Beacon Hill Institute

**BHI *P*olicy *S*tudy**

November 2011

# *The Massachusetts Health Care Reform Mandates: The Gaming Gamble*

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**Executive Summary**

On April 12th 2006, Massachusetts Governor Mitt Romney signed into law "An Act Providing Access to Affordable, Quality, Accountable Health Care." The law set into motion a complete overhaul of the Massachusetts health care system and gave the Commonwealth unprecedented control over the industry.

The law requires that individuals with sufficient means purchase health insurance and that businesses with more than ten employees make a "fair and reasonable" contribution toward their employees' health insurance. Under the law, health insurance companies cannot refuse to cover individuals with preexisting conditions. Individuals and businesses face fines if they fail to comply with the mandates.

Because the fines imposed by the law cost are often less than the cost of insurance, the law is vulnerable to the problem of moral hazard.

Individuals can game the mandate by buying insurance only upon being diagnosed as needing a non-emergency procedure such as a hip replacement and then canceling their insurance after receiving the treatment or procedure. Businesses can likewise game the mandate by canceling their health insurance plans and shifting their employees to newly subsidized state plans. Massachusetts taxpayers and health insurance policyholders pick up the tab for these "jumpers and dumpers."

The Beacon Hill Institute (BHI) has estimated the prevalence and cost of gaming the mandates. We find that:

- In tax year 2008 (the latest data available) 26,000 individuals paid a total of $16 million in fines, while 758 businesses paid $7.1 million.[1]
- In 2009, between 2,089 and 2,659 individuals gamed the individual mandate at an estimated cost to insurance carriers of between $29.3 million and $37.3 million.
- Between June 2006 and June 2010 enrollment in state subsidized insurance plans increased by 319,000, while the private group (employer) market was flat and the individual market increased by 83,000.

In an attempt to stem the number of gamers, the Massachusetts legislature recently limited the time period for individuals to purchase coverage and imposed higher individual fines. However, it is unclear if these changes will discourage individuals from skirting the mandates in the face of surging insurance premiums. This is especially true for individuals seeking non-emergency treatment, who can register

[1] The latest Massachusetts Department of Revenue report available is for 2008.

during the open enrollment period and still cancel their plans after receiving treatment.

The federal Patient Protection and Affordable Care Act (PPACA) of 2010, faces similar challenges of individuals and businesses gaming the mandates. While the Massachusetts law has cost the state and policyholders tens of millions of dollars, the cost to taxpayers from gaming the PPACA will surely be several times larger.

## Introduction

On April 12th 2006, Massachusetts Governor Mitt Romney signed into law "An Act Providing Access to Affordable, Quality, Accountable Health Care". The law set into motion a complete overhaul of the Massachusetts health care system and gave the state unprecedented control over the industry. The goal of the legislation was to reduce the number of Massachusetts residents who lacked health insurance. To that end, the reforms have made progress. Prior to the enactment of the reform law, the Massachusetts DHCFP (Division of Health Care Finance and Policy) estimated that 6% of Massachusetts' residents were uninsured in 2006. As of December 2009, that number had fallen to 4%.

However, the drop in percentage of uninsured Massachusetts residents does not tell the whole story: the reform has not been costless to implement. The legislation contains mandates that increase the cost of providing health insurance. These mandates apply to individuals, businesses and health insurance providers. Key components are:

- an individual mandate, which requires all residents with the financial means to obtain health insurance;
- an employer mandate, which requires all employers with 11 or more employees to make a 'fair and reasonable' contribution towards their employees' health insurance; and
- an insurance provider mandate, according to which, "No policy shall exclude any eligible individual, eligible employee or eligible dependent on the basis of age, occupation, actual or expected health condition, claims experience, duration of coverage, or medical condition of such person."[2]

[2] The 184th General Court of Massachusetts, "Chapter 58: An Act Providing Access to Affordable, Quality, Accountable Health Care", http://www.malegislature.gov/Laws/SessionLaws/Acts/2006/Chapter58 (accessed April 14, 2011).

