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Authors
Gabel, Jon
Jacobs, Ken
Lucia, Laurel
et al.

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by
Jon Gabel, Ken Jacobs, Laurel Tan, Roland McDevitt, Jeremy Pickreign, and Shova KC

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The California Endowment

As the end of the first year of the Obama Administration approaches, the U. S. Congress is debating legislation that would transform the American health care system. On November 7, the House of Representatives narrowly passed reform legislation, and on November 21, the Senate narrowly broke a Republican filibuster to bring the legislation to the Senate floor. Passage of reform legislation would alter not only public programs such as Medicare and Medicaid, but also set new standards in the employer-based system, the source of coverage for approximately 161 million Americans less than 65 years in age.[1]

Both House and Senate versions of reform legislation entail specific requirements for employer-based insurance. These requirements range from coverage for specific services such as mental health in the House bill, to an end to maximum lifetime benefits under both bills, to a requirement in the House bill that employers contribute for 72.5 percent of the cost of single coverage. This issue brief examines the extent to which various requirements would affect employees in California covered by employer-based health insurance.

[1] P. Fronstin, "Sources of Health Insurance and Characteristics of the Uninsured: Analysis of the March 2009 Current Population Survey," Issue Brief, Employee Benefits Research Institute, http://www.ebri.org/pdf/briefspdf/EBRI_IB_9-2009_No334_HI-Cvg1.pdf

Jon Gabel is a senior fellow at the National Opinion Research Center at the University of Chicago. Ken Jacobs is the chair of the University of California, Berkeley, Center for Labor Research and Education. Laurel Tan is a policy analyst at the University of California, Berkeley, Center for Labor Research and Education. Roland McDevitt is the director of health care research at Watson Wyatt Worldwide. Jeremy Pickreign is a senior research scientist at the National Opinion Research Center at the University of Chicago. Shova, KC is a research assistant at the National Opinion Research Center at the University of Chicago.

Data for this study are from the 2009 California Employer Health Benefits Survey sponsored by the California HealthCare Foundation (CHCF) and conducted by National Opinion Research Center at the University of Chicago. The 2009 study data are from 827 private firms with establishments in California. More information on study methods is available in the technical appendix.

Before presenting study findings, we note that employer-based health insurance in California has both commonalities and differences compared to the rest of the nation. The cost of insurance for the past few years has been equivalent to the national average. However, a majority of Californians have been enrolled in either a health maintenance organization (HMO) or a point-of-service (POS) plan for more than a decade. In the rest of the nation, less than 30 percent of employees are enrolled in an HMO or POS plan. Consequently, health coverage in California tends to have less cost-sharing for medical services compared to the rest of the nation.

FINDINGS

Out-Of-Pocket Limits

Both House and Senate bills require employer-based plans to have annual limits on out-of-pocket expenses. The House legislation stipulates that the out-of-pocket limit cannot exceed $5,000 for single coverage, whereas the Senate sets the limit at $5,950.[2] The limits in the Senate bill would not apply to self-insured plans. The 2009 CHCF Employer Benefits Survey asks about out-of-pocket limits with defined categories. With regard to the House requirements, 23 percent of workers with employer-based insurance are enrolled in a plan either without an out-of-pocket limit or a limit exceeding $5,000 (Exhibit 1). The figures are nearly identical for the Senate bill. Most non-compliant plans have no limits, and are either an HMO or POS plan with little cost-sharing, usually in the form of copayments. Insured workers of small employers (3 to 49 workers) are more likely not to have the protection of out-of-pocket limits than larger employers.

Lifetime Maximum Limits

Both House and Senate bills would prohibit the use of lifetime maximum benefit limits. The House bill would also prohibit the use of annual maximum benefit limits, while the Senate bill would prohibit "unreasonable" annual limits. The questionnaire for the CHCF only asks about lifetime limits. Over 40 percent of insured employees are enrolled in a plan with a lifetime limit (Exhibit 1).[3] PPO and high deductible plans with and without savings accounts are most likely to currently have lifetime maximum limits.

