



Wisconsin Family Impact Seminars

Briefing Report - Executive Summary



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Affordable Strategies to Cover the Uninsured: Policy Approaches from Other States

Wisconsin citizens ranked health care as one of the state's top two issues in a recent UW poll. For CEOs and business owners in northeastern Wisconsin, health insurance tied as the top challenge they face. Despite public and private efforts to expand insurance coverage, Wisconsin's uninsured rate—4% to 5% of residents—has not changed over the last decade. However, Census data reveals a shift in insurance providers. Between 2000 and 2005, employer coverage fell from 79% to 71% for Wisconsin residents under age 65, while Medicaid coverage rose from 8% to 13%. This report covers what policies other states are using to bring people into coverage, and how to avoid a legal challenge under federal ERISA law.

The first chapter was written by **Patricia Butler**, a leading consultant on ERISA. Because voluntary approaches have not reversed the trend of declining employer health insurance, states have begun to consider more mandatory approaches. However, legislating employer financing of health care access initiatives runs the risk of a legal challenge under federal ERISA law. ERISA clearly prohibits states from requiring private employers or unions to offer coverage. Yet policymakers should be able to overcome ERISA challenges by drafting laws that (a) rely on traditional state authority, (b) avoid direct references to ERISA health plans, and (c) minimize impacts for multi-state employers desiring uniform national plans. For example, mandating individual coverage, as

Massachusetts did, raises no ERISA problems. ERISA should not preempt a well-designed pay or play law that offers dollar-for-dollar credit for employer health care spending. States should be able to require employers to establish Section 125 cafeteria plans, as long as the law does not specify what type of health coverage should be offered.

Next, **Rick Curtis**, President of the Institute for Health Policy Solutions, discusses Massachusetts' bipartisan health care reform legislation that has recently garnered national attention. Other states, especially those with similar demographic and financial characteristics, could consider three promising elements of the Massachusetts plan. First, a health insurance exchange, or pool, allows uninsured individuals to purchase quality, affordable health insurance products and creates administrative efficiencies for employers. Second, because voluntary pools have little effect on health insurance costs or coverage rates, Massachusetts mandated that individuals have insurance. Mandating individual coverage assures that the pool covers both healthy and unhealthy individuals, thereby avoiding the problem of attracting too many high-risk and high-cost individuals. Mandatory approaches also reduce cost shifting, minimize employer crowd out, and limit insurers cherry-picking the best risks. Third, by mandating that employers set up (but not necessarily contribute to) Section

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125 cafeteria plans for all employees, workers will receive a significant federal tax subsidy at no cost to the state. Employers stand to benefit as well because FICA taxes are reduced.

According to **Randall Bovbjerg** of the Urban Institute, policymakers are asking whether publicly funding reinsurance is a useful way to expand primary coverage and reduce the number of uninsured, particularly for small employers. Reinsurance reimburses primary insurers for cumulative claims that exceed established thresholds during a year. The main goal is to reduce premiums and encourage enrollment by subsidizing high-cost claims. Reinsurance may also help spread risk more broadly, protect the solvency of insurers, and reduce variation in premiums from year to year. Arizona and New York have both used reinsurance, although their approaches differ. Relatively modest state subsidies and other changes have helped make health insurance more affordable, and have enrolled some people who were previously uninsured. Careful implementation is important to (a) maximize the impact of public dollars and (b) maintain incentives for insurers to control the cost of large medical claims that reinsurance covers.

In the fourth chapter, **Wisconsin Office of the Commissioner of Insurance staff** explain that Wisconsin typically ranks among the states with the highest level of health care coverage for its citizens. Over the last decade, about 4% to 5% of the state's population has been without coverage for the entire year. During this time, the commercial health insurance market has been declining (from 42% in 1998 to 26% in 2005), and government health care has been rising (from 22% in 1998 to 30% in 2005). Government programs cover about (a) 800,000 Wisconsin residents through Medicare, (b) 800,000 through Medicaid, and (c) 18,300 through the Health Insurance Risk Sharing Program. Health care costs in Wisconsin, particularly in the southeastern part of the state, are rising faster than in most areas of the country. These rising costs translate into higher health benefit costs,

recently estimated to be \$9,500 per covered employee. The Office of the Commissioner of Insurance regulates health insurers in Wisconsin.

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The Wisconsin Family Impact Seminars are a series of seminars, discussion sessions, briefing reports, and newsletters designed for state policymakers. Since 1993 the Seminars have provided objective, solution-oriented research on timely family policy issues such as early childhood education, school financing, corrections policy, and health care. The seminars feature a panel of premier researchers, policy analysts or program directors.

For more information, please contact Director Karen Bogenschneider (608-262-4070 or kpbogens@wisc.edu) or Coordinator Heidi Normandin (608-262-5779 or hnormand@ssc.wisc.edu). Visit our website at www.familyimpactseminars.org/wifis.htm.

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