Other aspects of the law include an expansion of Medicaid and the creation of a health insurance subsidy program for residents with income up to 300% of the federal poverty level. The law also created a quasi-public authority – the Massachusetts Health Insurance Connector (the "Connector") – that serves as an insurance "exchange." The Connector allows individuals to purchase health insurance on a pre-tax basis and provides a "seal-of-approval" to health insurance products that the Connector deems to be of good value to consumers.

Under the law, individuals must provide proof of health insurance on their state income tax return or pay a fine equal to "50% of the least costly, available insurance premium that meets the standard for creditable coverage."[3] This mandates invites gaming by permitting young, healthy individuals with high incomes to pay the fine and save 50% of the cost buying insurance.

The mandate that prevents health insurance companies from refusing coverage to individuals with preexisting conditions allows people to purchase insurance upon becoming ill. These individuals can simply stop paying their premiums after receiving treatment. This type of behavior is prevalent in the U.S. auto insurance industry in which 13.8% of drivers are uninsured.[4]

Kay Lazar of the *Boston Globe* noted that in 2009 alone, 936 people signed up for coverage with Blue Cross and Blue Shield (BC/BS) of Massachusetts for three months or less and ran up claims of more than $1,000 per month while in the plan.[5] Medical spending for such short-term plan members was more than four times the average for consumers who buy coverage on their own and retain it.

The typical monthly premium for these short-term members was $400, but their average claims exceeded $2,200 per month. The previous year, the BC/BS data show the insurer was covering even more high-spending, short-term members. Over those two years, the figures suggest the price tag ran into the millions.

About 40% of the consumers who purchased insurance from Harvard Pilgrim on the open market kept the insurance fewer than five months. These consumers incurred,

[3] Attorney General of Massachusetts, HealthCare, Mandatory Health Insurance, at http://www.mass.gov/?pageID=cagoterminal&L=2&L0=Home&L1=Health+Care&sid=Cago&b=terminalcontent&f=healthcare_mandatory_health_insurance&csid=Cago, (accessed April, 2011).

[4] Larry Copeland, "One in seven drivers have no insurance", *USA Today*, http://www.usatoday.com/news/nation/story/2011-09-11/uninsured-drivers/50363390/1 (accessed October, 2011).

[5] Kay Lazar, "Short-term customers boosting health costs," http://www.boston.com/news/health/articles/2010/04/04/short_term_customers_boosting_health_costs/# (accessed April, 2011).

on average, $2,400 a month in medical expenses — about six times higher than the monthly spending of other consumers.

People who work in the informal economy and do not pay taxes or file tax returns are immune from the law. Under a 1986 federal law, hospitals must provide care to anyone needing emergency health care treatment regardless of citizenship, legal status or ability to pay.[6]

This individual behavior has significantly increased the cost of providing health insurance, and the burden is falling on those individuals and businesses that follow the rules by maintaining their coverage. However, businesses also have several avenues from which "game the mandates."

Another critical piece of Massachusetts health care reform is "the development and approval of new subsidized private insurance products for the uninsured up to 300% of the federal poverty level."[7] Publicly subsidized insurance policies crowd out private ones.[8] Small businesses have the incentive to cancel their workers' plans, encouraging them to sign up for individual state-subsidized plans. The costs are paid by Massachusetts taxpayers.[9]

A business owner with 10 or fewer employees that offers private health insurance has every incentive to drop coverage for its employees and move them to the state-run programs. Among those incentives are downturns in the economy. The decline places an additional burden on the private sector in the form of higher health insurance rates which, incidentally, have soared under the reform law. In turn the mounting pressure of the law and economic conditions creates a vicious cycle downward thus increasing the chances that even smaller businesses will drop their employee coverage.

In this study, BHI estimates the total cost to Massachusetts residents of this gaming the health care mandates by individuals and small businesses.

