

Subject: Best Analysis of the Massachusetts Bill by Health Access  
Friday, April 7, 2006  
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#### MASSACHUSETTS PASSES MAJOR HEALTH REFORM; CALIFORNIA LESSONS

- Massachusetts Proposal Would Expand Public Programs, Reform Insurance Market, Require Employer Contributions, Use Federal Funds
- Limited Individual Mandate Controversial Among Reformers;
- "Affordability" Definition Key
- Governor Schwarzenegger Vetoed Two Components Last Year: Children's Expansions and Dependent Coverage
- Momentum for Additional Reform

In a move that has gotten national attention and re-ignited the debate about universal health coverage, the Massachusetts legislature passed a comprehensive health reform package earlier this week designed to cover 90-95% of the state.

DEAL REACHED: This was the result of lengthy negotiations by a legislative conference committee considering multiple pending proposals: not just one by the Democratic House, another by the Democratic Senate, but also a third by Republican Governor Mitt Romney, and a fourth that was pending in a ballot measure for which signatures were already collected by a coalition of health care and consumer advocates. Additional urgency was provided by the expiration of the state's 1115 Medicaid waiver, and this plan was viewed as a way to preserve \$770 million in federal funds.

The Governor is expected to sign the bill, which got near unanimous votes in the legislature, and while he has suggested he might use his line-item veto power, the legislative leaders has been clear that they will override any such changes.

THE COMPONENTS: The full text of the bill, summaries of its many components, a catalog of media coverage, and even a blog giving some political context, is available at the Affordable Coverage Today (ACT!) webpage of Health Care for All, a Massachusetts consumer advocacy group: <http://www.hcfama.org/act/>

The measure is made up of many different building blocks toward universal coverage, many of which have been considered individually or as part of proposals here in California. Supporters of the Massachusetts measure are clear that the bill leaves many details to be worked out in implementation, and that other reforms and efforts will be needed to ensure the program works, and to actually reach full universal coverage.

This is a rough sketch of most of the key components, with some California context:

COVERAGE EXPANSIONS: Of the various elements, the most familiar to Californian health policy advocates is the creation and expansion of public insurance programs, which account for 300,000 of the potentially 515,000 additional covered lives that are estimated by 2009, and the 550,000 estimated uninsured overall.

- **CHILD COVERAGE EXPANSION:** The bill expands children's coverage through the MassHealth/Medicaid program to cover kids from up to 200% to now up to 300% of the federal poverty level (\$60,000 for a family of four). This is similar to the current California efforts to cover all children, such as AB774(Chan) that was vetoed by Governor Schwarzenegger last year, and the currently pending SB437(Escutia).
- **SUBSIDIZED HEALTH INSURANCE:** The bill creates the Commonwealth Care Health Insurance Program, where adults (with or without children) under 300% of the federal poverty level can get subsidized health insurance with no deductibles. Those under 100% of the poverty level would not pay any premium, and those up to 300% would face a sliding scale of premium payments based on affordability.
- **MEDICAID ENROLLMENT:** The bill also reverse cuts made to Medicaid during the recent budget crisis in 2002, such as lifting enrollment caps on specific programs, and restoring vision and dental services. It would put some funding into outreach for eligible but unenrolled citizens, and also increases provider payments, on a pay-for-performance basis, including on reducing racial and ethnic disparities.

INSURANCE MARKET REFORMS: Massachusetts already has significant insurance market reforms that California doesn't, including a form of "community rating," which means that a patient cannot be turned down or charged more for non-group insurance because he or she has a pre-existing medical condition, such as diabetes, asthma, or a heart problem. The state also has existing regulations of deductibles and co-payments.

- **NEW AUTHORITY:** The bill creates a new Commonwealth Health Insurance Connector, which would certify and offer new products. Importantly, all current mandated benefits are protected, including mental health. It would also allow multiple employers to contribute to the health care of a worker (such as a seasonal and part-time workers).
- **MARKET REFORM:** The bill merges the non- and small-group markets for health insurance products. Supporters say this would stabilize the individual insurance market, and lower rates for individuals by 24%.
- **DEPENDENT COVERAGE EXPANSION:** Young adults will be able to stay on the parents' insurance plans for two years past the loss of their dependent status or until age 25. This is somewhat similar to a bill last year AB1698(Nunez), that was vetoed by Governor Schwarzenegger.

FUNDING AND REQUIREMENTS: Massachusetts lawmakers were pushed into this effort by the potential loss of the Medicaid waiver, worth hundreds of millions of dollars, and that continues to be the backbone of funding. In addition, Massachusetts has an existing uncompensated care pool, to fund care for the uninsured, which is paid for by an existing fee on insurers and employers who buy coverage. On top of these existing sources, and some money from the state's general fund, are the requirements on individuals and employers, which are the most controversial parts of the bill. One potential funding source, a tobacco tax that was in the proposed initiative, was not included in the final bill:

- **EMPLOYER CONTRIBUTIONS:** Employers of 10 or more that do not provide health coverage will pay \$295/year for each uninsured worker, which goes to pay for the subsidized insurance plans. This follows a similar principle to SB 2 and Prop 72 in California a few years ago, which was passed and repealed, which would have required employers to provide coverage or pay a fee into a program that would otherwise cover their workers. (Gov. Romney is accepting this as an "assessment," rather than a "tax.") The Massachusetts bill also has a "free rider surcharge" if an employers' workers use uncompensated care often.
- **INDIVIDUAL MANDATE:** All residents in Massachusetts would be required to obtain health coverage. However, the requirement is limited, in that there must be "affordable" coverage available, although that term is presently undefined. If no coverage is deemed "affordable," there is no penalty. While those under 300% of the federal poverty level are eligible for subsidized insurance or public insurance programs, those over 300% of the poverty level are at risk for the penalty, which range from the loss of the personal tax exemption (around \$150) to half the cost of coverage (perhaps around \$1,000).

