Testimony before the New Jersey Senate Commerce Committee
"Achieving Stable and Affordable Health Insurance in New Jersey's Health Coverage Markets"
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Chairwoman Gill and Committee members, thank you for inviting me to testify today. [1]

I direct the Rutgers University Center for State Health Policy and serve as a professor of public policy at Rutgers. The mission of the Center is to inform, support and stimulate sound and creative state health policy in New Jersey and around the nation. The Center conducts impartial, rigorous research and analysis on important health policy matters to support the work of policymakers.

I appreciate the opportunity to address how recently announced policies permitting individuals and small groups to renew existing health plans in 2014 may influence New Jersey health insurance markets and affect consumers.

What is the policy change?
On November 14th President Obama announced a policy shift that would permit individuals and businesses to renew in 2014 existing health plans that do not comply with Affordable Care Act (ACA) regulations. A letter released the same day from the US Department of Health and Human Services (DHHS) to state insurance commissioners provided details about the Administration's revised policy.[2] Specifically, the policy would permit the annual renewal of plans ending in January 2014 through October 1, 2014. Prior to this announcement, federal rules prohibited the renewal of these non-compliant plans after December 31st of this year.[3] The letter made clear that permitting plan renewals would be subject to the approval of state insurance commissioners and would be voluntary on the part of health insurance issuers.

On November 26th, New Jersey Banking and Insurance Commissioner Kenneth E. Kobylowski announced that the state would permit New Jersey insurers to renew pre-reform plans, but noted that these plans will not be exempt from several ACA provisions.[4] Specifically, certain annual benefit caps will no longer be permitted and the plans will not be exempt from new fees. These requirements will increase the cost of these renewed plans.

Who will be affected?
The new rules will *potentially affect a subgroup* of the roughly 150,000 individual insurance enrollees and about 650,000 persons enrolled in small-employer coverage in New Jersey. Many affected enrollees will find attractive coverage options among ACA-compliant plans but others will find that their current plans, even with anticipated adjustments to premiums and benefits, may be more attractive. At this stage, it is impossible to know what share of policyholders will prefer to keep their existing plan.

[1] This invited testimony is intended to provide technical assistance to New Jersey policymakers. Views expressed are solely those of the author and not endorsed by entities funding the work of the Rutgers Center for State Health Policy.
[2] Available at: http://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.PDF.
[3] This policy applies to plans that are not "grandfathered" under the ACA. Grandfathered plans are those that were in place on March 23, 2010 and were not subsequently significantly modified.
[4] Available at: http://www.state.nj.us/dobi/pressreleases/pr131126.html.

With these policy changes, the decision whether to renew pre-ACA plans in 2014 now rests largely with New Jersey health insurance carriers.

The most common plan type in the New Jersey individual market, known as the Basic & Essential (B&E) plan, will not likely be among those that the carriers offer to renew. While the 2014 renewal policy would permit extending these plans, other ACA provisions would require major changes in their structure. In fact, because of the significant requirements to modify benefits, the B&E's largest seller, Horizon Blue Cross Blue Shield, announced that it would not be feasible to permit renewals.

B&E plans, which cover over 100,000 individuals in New Jersey, hold down premiums in large part by imposing strict annual benefit caps. For example, benefits for provider office visits are limited to $700 per year and outpatient testing is capped at $500 annually. These caps will no longer be permitted in 2014 under the ACA. B&E plans also do not cover a number of benefits that are included in standard health insurance options, for instance, they exclude newborn hearing screening, certain treatments for autism, durable medical equipment, and chemotherapy.

Many B&E enrollees will find ACA-compliant plans at equivalent or lower cost as their current plans either because they are eligible for premium tax credits or because they are under age 30 and eligible for an ACA-compliant high-deductible "catastrophic plan". But some B&E enrollees, particularly those in their 50s and 60s, will face higher costs for ACA-compliant plans.

It is more likely that insurers will allow small businesses to renew their existing plans next year. Groups with demographics associated with lower risk will be the most likely to keep their pre-ACA plan. While banned by the ACA, current New Jersey small group rules allow premium variation by gender. Since young men tend to have lower average costs, small groups disproportionately composed of young men are likely to keep their existing plan. Likewise, women over child-bearing age have lower than average costs compared to their male counterparts. Thus, small groups with a large proportion of women in this age group will find existing premiums comparatively more attractive than those of ACA-compliant plans. However, the opposite is true for groups with disproportionate numbers of younger women or older men, and these groups will likely find ACA-compliant plans attractive. As a consequence, the extension of the renewal period for existing small group plans in 2014 is likely to lead to "adverse risk selection" against ACA-compliant plans.