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[6] Title 42 "Examination and treatment for emergency medical conditions and women in labor," 42USC1395dd, (January 2002) http://law.justia.com/us/codes/title42/42usc1395dd.html (accessed September 29, 2010).
[7] The 184th General Court of Massachusetts, "Chapter 58: An Act Providing Access to Affordable, Quality, Accountable Health Care", http://www.malegislature.gov/Laws/SessionLaws/Acts/2006/Chapter58 (accessed April 14, 2011).
[8] Congressional Budget Office, "The State's Children's Health Insurance Program," (2007) http://www.cbo.gov/ftpdocs/80xx/doc8092/05-10-SCHIP.pdf (accessed October 21, 2011).
[9] Kay Lazar, "Firms cancel health coverage", http://articles.boston.com/2010-07-18/news/29289326_1_health-insurance-subsidized-insurance-program-small-companies (accessed April 14, 2011).

## The Individual Mandate

The Massachusetts Department of Revenue (DOR) has collected data on the individual mandate for tax years 2007 and 2008. Implemented in 2007, the individual mandate initially imposed a penalty by denying a taxpayer his personal exemption on his state tax return. This penalty came to about $219 per taxpayer.[10] This initial penalty was far less costly than purchasing health insurance coverage and provided a powerful incentive to pay the fine rather than pay for coverage. According to the DOR, 3% or 118,000 tax filers failed to show proof of health insurance coverage on their returns but were deemed able to afford health insurance. About 6,000 filers appealed the penalty. Another 1.9% or 76,000 filers were uninsured and deemed unable to afford insurance because their income was 150% below the federal poverty line. Another 8,300 filers successfully claimed a religious exemption. The 60,000 tax filers deemed able to afford coverage paid penalties totaling $18 million in tax year 2007.

In 2008, the reform law changed the uninsured penalty to equal 50% of the least costly, available insurance premium — one that meets the standard for creditable coverage as set by the Connector. However, there is no penalty in the case of a lapse in coverage of three months or less in 2008 and 2009. By narrowing the price gap between the two figures, the harsher penalty reduced the incentive for individuals to pay the penalty instead of purchasing coverage. This may have worked.

For the 2008 tax year, the DOR reports that 150,000 filers were uninsured for the full year and 71,000 were uninsured for part of the year. Of those filers uninsured for the whole year, 91,000 faced no penalty due to their low incomes, 22,000 did not pay a penalty because insurance was deemed unaffordable and 5,000 claimed a religious exemption. Of the remaining 26,000 filers, additionally 4,000 appealed the penalty. Of the filers who reported being uninsured for part of the year, 46,000 had incomes below the threshold and 25,000 faced the penalty.[11] The DOR collected penalties from 44,935 tax filers totaling $16.4 million on in tax year 2008.

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[10] Massachusetts Department of Revenue, "Data on the Individual Mandate and Uninsured Tax Filers Tax Year 2007," (2008) http://www.mass.gov/Ador/docs/dor/News/PressReleases/2008/2007_Demographic_Data_Report_FINAL_(2).pdf (accessed October 2011).

[11] Massachusetts Department of Revenue, Data on the Individual Mandate and Uninsured Tax Filers Tax Year 2008, http://www.mass.gov/Ador/docs/dor/News/PressReleases/2010/2008_final_report.pdf (accessed March 2011).

However, these figures capture only persons who filed Massachusetts tax returns. We do not have data that would show how many of these persons purchased insurance.

**The Insurance Mandate**

Individuals can game the individual mandate by signing up for health insurance after becoming ill and then dropping coverage after receiving treatment. We attempted to collect data on the subject by contacting the top five health insurance companies operating in Massachusetts, as measured by the number of policies outstanding. However, we were unable to obtain any data in a timely fashion from these companies. Nonetheless, by using other means, we can estimate the number of people who have been gaming the mandate.