[2] In the House bill out-of-pocket limits are expressed in 2013 dollars; in the Senate these limits are set in 2010 dollars.

[3] Throughout the paper, we use the terms "insured worker" or "insured employee" as shorthand for workers who are covered by an employer-based insurance plan.

Exhibit 1

Percentage of employees covered by a plan without an out-of-pocket limit or with a lifetime maximum benefit

	Percentage of employees with insurance in plans with no OOP limit or an OOP limit more than $5,000	Percentage of employees with insurance in plans with no OOP limit or an OOP limit more than $5,950	Percentage of employees enrolled in a plan with a lifetime maximum benefit limit
Size of Firm			
3–49 Employees	31.5%*	30.1%*	44.3%
50–999 Employees	25.7%	25.4%	40.1%
1000+ Employees	16.6%*	16.6%	40.3%
Region			
Los Angeles area	28.6%	28.6%*	42.6%
San Francisco area	16.4%*	16.0%*	64.0%
Rest of state	22.0%	20.2%	52.7%
Plan Type			
HMO	28.8%*	28.8%*	21.3 %*
PPO	14.6%*	13.5%*	74.3%*
POS	24.9%	24.9%	32.0%
CDHP w/SO	10.2%*	7.0%*	79.6%*
CDHP w/o SO	1.7%*	0.5%*	84.2%*
Total	23.0%	22.5%	41.2%

Source: 2009 California Employer Health Benefits Survey
*Estimated percentages are statistically different from all other plans at 0.05 level.

Preventive Benefits Subject to a Deductible

Both House and Senate bills stipulate that preventive benefits should not be subject to any cost-sharing, including a deductible. About ten percent of California insured workers are enrolled in a plan where preventive benefits are subject to a deductible (Exhibit 2). Employees enrolled in a high deductible plan with a savings account are most likely covered by a plan where they must meet the deductible before the plan covers preventive services.

Prescription Drug Coverage

The House bill requires coverage for prescription drugs. In the Senate bill, this requirement only applies to small employers. Only one percent of insured workers currently do not have prescription drug coverage in their health plan (Exhibit 2). Differences in prescription drug coverage by size of firm, region of the state, and plan type were minimal.

Exhibit 2

Percentage of employees enrolled in a plan where preventive benefits are subject to a deductible and percentage of employees enrolled in a plan not covering prescription drugs

	Percentage of employees enrolled in a plan where preventive benefits are subject to a deductible	Percentage of employees enrolled in a plan not covering prescription drugs
Size of firm		
3–49 Employees	10.2%	1.8%
50–999 Employees	11.2%	0.8%
1000+ Employees	8.1%	1.2%
Region		
Los Angeles area	7.1%	1.5%
San Francisco area	11.5%	0.3%*
Rest of state	11.6%	2.4%
Plan Type		
HMO	1.0%*	0.9%
PPO	20.7%*	1.6%
POS	12.1%	2.0%
CDHP w/SO	30.3%*	0.9%
CDHP w/o SO	14.2%	0.1%*
Total	9.6%	1.2%

Source: 2009 California Employer Health Benefits Survey
*Estimated percentages are statistically different from all other plans at 0.05 level.

Waiting Periods for Eligibility

The Senate bill bans waiting periods for eligibility for health benefits of more than 90 days. It also imposes financial penalties on firms with waiting periods of 30 to 90 days. Thirty-six percent of insured workers are employed by a firm with a waiting day period of 30 to 90 days. Approximately six percent of covered workers are employed by a firm that requires more than 90 days to wait for eligibility (Exhibit 3). Employees in the wholesale/retail/finance industries are most likely to be subject to waiting period more than 90 days.

