



Testimony
Of the
Employer Alliance for Affordable Health Care
On
Mental Health Parity

Sponsored by: Senator Velmanette Montgomery

September 10, 2003
Albany, New York

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Senator Montgomery, thank you for providing us this opportunity to discuss policies related to mandating additional mental health benefits in New York. My name is Pamela Finch and I am the spokesperson for the Employer Alliance for Affordable Health Care. The Employer Alliance is the largest single-issue business grassroots coalition in New York with 1,200 members statewide, including more than fifty chambers of commerce and other business organizations. Our single issue relates to health care affordability and how state health insurance mandates threaten that goal. I am here on behalf of our chair, Scott Miller, the owner of a small printing firm in Amsterdam - who like many Alliance members is unable to take time off from work to join us today.

New York's Health Insurance Crisis

New York State is confronting a health insurance crisis. According to the Kaiser Family Foundation (KFF) in the year 2000, New York had the third highest insurance costs for single coverage in the country at about \$3,000 annually. Family coverage averaged more than \$7,000 annually. These totals don't include New York's additional premium taxes – the highest in the nation. While recognizing these taxes underwrite a broad range of public health programs, it cannot be overlooked that they also add to the overall cost of health insurance. Brand new data from Kaiser indicates health care premiums have climbed the past three years by an aggregate of 37.3 percent.

How serious is this problem?

For the first time in twenty years, the annual survey by the National Federation of Independent Business identified health insurance costs as the number one problem facing small business, supplanting the long time leader - business taxes. Similarly, the U.S. Small Business Administration just completed a survey of small businesses in New York City and found that small business owners rank the cost of health insurance as the most serious challenge to their business.

The immediate future appears no brighter. Actuaries are predicting that premium payers will experience another double-digit increase in 2004. These increases will exacerbate the inclination of employers to engage in greater cost sharing with their employees. Compdata Surveys of Kansas City documented this trend in a new study, which noted, "The percentage of New York State employers asking their workers to pay more of the cost of health insurance continues to increase significantly." This development is unfortunate for two reasons:

1. It will intensify the trend of younger, healthier New Yorkers to forgo health insurance. The result will be increased premiums for the remaining insured.
2. It will continue to make health insurance the most divisive issue in labor negotiations. (Look no further than the recent negotiations at Verizon and, closer to home, at Long Island University as critical examples of health care cost being a critical roadblock to labor agreements).

New York employers face a health insurance crisis - a crisis of affordability. In order to preserve the shrinking percentage of employer-based health insurance in New York, the Employer Alliance urges the Legislature to *lead* by seeking ways to reduce health care costs and encourage premium payers to maintain coverage. Mandating additional coverages, while politically popular, is clearly the wrong direction to be heading.

Mandates and the Uninsured

The health insurance crisis dilemma in New York manifests itself in numerous ways. Perhaps most insidious is the impact on the number of uninsured. Although New York has experienced an unprecedented increase in public insurance program enrollment – particularly for children (Child Health Plus) – our state’s uninsured rate remains stubbornly high at 3 million.

Senator, for your district the news is even worse. A February 2000 study by the Commonwealth Fund found that approximately 30% of Kings County residents between the ages of 18 and 64 were uninsured. The recent rise in the unemployment rate will further contribute to the number of uninsured. It is estimated that for every percentage point increase in the unemployment rate, 860,000 people will become uninsured – for New York that is more than 60,000 new people uninsured.

The health insurance affordability predicament is further demonstrated by the fact that nearly 65% of the uninsured are employed full-time. These individuals are working for employers who either cannot afford an insurance benefit or require such a significant level of cost sharing as to discourage employee participation.

Every mandate comes with additional costs. With added costs come more uninsured. A 1999 study from by Dr. Gail Jensen concluded that 25% of the uninsured in this country is directly attributable to the cost of mandates.

In the face of this data, it is difficult to see why the Legislature would want to pass *any* additional measures that could further increase premiums. The Congressional Budget Office estimates that for every one percent increase in the cost of health insurance, 200,000 to 300,000 Americans drop from the insurance rolls. The price for being uninsured is high. According to the Kaiser Commission, nearly 40% of uninsured adults skip a recommended medical test or treatment and 20% say they needed but did not get care for serious problem in the past year. Three million New Yorkers are just an accident away from financial and individual health ruin. We can ill afford a single additional person losing coverage due to the costs engendered by mandates.

Other Problems with Mandates

Costs are not the sole reason we oppose mandates.

Employer Alliance members are troubled by where the burden of state insurance mandates fall. Because of a loophole in federal law (ERISA), companies that are self-insured – those large enough to underwrite their own

health insurance – are EXEMPT FROM ALL STATE HEALTH INSURANCE MANDATES. For New York this means virtually every large employer has the option, but not the requirement, to include state health insurance mandates to their benefit package. This includes large corporations like Con Edison, IBM, GE, Carrier, and Kodak. As a result, mandates require those least capable – small businesses – to expand benefit coverage and pay higher premiums. Those in self-insured plans represent a significant and growing portion of New Yorker’s with insurance. According to the federal Agency for Healthcare Research and Quality (AHRQ), self-insured programs cover 49% of all private-sector employees with insurance in New York.

The move to self-insure by large companies creates a double whammy for small businesses; the bulk of our membership. The withdrawal of large employers from community rated pools hurts the overall “experience” of the fully insured pool leading to increased costs for remaining premium payers. This trend has been well documented in Monroe County where Kodak’s move to self-insure significantly – and adversely – impacted fully insured small businesses in that community.