These customers decide, typically based on the fact that they are healthy individuals, that it is not in their interest to purchase coverage and pay high health insurance premiums, on average of $5,413 per year in 2009 for a family plan.[12] Rather, these individuals either pay the fine or work in the informal economy. They purchase insurance only when they become sick or are in need of a medical procedure. After receiving treatment, they simply drop their coverage or stop paying their premium.[13]

Traditionally, insurance companies relied on cost-controlling measures to prevent this gaming of the system. Insurance companies could exempt coverage for pre-existing conditions or take applications for new policyholders only during open-enrollment periods that delay the time between the application process and the coverage start date. These procedures discourage individuals from obtaining short-term coverage to treat a specific ailment. However, the Health Care Reform Act prohibited these measures and required insurance companies to supply insurance to all individuals at will.

In this section we approximate the cost of this 'gaming' in two different ways. First, we extrapolate the *Boston Globe* estimate of 936 Blue Cross/Blue Shield members who

[12] Kaiser Family Foundation, *Statehealthfacts.org*, "Massachusetts: Average Single Premium per Enrolled Employee For Employer-Based Health Insurance, 2010," http://www.statehealthfacts.org/profileind.jsp?ind=270&cat=5&rgn=23&cmprgn=1,(accessed October 20, 2011)

[13] Massachusetts Department of Revenue. TIR 10-25: Individual Mandate Penalties for Tax Year 2011. http://www.mass.gov/?pageID=dorterminal&L=4&L0=Home&L1=Individuals+and+Families&L2=Health+Care+Reform+Information&L3=Health+Care+Reform+Regulations+and+TIRs&sid=Ador&b=terminalcontent&f=dor_rul_reg_tir_tir_10_25&csid=Ador. (accessed April 14, 2011).

gamed the system to the entire Massachusetts insurance system. In the third quarter of 2009, BC/BS held 35.2% of the Massachusetts health insurance market. Using this figure we estimate that approximate 2,659 people gammed the system in 2009.[14] Alternatively, if we use the total enrollment by insurer, including Medicare Advantage, BCBS covers 40.8% of the market, implying that 2,292 people gamed the system in 2009. Thus, we estimate that between 2,292 and 2,659 people gammed the mandate in 2009.[15]

However, the above methodology is only a crude approximation. To further refine our estimates, we use data from the management consulting firm Oliver Wyman on the merger of small group and the individual insurance markets.[16] The study produces summary statistics about the prevalence of high-cost individuals, with claims more than $1,000 per month, who purchased individual insurance and terminated their insurance in less than one year. The study estimates that 2,089 people in this high-cost group purchased and then terminated their coverage in twelve months or less.

Using the Oliver Wyman distribution of high-cost individuals by duration of coverage in monthly increments from one to 12 months, we distributed our high (BC/BS) and low (Wyman) estimates, to determine the duration that individuals were insured. The length of time that individuals were covered by a plan allowed us to apply the average monthly costs of these policyholders, resulting in our estimate of the total cost to the insurance system of Massachusetts. Table 1 displays the results.

We estimate that gaming the insurance mandates cost the state's private healthcare insurance system between $37.18 million and $47.32 million in 2009. However, these short-term policyholders also paid premiums during the duration they carried insurance coverage. In order to approximate these payments, we determined a weighted average of the monthly insurance premium. We used the proportion of total policies in Massachusetts represented by individual (51.5%) and family (35.5%) policies as our weights, and multiplied by the cost of family plans ($1,226.92) and

[14] Commonwealth of Massachusetts, Division of Insurance, "2009 Annual Report," (2009) http://www.mass.gov/Eoca/docs/doi/Media/2009AnnualReport.pdf. (accessed October 14, 2011).
[15] Division of Health Care Finance and Policy. Health Care in Massachusetts: Key Indicators. http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/10/key_indicators_november_2010.pdf (accessed October 14~~, 2011~~, 2011).
[16] Oliver Wyman, "Analysis of Individual Health Coverage In Massachusetts Before and After the July 1, 2007 Merger of the Small Group and Nongroup Health Insurance Markets," http://www.mass.gov/Eoca/docs/doi/Companies/adverse_selection_report.pdf (accessed October 14, 2011).

individual plans ($226.09), resulting in a weighted average of $661.64 per month. These premium payments benefits amounted to between $7.9 million and $10 million, resulting in a net cost of between $29.3 million and $37.3 million.

