

**CENTER FOR HEALTH
INFORMATION AND ANALYSIS**

**AN OVERVIEW OF
HEALTH BENEFIT MANDATES**

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INTRODUCTION

The Center for Health Information and Analysis (CHIA) is required to evaluate the impact of benefit mandate bills referred by legislative committees for review. These evaluations provide a medical efficacy analysis, and an actuarial estimate of the effect that the proposed benefit mandate would have on the cost of health insurance. CHIA produces reports on each reviewed benefit mandate proposal and performs a comprehensive retrospective review, typically every four years, of all mandates in effect.

WHAT ARE HEALTH BENEFIT MANDATES?

Health benefit mandates are laws passed by states that require state licensed health insurance carriers to include specific health care benefits in certain insured health benefit plans.¹ All states have such benefit mandates. Examples range from commonly offered services, such as emergency department services or diabetic supplies, to less standard benefits, such as in vitro fertilization and applied behavior treatment for autism.² While mandates may make insured health coverage more comprehensive, they also may make it more expensive. Thus, 29 states, including Massachusetts, have systematic processes in place to study the efficacy and cost of existing and proposed health benefit mandates.³

In Massachusetts, benefit mandates are governed by section 38C of Chapter 3 of the General Laws. When a legislator introduces a bill that proposes a benefit mandate, it is sent to a Joint Legislative Committee, usually the Committee on Financial Services, the Committee on Health Care Financing, the Committee on Public Health, or the Committees on Ways and Means. When reviewing a benefit mandate proposal, a Committee must hold a public hearing on the bill and then decide whether to report the bill favorably, unfavorably, or to report that the subject should be further studied. When a Joint Committee of the General Court or the House and Senate Committees on Ways and Means reports favorably on a mandated health benefit bill, a review or evaluation conducted by CHIA must be included. However, a Committee has the option to report favorably on a proposed health benefit mandate bill without including a review and evaluation by CHIA if the review is not produced within 45 days from when the Committee requested the review.

As of June 2015, CHIA has published reviews of 49 proposed benefit mandate bills, 9 of which have become law. Most benefit mandates in Massachusetts require insurance carriers to cover specific services, treatments, or supplies for their plans' insured members. Another smaller set of provider-centered mandates requires insurers to cover otherwise covered services when provided by specific types of providers. Most provider-centered mandates require payers to pay licensed practitioners of a specified provider type when the provider type is licensed to provide a service that is covered by the payer.⁴ A list of proposed benefit mandate bills reviewed by CHIA can be found at www.chiamass.gov/mandated-benefit-reviews/⁵

TO WHOM DO HEALTH BENEFIT MANDATES APPLY?

Health benefit mandate provisions typically apply to both individual and group insured health benefit plans offered by the following types of insurance carriers: commercial insurance companies licensed under M.G.L. c. 175; Blue Cross and Blue Shield of Massachusetts, Inc. (organized as both a nonprofit hospital service corporation under M.G.L. c. 176A and a medical service corporation under c. 176B); and Health Maintenance Organizations (HMOs) licensed under M.G.L. c. 176G. Many health benefit mandates also specifically apply to products offered through the Group Insurance Commission (GIC) governed by M.G.L. c. 32A.

Benefit mandates require plans subject to health benefit mandate laws to cover members residing within the Commonwealth and may also require such plans to cover non-residents who have their principal place of employment in the Commonwealth.⁶

Although self-insured benefit plans are generally excluded due to federal ERISA (Employee Retirement Income Security Act) preemptions, GIC self-insured plans are sometimes explicitly included.⁷ State benefit mandates do not apply to the federal Employees Health Benefits Program⁸ and TRICARE.⁹ Medicare and Medicare HMO plans are also excluded as these policies are tied to Federal Medicare benefits and cover patient cost-sharing within the Medicare benefit structure. MassHealth, the Massachusetts Medicaid program, is also not subject to mandate requirements.¹⁰

HOW DOES CHIA REVIEW A PROPOSED HEALTH BENEFIT MANDATE?

When a proposed benefit mandate is referred to CHIA for review, CHIA works with an actuarial firm to evaluate the medical efficacy and cost impact.

CHIA's Information Sources

The party or organization on whose behalf the bill was filed may provide CHIA with any cost or utilization data that the party or organization has gathered. All interested parties supporting or opposing the bill may also provide CHIA with any information relevant to CHIA's review. CHIA may request data from insurers to whom the proposed bill applies, as necessary.

