has never worked in any state.* Fortunately, there are better ways:

*Consumer Choice* — Consumers should have access to the widest possible number of health insurance options — from very basic to comprehensive coverage, low and high deductibles, different levels of managed care, or no managed care at all. Minimal government regulation allows consumers to choose the plan that best meets their needs and budgets.

*Premium Assistance* — Even though there are people who can't afford food, we don't try to regulate grocers or the price of groceries; we help low-income people by providing food stamps. Similarly, legislators should provide refundable tax credits to help people afford a policy.

*A Workable Safety Net* — Guaranteed issue tries to force health insurers to cover sick people who could not otherwise buy a policy. However, only governments can and should provide social safety nets. They can do so by establishing high-risk pools — public-private partnerships set up to provide insurance to the uninsurable at affordable prices.

**Conclusion.** State legislatures thought that passing guaranteed issue and community rating would make health insurance more accessible and affordable. Just the opposite happened. If Congress and the states refuse to learn from this experience, they will only decrease consumer choice and increase the number of uninsured.

---

Prepared by Victoria Craig Bunce, Director of Research and Policy,  
Council for Affordable Health Insurance.

---

Copyright © 2002 The Council for Affordable Health Insurance

All rights reserved. Reproduction or distribution without the express consent of CAHI is prohibited.

Council for Affordable Health Insurance  
112 S. West Street, Suite 400  
Alexandria, VA 22314  
Phone: 703/836-6200 Fax: 703/836-6550  
Email: mail@cahi.org  
www.cahi.org