Exhibit 3

Percentage of covered workers employed by a firm requiring more than 90 days before eligible for health insurance coverage

	Percentage of covered workers employed by a firm with waiting periods of 30 to 90 days	Percentage of covered workers employed by a firm with waiting periods of more than 90 days
Size of Firm		
3–49 Employees	36.0%	9.2%
50–999 Employees	40.1%	7.2%
1000+ Employees	27.5%	5.8%
Region		
Los Angeles area	44.1%	7.5%
San Francisco area	33.3%	12.9%*
Rest of state	26.7%	3.3%*
Industry type		
Mining/Construction/Manufacturing / Transport	39.4%	5.9%
Wholesale/Retail/Finance	45.6%	14.4%*
Service	25.8%	2.9%*
Health Care	43.4%	10.0%
Total	35.7%	6.0%

Source: 2009 California Employer Health Benefits Survey
*Estimated percentages are statistically different from all other plans at 0.05 level.

Required Contributions for Premiums by Employers

The House legislation would require employers to contribute 72.5 percent of the cost of single coverage and 65 percent of the cost of family coverage. Twelve percent of insured employees are covered by a plan where the employer did not contribute for 72.5 percent of the cost of single coverage (Exhibit 4). About 32 percent of insured workers are enrolled in a plan where the employer did not contribute 65 percent of the cost of family coverage. Small employers are less likely to meet the 72.5 and 65 percent threshold than midsize or large employers. Insured employees in the San Francisco area are more likely than workers in the rest of the state to work for an employer that meets the contribution requirements. For family coverage, enrollees in POS plans are most likely to currently contribute more than 35 percent of the cost of coverage, relative to other plans.

Exhibit 4

Percentage of employees enrolled in an employer-based health plan where the employer does not contribute a minimum required percentage of the contribution

	Percentage of employees enrolled in a plan where the employer does not contribute 72.5% of amount of single coverage	Percentage of employees enrolled in a plan where the employer does not contribute 65% of amount of family coverage
Size of firm		
3–49 Employees	19.0%*	50.5%*
50–999 Employees	11.0%	37.0%
1000+ Employees	9.9%	18.0%*
Region		
Los Angeles area	13.4%	38.0%*
San Francisco area	7.4%*	21.7%
Rest of state	19.5%*	34.6%*
Plan Type		
HMO	11.1%	31.1%
PPO	14.5%	26.8%
POS	12.2%	46.8%*
CDHP w/SO	13.9%	32.7%
CDHP w/o SO	14.8%	31.1%
Total	12.4%	31.5%

Source: 2009 California Employer Health Benefits Survey
*Estimated percentages are statistically different from all other plans at 0.05 level.

Excise Tax on "Cadillac Plans"

The Senate legislation calls for an excise tax in 2013 on health plans that exceed $8,500 for single coverage and $23,000 for family coverage.[4] Assuming an annual rate of increase in premiums of seven percent a year, the tax would apply to plans in 2009 costing $6,484 or more for single coverage and $17,547 for family coverage. As depicted in Exhibit 5, 17 percent of insured workers with single coverage and 14 percent with family coverage are enrolled in a plan that would be liable to the excise tax. These estimates do not take into account the cost of flexible spending accounts, dental and vision benefits, and contributions for savings options in health savings accounts (HSAs) and health

[4] It is possible that parts of California could be designated as one of the 17 high-cost areas that are given higher limits the first three years. These limits are 20 percent higher in 2013, 10 percent higher in 2014, and 5 percent higher in 2015.

reimbursement arrangements (HRAs). Hence, these figures should be regarded as minimum estimates. Equivalent percentages of employees by firm size would be subject to the excise tax. Employees from the San Francisco area are more likely to be enrolled in a plan subject to the excise tax than employees residing in other regions of the state. PPO plans are most likely to be subject to the excise tax compared to other plans.

Exhibit 5

Percentage of California insured workers subject to the excise tax on Cadillac plans

	Percentage of employees enrolled in a plan subject to the excise tax—Single coverage value of $6,485 or more	Percentage of employees enrolled in a plan subject to the excise tax—Family coverage value of $17,547 or more
Size of firm		
3–49 Employees	16.0%	17.1%
50–999 Employees	17.2%	15.2%
1000+ Employees	17.6%	12.2%
Region		
Los Angeles area	13.4%	7.8%*
San Francisco area	22.2%	21.1%*
Rest of state	16.1%	16.6%
Plan Type		
HMO	8.9%*	9.1%*
PPO	33.5%*	23.7%
POS	12.9%	13.8%
CDHP w/SO	16.5%*	16.4%
CDHP w/o SO	4.1%	0%*
Total	17.1%	14.3%

Source: 2009 California Employer Health Benefits Survey
*Estimated percentages are statistically different from all other plans at 0.05 level.