**Table 1: Total Gross Cost of Gaming the Individual Mandate**

| | | Lower Bound | | Upper Bound | |
|---|---|---|---|---|---|
| Months | Cost ($) | number | Cost | number | Cost ($) |
| 1 | 5,074 | 224 | 1,136,576 | 285 | 1,446,749 |
| 2 | 3,054 | 226 | 1,380,408 | 288 | 1,757,123 |
| 3 | 3,834 | 232 | 2,668,464 | 295 | 3,396,691 |
| 4 | 3,622 | 215 | 3,114,920 | 274 | 3,964,986 |
| 5 | 3,279 | 182 | 2,983,890 | 232 | 3,798,198 |
| 6 | 3,212 | 193 | 3,719,496 | 246 | 4,734,551 |
| 7 | 2,877 | 173 | 3,484,047 | 220 | 4,434,848 |
| 8 | 3,107 | 150 | 3,728,400 | 191 | 4,745,885 |
| 9 | 3,406 | 140 | 4,291,560 | 178 | 5,462,732 |
| 10 | 2,897 | 111 | 3,215,670 | 141 | 4,093,231 |
| 11 | 3,139 | 106 | 3,660,074 | 135 | 4,658,913 |
| 12 | 2,308 | 137 | 3,794,352 | 174 | 4,829,836 |
| **Total** | **na** | **2,089** | **37,177,857** | **2,659** | **47,323,744** |

While the authors of the health care law did not foresee this issue beforehand, state officials did recently attempt to rectify the issue. Effective December 1, 2010 individuals and families could only apply to the non-group coverage during 'open enrollment' periods. Similar to the manner in which private firms manage open enrollment periods, new members can apply for non-group insurance only between July 1st and August 15th. This new law does not apply to those people who are eligible for insurance though their employers, MassHealth or Commonwealth Care.[17]

## The Employer Mandate

The Health Care Reform Act provides incentives for Massachusetts small business to drop coverage and move their employees onto the public insurance programs,

[17] Massachusetts Open Enrollment FAQ. http://www.mass.gov/Eeohhs2/docs/dph/patient_protection/faq_open_enrollment_waivers.pdf. (accessed April 2011).

specifically Commonwealth Care. Commonwealth Care provides state-subsidized insurance coverage through the Commonwealth Connector for individuals with an annual income under $32,676 and families with incomes below $67,056.[18] Members with incomes closer to the maximum must pay premiums that range from $39 to $116 per month and all members make copayments for prescription drugs.[19]

The surge in small group health insurance premiums over the past few years provides an even greater incentive for small businesses to drop insurance and send their employees to the Connector. However the economic literature suggests an overall crowd-out rate in the range of 25% and 50% while a narrower measure suggests and overall crowd-out rate of 19.9%.[20]

The Massachusetts Department of Health and Human Services (DHHS) reported the trend in the "fair share contribution" data for Fiscal Year (FY) 2007 and FY 2008. Employers must pass two "fair share contribution" tests to avoid the $295 fine per full time equivalent employee. An employer must have at least 25% participation by full-time employees in his group health plan and must offer to contribute at least 33% of the premium cost of his health plan to *all* full-time employees employed more than 90 days.[21]

The DHHS reports that in FY 2007, 1,020 employers failed the "fair share contribution" test and paid a total of $10.4 million in fines. The numbers dropped to

