The Center on Health Insurance Reforms
Georgetown University Health Policy Institute

JANUARY 2017

How Accessible and Affordable were Individual Market Health Plans before the Affordable Care Act? Depends Where You Lived

By Sandy Ahn

Robert Wood Johnson Foundation

Support for this report was provided by the Robert Wood Johnson Foundation. The views expressed here do not necessarily reflect the views of the Foundation.

Author

Sandy H. Ahn, J.D.
Associate Research Professor
Center on Health Insurance Reforms
Georgetown University Health Policy Institute

The Center on Health Insurance Reforms
Georgetown University Health Policy Institute

The Center on Health Insurance Reforms (CHIR), based at Georgetown University's McCourt School of Public Policy, is composed of a team of nationally recognized experts on private health insurance and health reform. We work regularly with a multidisciplinary group of faculty and staff dedicated to conducting research on issues related to health policy and health services.

CHIR faculty and staff study health insurance underwriting, marketing and products, as well as the complex and developing relationship between state and federal rules governing the health insurance marketplace. CHIR provides policy expertise and technical assistance to federal and state policy-makers, regulators and stakeholders seeking a reformed and sustainable insurance marketplace in which all consumers have access to affordable and adequate coverage.

Summary

Before the Affordable Care Act (ACA), the landscape of the individual market looked much different than it does today, particularly for those in less than perfect health. For the most part, what state you lived in determined how easily you could purchase a health plan, the price you would pay, and what the plan would cover. Rules for insurers in the individual market varied from state to state, but in most states, if you had a pre-existing condition, you could be denied coverage, pay more, or have coverage for your pre-existing condition excluded from your health plan. As Congress debates repeal of the ACA and its protections for people with pre-existing conditions, many policymakers have called for greater state flexibility in insurance regulation than currently exists under the ACA. It therefore is helpful to understand the range of consumer protections in the states before the ACA, and why the ACA included the insurance reforms it did. This issue brief summarizes state rules for the individual market on the eve of the Affordable Care Act.

The Individual Market

In general, consumers use the individual market when they cannot get health insurance through their employer or are ineligible for Medicare or Medicaid.[1] The majority of people who have health insurance through the individual market are self-employed, work in small businesses with less than 20 employees, or are unemployed. Before implementation of the ACA, approximately 16 million people, or 6 percent of the U.S. population had coverage through the individual market.[2]

Guaranteed Issue

One of the major protections under the ACA is the requirement that all insurance companies issue a health plan if you apply, regardless of your health status or other factors like age, gender or occupation. This is called "guaranteed issue." Before the ACA, only six states required guaranteed issue in the individual market. See Table.

Preexisting Condition Exclusions

A common feature among policies sold on the individual market was the exclusion of coverage for preexisting conditions either permanently through an elimination rider or for a period of time, referred to as an exclusion period. Forty-one states allowed exclusion periods for preexisting conditions ranging from 6 to 36 months; nine states and D.C. allowed insurers to impose permanent exclusions.

Community Rating

State regulation of how insurers calculated premiums also varied state by state. Before the ACA, common rating practices of insurers in the individual market included using: the existence or history of a medical condition to charge higher premiums (health status rating); age, gender and geographic location to charge higher premiums to older individuals, and those living in areas with higher medical costs (demographic rating); people's jobs (industry rating) to charge higher premiums for jobs with a greater likelihood of injury like construction; or the length of time you had health insurance and whether you were renewing coverage (durational rating). Before the ACA, 32 states imposed no rating restrictions on insurers. Only one state, New York, required insurers to charge the same premium across the market, regardless of health status or other factors like age or gender. The remaining seventeen states and D.C. restricted insurers' ability to impose higher rates based on health status or other factors.

Looking Ahead

The ACA created a minimum level of protections for those seeking and enrolling into coverage on the individual market. While we're back to the debate of how our individual health insurance market should work, a look back at the insurance protections that existed before the ACA highlights just how much consumers with health issues have to lose.

Table. Existence of Consumer Protections in the Individual Market, as of 2012[3]

State	Guaranteed Issue?	Preexisting Condition Exclusion Period? (months)	Restrictions on Health Status Rating?
Alabama	No	24	No
Alaska	No	No limit	No
Arizona	No	No limit	No
Arkansas	No	No limit	No
California	No	12	No
Colorado	No	12	No
Connecticut	No	12	No
Delaware	No	No limit	No
District of Columbia	No[b]	No limit	Yes
Florida	No	24	No
Georgia	No	24	No
Hawaii	No	36	No
Idaho	No	12	Yes
Illinois	No	24	No
Indiana	No	12[c]	No
Iowa	No	24	Yes
Kansas	No	24	No
Kentucky	No	12	Yes
Louisiana	No	No limit	Yes
Maine	Yes	12	Yes
Maryland	No	12	No
Massachusetts	Yes	6	Yes
Michigan	No[b]	12	No
Minnesota	No	18	Yes
Mississippi	No	12	No
Missouri	No	No limit	No
Montana	No	12	No
Nebraska	No	No limit	No
Nevada	No	No limit	Yes
New Hampshire	No	9	Yes
New Jersey	Yes	12	Yes
New Mexico	No	6	Yes
New York	Yes	12	Yes
North Carolina	No	12	No
North Dakota	No	12	Yes
Ohio	No	12	No
Oklahoma	No	No limit	No
Oregon	No	6	Yes
Pennsylvania	No[b]	12	No
Rhode Island	No[b]	12	No
South Carolina	No	24	No
South Dakota	No	12	Yes

State	Guaranteed Issue?	Preexisting Condition Exclusion Period? (months)	Restrictions on Health Status Rating?
Tennessee	No	24	No
Texas	No	12	No
Utah	No	12	Yes
Vermont	Yes	12	Yes
Virginia	No[b]	9	No
Washington	Yes[a]	12	Yes
West Virginia	No	24	No
Wisconsin	No	12	No
Wyoming	No	12	No

[a] In Washington, guaranteed issue applied to individuals who achieved a minimum score on the state's health status questionnaire.

[b] Designated Blue Cross and Blue Shield as the insurer of last resort and required them to guarantee issue at least one health plan.

[c] Allowed insurers to impose preexisting conditions for certain conditions up to 10 years.

Endnotes

1. Williams, CH and Fuchs, BC. Expanding the Individual Health Insurance Market: Lessons from the State Reforms in the 1990s. Princeton, N.J.: Robert Wood Johnson Foundation, June 2004. *http://www.rwjf.org/en/library/research/2004/06expanding-the-individual-health-insurance-market.html*. Accessed Dec. 2016.

2. Doty, M, et al. Failure to Protect: Why the Individual Insurance Market is Not a Viable Option for Most U.S. Families. New York, N.Y.: The Commonwealth Fund, July 21, 2009. *http://www.commonwealthfund.org/publications/issue-briefs/2009/jul/failure-to-protect*. Accessed Dec. 2016.

3. Chart reflects rules as they apply to those not eligible for protections under the Health Insurance Portability and Accountability Act (HIPAA). For more detail on state protections, including for HIPAA eligibles, see research conducted by Georgetown University's Center on Health Insurance Reforms displayed via Kaiser Family Foundation Health Insurance & Managed Care State Health Facts, Protections in the Individual Insurance Markets Pre-ACA. *http://kff.org/state-category/health-insurance-managed-care/*. Accessed Dec. 2016.

The Center on
Health Insurance Reforms
Georgetown University Health Policy Institute

Georgetown University Health Policy Institute
3300 Whitehaven Street, N.W., Suite 5000
Washington, DC 20007
Telephone (202) 687-0880
http://chir.georgetown.edu/