THE CRITIQUE: While the plan got some important business support, it is not surprising that some business leaders are attacking the employer assessment as a tax.

Despite the multiple components of the measure, what has gotten the most attention in the media is the "individual investment" section, which is being attacked from both the right and the left. The right-wing chorus includes attacks from the Cato Institute and the Wall Street Journal.

OPPOSITION TO INDIVIDUAL MANDATE: Of those forces that support reform, the most prominent critique was from AFL-CIO chief John Sweeney, who stated, "Forcing uninsured workers to purchase health care coverage or face higher taxes and fines is the cornerstone of Mr. Gingrich's health care reform proposals. And it is unconscionable that Massachusetts has adopted this misguided individual mandate."

"The bill protects workers with the lowest incomes, but punishes middle-income families. A typical family in which the husband and wife each earn a little more than \$30,000 and who have two children would be forced to purchase health care, but would not be qualified for any help even if their employer does not offer any coverage or they can't afford their share of the premium.. We believe that workers have to

participate in the solution to the problem, but this plan puts the entire burden on workers while letting employers off the hook."

Supporters argue that they accepted individual requirements as part of a package that includes requirements on employers, that 2/3 of the uninsured are under 300% and would get significant assistance, and that the mandate would not apply unless there was an "affordable," meaningful plan available.

**DEBATE ON INDIVIDUAL RESPONSIBILITY:** Many consumer advocates are concerned that the media's focus on the individual mandate places the emphasis on a problem that really doesn't exist: that people overwhelmingly take up coverage when offered, but either are not eligible through an employer or by a public insurance program, and otherwise find it unaffordable or unavailable, due to "pre-existing conditions." Consumer advocates have often opposed such individual requirements, especially without the context of a social insurance program (such as Medicare) that ensures access and affordability. And there is disagreement about whether the Massachusetts bills provides such a context.

An "individual mandate" proposal that was vastly different than the Massachusetts bill, AB1670 (Nation/Richman), was considered last year in the California legislature. The proposal, which shifted the entire burden of the cost of health care on to the individual, and mandated high-deductible "skeleton" policies, was opposed by Health Access California and numerous other health care and consumer organizations, and ultimately only got 2 votes on the Assembly Health Committee. A new "individual mandate" bill, AB2450 (Richman) is also pending this year, set to be heard later this month in Assembly Health Committee, again without the consumer and financial protections, shared responsibility and systematic reforms in place in Massachusetts.

**DIFFERENCES WITH CALIFORNIA:** As California advocates evaluate the Massachusetts proposal, it is important to note the differences between the policy environment in the two states. As stated above, Massachusetts starts with a different public policy foundation, including an existing pool of funds for uninsured care, and a broader range of regulation on insurers. The scope of the problem is almost twice as great in California, where nearly 1 in 5 residents are uninsured, as opposed to in Massachusetts, which is closer to 1 in 10. Finally, the scale is different, as Massachusetts is smaller than Los Angeles County.

**MOMENTUM FOR REFORM:** Despite these differences, there are many lessons to learn from the Massachusetts proposal, and the politics that led to its passage. There are building blocks that might be winnable that can help provide the foundation for broader reforms. Most importantly, the discussion is re-igniting national interest in universal health care and possibility of moving ahead with major health reform.

California helped start this conversation with the passage of SB2 in 2003, which was hailed, along with the Dirigo Plan in Maine, as the start of state-based efforts to expand coverage to the uninsured. Just this past year, Illinois won universal coverage for children, Maryland passed a minimum health care contribution for very large employers, and now Massachusetts has put forward this multi-pronged program. The hope

is that if enough states breakthrough with reforms, this will force health care reform onto the national agenda.

California has multiple proposals pending, to continue to provide leadership in this regard:

- Of particular note is SB840 (Kuehl), the California Health Insurance Reliability Act, which would establish a universal, publicly financing health care system in California, similar to the Medicare program.
- There are new attempts to set a standard for on-the-job health care benefits, most prominently at the local level in San Francisco.
- Many advocates are ramping up efforts to cover all children in California, with an urgency to pass something this year, through bills including SB437 (Escutia/Chan), the budget, and a ballot box initiative pending for November.

The momentum continues to build for the goal of quality, affordable health care for all. Health advocates can use the attention to this Massachusetts measure to ensure that these and other proposals move forward, that candidates feel obliged to talk about health reform in this upcoming election season, and to make it clear that comprehensive health reform is not just urgent, and necessary, but achievable.

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