Mandates in New York

While mandates are not the only reason for the continual increase in health premiums they do contribute to this trend. Until this year, there was no data on the total cost of New York’s mandates. A landmark study sponsored by the Employer Alliance showed that the net premium cost of New York’s health insurance mandates was 12.2%. That equals more than \$440 for an individual policy and \$1,066 for a family policy. The study is attached for your review.

The process by which the Legislature deliberates upon these measures troubles the Alliance. Today, New York mandates 33 specific coverages or providers and there are nearly 100 mandates in introduction. The vast majority of these proposals in isolation are laudable. Many of them have passionate advocates armed with compelling stories. How does New York’s legislature make decisions on which mandates make the most sense?

The answer is not well at all.

Let’s review the legislative history of the last few mandates:

Chiropractic mandate (1997) – After intensive lobbying by these providers and their patients, New York passed a far-reaching chiropractic mandate. Like the current mental health parity debate, advocates claimed that this mandate would save the health care system money. A subsequent study issued by the Insurance Department, however concluded that the costs associated with this mandate ultimately exceeded even the cost estimates offered by the insurance industry prior to passage. Your own ranking insurance committee member, Senator Neil Breslin, has since indicated that if he had the chance, this is “one vote he would take back.”

Prostate screening (2000) – This mandate, known as “Rudy’s Law” (in recognition of Mayor Giuliani’s public

bout with prostate cancer), required a level of screening that was contrary to virtually EVERY major cancer organization's guideline including the National Cancer Institute, the American Cancer Society, the U.S. Preventive Services Task Force and the World Health Organization. In the name of gender equality, this law ultimately provided the momentum to pass the so-called "Women's Wellness" legislation. That law incorporated a variety of measures including a broader mammography mandate (mammography has been mandated in the state since 1988) even though simultaneously, significant medical debate raged (and continues today) over the appropriate commencement age, frequency and effectiveness of these tests. Should the Alliance conclude that this was passed because the Legislature had better data than the leading scientist on this issue?

Then there is the infertility drug mandate passed in 2002. That law you should be familiar with because, according to the New York Times, it was passed as a political pay-off for the Majority's retention of the seat now held by Senator Morahan. That mandate came at the expense of your conference. Premium payers in New York are now being asked to shoulder additional costs for these services too.

There must be a better way.

The Employer Alliance supports putting a process in place that will require a study of specific mandates to determine cost, efficacy, impact on New York's uninsured. This is not a new idea. Twenty-three states have such a process in place – including our neighbors in Pennsylvania, New Jersey, Vermont and, most recently, Massachusetts. The Employer Alliance will continue to oppose all proposed mandates until such a process is installed in this state.

We would even be willing to support a mental health parity proposal if such a reform was attached to the legislation. Such a reform was unanimously passed in a freestanding bill in your house last March.

Specifics to Timothy's Law

The debate over New York's mental health benefits and what is appropriate is without independent data to draw conclusions on the impact of each measure. The problem with the self-serving study offered by the advocates is evident in the fact that several years earlier, the same actuary firm, working on behalf of employers concluded that such a mandate could cost up to 8% of premium – not .8% as claimed today. The disparity in these reports can only be attributed to the assumptions put forth by the authors. However, even the advocate's own one-sided study contains ominous assumptions that you must be made aware of. To reach their debatable cost figures, they have concluded that an undetermined number of New Yorkers with health insurance today will have their coverage dropped – they also envision more employers seeking overall higher copayments and deductibles hastening this unfortunate trend that diminishes access to the very services the advocates are seeking in this legislation.

The Employer Alliance believes that until every New Yorker has minimal coverage, no measure should be passed that will exacerbate the growing number of uninsured in this state.

We also take exception to the notion that somehow the questionable \$1.26 monthly figure arrived at by this study is inexpensive. The Federal Government just pegged the number at 4% for similar legislation enacted in Vermont. The insurance industry claims the true amount of this benefit is somewhere between three to five percent of premium. However, even using the advocates' questionable number, such a mandate would still cost premium payers in excess of \$160 million annually that is over and above the double-digit increase employers will be receiving in 2004.

Is There a Solution?

Can New Yorkers have access to these services and mitigate the cost of this benefit to premium payers? The answer is yes. However, the Legislature needs to take a more comprehensive approach. If the state, as embodied by the Legislature truly wants EVERY New Yorker to have unlimited access to mental health and substance abuse benefits perhaps they should devise a program that will have the state pay for this coverage through a broader taxing policy. This would guarantee *all* New Yorkers (including the uninsured, underinsured and individuals in self-insured programs) would have equal access to these services deemed critical.

Another approach the Alliance would support is the requirement that insurers make mental health parity available to employers. It would be our expectation that such a compromise would be supported by the advocates who, armed with polls believe that there is overwhelming support to include this benefit in all policies. If the survey data they present is correct, we will experience a vast majority of employers migrating to offer this coverage.

As I sit through the testimony today, I continue to think about those who go without health care due to the high cost of health insurance. I think about Alliance members like Kevin and Gail Walker, who are antique dealers in the Hudson Valley. When they first joined the Alliance in 1999 they were insured, but in the past two years they have had to cancel their insurance due to prohibitive costs. When we last spoke with Kevin he was lamenting over the fact that he needed an MRI that was going to cost him in excess of \$1,800. He was even more concerned that the test would find something serious and might require that he undergo substantial treatment. Kevin expressed his frustration about the current mental health insurance debate by saying:

“They want more coverage of mental health services – I’d be happy just having health insurance.”

Therein lies the heart of this difficult dilemma. How do we weigh the difficult choices of what premiums should pay for and how much is affordable for payers? By all accounts, New York State can do a better job and take a more rational approach to deciding what gets mandated. Without the framework to make this possible, New York is destined to remain in a health insurance crisis at the expense of premium payers, employees and taxpayers alike.

Thank you.