Where possible, CHIA utilizes data from its databases, including the Acute Hospital Case Mix Databases and the All Payer Claims Database (APCD) to support CHIA's benefit mandate reviews.

Medical Efficacy Analysis

As part of the review, CHIA assesses the medical efficacy of the proposed benefit. This assessment includes the benefit's potential impact on the quality of patient care and the health status of the population. It also contains the results of any research demonstrating the medical efficacy of the treatment or service compared to alternative treatments or services or to not providing the treatment or service. CHIA does not declare any given service or provider type efficacious or not, but rather summarizes how the service is currently regarded in medical literature and by governmental or professional entities that recommend treatment. If the efficacy of a service or provider type is debated, CHIA reports, but does not attempt to resolve, the debate.

For provider-centered mandates, CHIA reviews whether the specific provider's services are widely covered or whether standard-setting entities, such as Medicare, pay for them. CHIA does not assess current thought on the clinical effectiveness of an entire profession. For mandates with a potentially significant effect on the health of individuals other than those covered by the benefit mandate, CHIA provides a description of the impact, but generally does not attempt to quantify it.¹¹

Cost Analysis

CHIA also assesses the financial impact of mandating the proposed benefit, which may include: the net impact of the mandate on carrier medical expense per member per month (PMPM); the net increase in premium PMPM; and the 5 year estimated impact of the proposed mandate on medical expenses and premiums. The cost analysis may also assess the proposed benefit's impact on utilization, such as the proposed benefit's effect on the appropriate or inappropriate use of the service; the extent to which the service might serve as an alternative for other services; and/or the extent to which coverage may affect the number and types of providers.

In conducting its financial impact analysis, CHIA follows a number of steps.¹²

- First, CHIA analyzes the bill to determine the types of insurance entities affected, the set of members affected (sometimes limited by age, diagnosis, and/or geography), the services mandated, and related policies affected. CHIA always defers to explicit bill language when performing the analysis. When ambiguities exist in the bill language, CHIA asks the legislature for clarification on legislative intent.
- Second, CHIA assesses the incremental impact of the proposed law by determining whether other state or federal mandates already require coverage and by reviewing current coverage practices—i.e., whether insurers cover the service voluntarily even without a mandate.
- Third, CHIA determines the PMPM estimates stemming from the incremental effect of the proposed law for the next five years:
 - A. CHIA estimates the proportion of the population affected (those with a condition who are treated, who use the specific services, or who use the specified provider), and what kind and how much treatment they receive.
 - B. CHIA determines the cost of each unit of estimated service.
 - C. After considering several perspectives, CHIA estimates the incremental service use due to the proposed mandate; the “net” effect equals the projected cost of the proposed benefit mandate less the costs already being incurred through existing mandates or voluntary coverage, trended forward.
 - D. CHIA assesses how treatment use will change if the proposed mandate changes cost to patients and how treatment cost will change over the coming five years given expected technology change.

CONCLUSION

The review of health benefit mandates balances the goal of ensuring adequate protection for health care consumers with the goal of managing increasing health care costs. By evaluating the medical efficacy and

the cost impacts, including the state liability, of proposed benefit mandate bills, CHIA will continue to provide stakeholders with neutral, reliable information.

REFERENCES

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- 3 CALIFORNIA HEALTH BENEFITS REVIEW PROGRAM, OTHER STATES' HEALTH BENEFIT REVIEW PROGRAMS (Sept. 20, 2013), available at http://chbrp.org/docs/Survey_and_Analysis_of_Other_States_Health_Benefit_Review_Programs_2013_FINAL_092013.pdf.
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- 5 For more information, see <http://www.mass.gov/ocabr/docs/doi/consumer/healthlists/mndatben.pdf>.
- 6 Compass Health Analytics, STATE-MANDATED HEALTH INSURANCE BENEFITS AND HEALTH INSURANCE COSTS IN MASSACHUSETTS.
- 7 Self-insured policies are regulated under Federal ERISA legislation, not by the Massachusetts Division of Insurance, and thus are not subject to the mandate laws. Compass Health Analytics, STATE-MANDATED HEALTH INSURANCE BENEFITS AND HEALTH INSURANCE COSTS IN MASSACHUSETTS.
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- 9 *See 10 U.S.C. § 1103.*
- 10 Compass Health Analytics, STATE-MANDATED HEALTH INSURANCE BENEFITS AND HEALTH INSURANCE COSTS IN MASSACHUSETTS.
- 11 *Ibid.*
- 12 *See ibid* for more information.



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