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[18]Massachusetts Health Connector, Health Insurance for Massachusetts Residents, https://www.mahealthconnector.org/portal/site/connector/template.MAXIMIZE/menuitem.3ef8fb03b7fa1ae4a7ca7738e6468a0c/?javax.portlet.tpst=2fdfb140904d489c8781176033468a0c_ws_MX&javax.portlet.prp_2fdfb140904d489c8781176033468a0c_viewID=content&javax.portlet.prp_2fdfb140904d489c8781176033468a0c_docName=content&javax.portlet.prp_2fdfb140904d489c8781176033468a0c_folderPath=/About%20Us/Connector%20Programs/Eligibility/&javax.portlet.begCacheTok=com.vignette.cachetoken&javax.portlet.endCacheTok=com.vignette.cachetoken (accessed October 21, 2011).

[19] Division of Health Care Finance and Policy, "Health Care in Massachusetts: Key Indicators," November 2010. http://archives.lib.state.ma.us/bitstream/handle/2452/69933/ocn232606916-2010-11.pdf?sequence=1, p. 21(accessed October 9, 2011).

[20] Laura Dague, Thomas DeLeire, Donna Friedsam, Daphne Kuo, Lindsey Leininger, Sara Meier, Kristen Voskuil, "Estimates of Crowd-out from a Public Health Insurance Expansion Using Adminstrative Data," *NBER Working Paper* 17009, http://www.nber.org/papers/w17009 (accessed October 21, 2011). Using panel data, the authors studied Wisconsin's combined Medicaid and Children's Health Insurance Program between April 2008 and November 2009. The authors conclude "that far fewer individuals were displaced than generally thought."

[21] Massachusetts Health and Human Services http://www.mass.gov/?pageID=eohhs2terminal&L=4&L0=Home&L1=Researcher&L2=Physical+Health+and+Treatment&L3=Health+Care+Delivery+System&sid=Eeohhs2&b=terminalcontent&f=dhcfp_researcher_all_dhcfp_publications&csid=Eeohhs2#fair_share (accessed October 10, 2011).

758 employers paying $7.1 million in fines in FY 2008. Thus far, no reports have been posted for 2009 and 2010.

As with the individual mandate, these are relatively modest numbers. However, the far more costly gaming takes place when firms cancel their group insurance plans and move their employees to the plans subsidized by the state. Again data is lacking here. Moreover, the recent recession that reduced state employment by over 100,000 jobs between 2008 and 2009 complicates the situation by inflating enrollment in Commonwealth Care programs for reasons that are unrelated to decision by small businesses cancelling their health insurance plans. Nevertheless, Table 2 below presents some interesting trends.

Over the period between June 30, 2006 and June 30, 2010, the state suffered a net loss of 102,000 jobs. Yet, over the same period, private group health insurance experienced no net change when one would have expected the numbers to fall with employment. Although enrollment in private group plans did rise and fall with non-farm payrolls over the period, the zero net change implies that the enrollment penetration rates for private group insurance increased over the period. This provides anecdotal evidence that the individual mandate appears to have worked to increase the insurance rolls.

The individual purchase market enrollment increased by 83,000 over the period. This trend is similar to the private group market in that the mandate likely spurred the purchase of health insurance. The expansion of MassHealth enrollment by 165,000 is expected under the expansion of the eligibility requirements.

The real numbers to watch are the interaction between the non-farm payrolls and the enrollment figures of the private group market and Commonwealth Care. Once Commonwealth Care was established and the initial enrollment levels attained, we should begin to see the enrollment patterns emerge. We should see Commonwealth Care and the private group market both increase enrollments as non-farm payrolls increase. As firms hire more full-time employees that are eligible for insurance benefits, these employees should be added to their insurance rolls. Also, as employers add more part-time employees who are not eligible for insurance benefits, Commonwealth Care enrollment should rise and Mass Health enrollment should drop.