What impact will the policy have?

The extended renewal policy is likely to have negative consequences for insurers, for market competition, and for consumers, although the magnitude of these impacts is difficult to predict.

As noted, the policy is likely to lead to adverse risk selection against ACA-compliant plans. Insurers have already established 2014 premiums for these plans, so added costs cannot be passed on to consumers next year. However, because pricing actuaries did not account for the possibility that individuals and groups could opt-out of the risk pool for these plans, it is likely that plan payments for medical benefits will exceed insurer expectations. While the ACA includes premium stabilization programs intended to offset the impact of adverse risk selection against post-reform plans, these mechanisms are imperfect.[5] Consequently, New Jersey insurers offering compliant plans in 2014 could be subject to financial losses.

[5] The DHHS letter describing the Administration's plan renewal policy (see note 2) specified that implementation of premium stabilization strategies will be revisited to offset the anticipated cost impact on post-ACA plan risk pools. For further discussion of premium stabilization programs in the New Jersey context see: Greenwood K. The Affordable Care Act's Risk Adjustment and Other Risk-Spreading Mechanisms: Needed Support for New Jersey's Health Insurance

Such financial losses will work against the goal of encouraging more competitive insurance markets in New Jersey. Today our insurance markets are very highly *concentrated*, with just two insurers covering about 93% of enrollees in the individual market and 77% of enrollees in the small-group market.[6] Moreover, New Jersey has only three insurance companies offering plans in the subsidized marketplace, including one new insurer that will offer only ACA-compliant plans. If these start-up and small plans incur significant financial losses in 2014, this could have a negative impact on the future competition within these insurance markets.

The extended renewal policy is likely to lead to higher premiums for consumers in 2015. The increase in premiums could be quite substantial if large numbers of enrollees with a favorable risk profile renew pre-reform plans in 2014.

What can be done to assure stable premiums and risk pools?

There is a great deal of uncertainty about the extent to which policyholders will renew pre-reform plans in 2014. It is therefore difficult to predict the impact of extended renewals on insurers' 2014 financial status or the premiums consumers will be offered in 2015. These trends should be closely monitored in the coming year.

Even after enrollment trends are known, there will be little that policymakers can do to directly mitigate their consequences. One step that can be taken now is to ensure robust outreach and public education about new plan options. High take-up of coverage among the uninsured can help offset the impact of extended plan renewals.

Policymakers might also consider re-examining state insurance regulations with an eye toward harmonizing New Jersey rules with federal requirements. While not directly addressing the impact of extended plan renewals, changes to state rules may reduce the cost of regulatory compliance for insurers and enhance consumer experiences in health insurance markets. For example, state rules permit premiums in the small-group market to vary only two-fold between younger and older groups, while the individual market permits three-fold variation. The tighter rate bands for small groups raises inequities and encourages individuals to shift between the markets. Like the extended renewal policy, this rating rule difference can influence the distribution of risk between markets and ultimately impact premiums.

Conclusion

Health insurance market regulations have consequences for risk pooling and premiums and, whenever these rules change, premiums will increase for some and decrease for others. The situation in New Jersey today is not unique in our history. For example, the introduction of Basic & Essential plans in 2003 was most likely linked to declines in standard plan enrollment and increased premiums in the individual and small-group markets. Taking steps to educate the public about their coverage options, reviewing the alignment between state and federal rules, and carefully monitoring market trends are important steps for assuring competitive and affordable health insurance markets.

Exchange. New Brunswick, NJ: Rutgers Center for State Health Policy and Seton Hall Center for Pharmaceutical Law and Policy, 2011. http://www.cshp.rutgers.edu/Downloads/9520.pdf.

[6] Cantor JC. Combining New Jersey's Individual and Small-Group Health Insurance Risk Pools. New Brunswick, NJ: Rutgers Center for State Health Policy, 2011. http://www.cshp.rutgers.edu/Downloads/9140.pdf.