Were firms to begin shifting employees to state coverage, we should see a rise in non-farm payrolls accompanied by a drop— or no increase —in the private group market enrollments and an increase in Commonwealth Care and/or MassHealth enrollments. The changes from 2009 to 2010 might be showing such a pattern. Over

this period, non-farm payrolls increased by 11,500 while private group insurance enrollment fell by 80,000 and Commonwealth Care enrollment fell by 23,000. At the same time, enrollment in the individual purchase market increased by 34,000, Mass Health increased by 66,000 and overall insurance enrollment decreased by 3,000.

**Table 2: Insurance Enrollment in Private and State Plans and Non Farm Payrolls**

| | 6/30/2006 | 6/30/2007 | 6/30/2008 | 6/30/2009 | 6/30/2010 | Change |
|---|---|---|---|---|---|---|
| Private Group | 4,333,000 | 4,433,000 | 4,467,000 | 4,413,000 | 4,333,000 | 0 |
| Individual Purchase | 40,000 | 36,000 | 76,000 | 89,000 | 123,000 | 83,000 |
| Mass Health (Medicaid) | 705,000 | 732,000 | 785,000 | 804,000 | 870,000 | 165,000 |
| Commonwealth Care | 0 | 80,000 | 176,000 | 177,000 | 154,000 | 154,000 |
| **Total** | **5,078,000** | **5,445,000** | **5,504,000** | **5,483,000** | **5,480,000** | **402,000** |
| Non Farm Payrolls (thousand) | 3,245.8 | 3,286.8 | 3,299.0 | 3,173.6 | 3,185.1 | -102 |

From these limited data points, we are unable to make any definitive conclusions. Nonetheless, it does appear that the enrollment mix within the healthcare insurance market is moving from the private group and toward individual purchase and state subsidized coverage. With the current available data, we cannot identify how much of this shift is due to the recent performance of the state economy and how much is due to the incentives provided by the new law. In the future, more data should allow better analysis.

The surge in the enrollment in the state subsidized healthcare programs MassHealth and Commonwealth Care have serious implications for the federal Patient Protection and Affordable Care Act. The federally-subsidized programs will shoulder the majority of any reduction in the percentage of uninsured Americans at a significant cost to the taxpayers. The risk is that reform law will alter permanently the make-up of the health insurance market by tilting it toward the government-run and subsidized programs. This would imperil the sustainability of the programs and strain an already overburdened federal budget.

## Conclusion

The 2006 Massachusetts Healthcare Reform law served as a model for the federal Patient Protection and Affordable Care Act of 2010. As such, the Massachusetts experience thus far can serve to predict some of the effects of the national healthcare legislation.

The individual and insurance mandates are common features of both reform laws. The laws mandate that individuals purchase health insurance or face fines, while at the same time prohibit insurance companies from denying individuals coverage based on preexisting medical conditions. The combination of these two conflicting mandates creates a climate ripe for individuals to game the system.

Massachusetts insurance companies saw over 2,000 policyholders purchase coverage, obtain expensive medical treatment and subsequently drop their coverage. These short-term policyholders cost insurance companies over $30 million in 2009. The Massachusetts legislature attempted to mitigate the problem by instituting an open enrollment period of 60 days. The national law also allows for open enrollment periods for the purchase of coverage. The open enrollment periods allow individuals to purchase insurance during the open enrollment period, obtain non-emergency care, such as knee replacements, and then drop coverage. The open enrollment periods are a positive step in curbing the gaming of the mandates.

The estimates in this report identifying the level of gaming by both individuals and businesses are modest. But they are also a reminder of the difficulty of legislating mandates and controlling costs. This report also highlights another "blind spot" that merits further study: the growing prospect of private employers dropping existing coverage and steering their employees to the public system.

The Beacon Hill Institute at Suffolk University in Boston focuses on federal, state and local economic policies as they affect citizens and businesses. The institute conducts research and educational programs to provide timely, concise and readable analyses that help voters, policymakers and opinion leaders understand today's leading public policy issues.



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