Plans with Actuarial Values of Less than 60 Percent

The Senate bill allows workers whose employer-sponsored plan's actuarial value is less than 60 percent to purchase coverage from the Exchange. Nearly all plans in California have an actuarial value greater than 60 percent (Exhibit 6). Less than one percent of insured workers with single and two percent of insured workers with family coverage are enrolled in a plan where the actuarial value is less than 60 percent.

Exhibit 6

Percentage of employees enrolled in plans with an actuarial value less than 60 percent

	Percentage of employees enrolled in a plan with actuarial value for single coverage less than 60 percent	Percentage of employees enrolled in a plan with actuarial value for family coverage less than 60 percent
Size of firm		
3–49 Employees	1.0%	2.0%
50–999 Employees	0.5%	2.4%
1000+ Employees	0.4%	1.9%
Region		
Los Angeles area	0.2%	1.4%
San Francisco area	0.7%	2.0%
Rest of state	0.9%	3.3%
Plan Type		
HMO	0%	0%*
PPO	0.2%	1.7%
POS	0.6%	0.6%
CDHP w/SO	5.1%	17.9%
CDHP w/o SO	2.5%	10.0%
Total	0.6%	2.2%

Source: 2009 California Employer Health Benefits Survey, MarketScan claims data. Watson Wyatt calculated actuarial values.
*Estimated percentages are statistically different from all other plans at 0.05 level.

Discussion

Much of the discussion about health reform has been targeted at plans offered on the Exchange. The hot-button issues of abortion and the public plan illustrate the considerable attention that Exchange plans have received. This issue brief has identified how persons currently receiving health insurance from their employer will also be affected by reform. In most cases, reform will increase the amount of financial protection employees receive.

The largest number of insured workers (41 percent) will be affected by the House and Senate's requirement that plans not have maximum benefit limits. However, 89 percent of plans with maximum lifetime limits in 2009 had limits of $2,000,000 or more, so the impact of this change will be minimal on most employers but would be quite meaningful for the small number of employees

who meet the limits. Data on annual limits are not available from the CHCF California Employer Benefits Survey. The House bill's requirement that employers contribute a minimum of 65 percent of the cost of family coverage will affect nearly one-third of covered workers in California. Nearly one-quarter of insured workers will gain the protection of an out-of-pocket limit. However, many of these workers are currently enrolled in either an HMO or POS plan and subject to relatively little cost-sharing for medical services. Legislation will reduce waiting periods for eligibility for coverage. More than 40 percent of insured workers employed by a firm presently face a waiting period of more than 30 days, but these firms will now face financial penalties for a waiting period over a month.

Perhaps the most controversial of the new requirements for employer-based insurance is the "Cadillac" excise tax of 40 percent. We estimate that the tax will affect about 17 percent of insured workers with single coverage and 14 percent of workers with family coverage. These estimates do not include the cost of flexible spending accounts, dental and vision benefits, and savings accounts in HSAs and HRAs, and hence are minimum estimates. A recent survey by the benefits consulting firm of Mercer found that employers over the premium threshold are likely to respond as health economists predicted with two-thirds of firms raising deductibles. Others would reduce flexible spending account maximums.[5] Hence, the effect of the excise tax will be to increase out-of-pocket expenses for medical services, while reducing the total cost of premiums below what it would be without the tax.

In summary, while the vast majority of employees work for firms that currently comply with most of the new standards, reform legislation if passed would still bring about changes for many insured workers in California in their plan provisions. Employees of firms that buy insurance in the small group market will be most affected by these changes. Consequently, reform will affect not only persons who are currently uninsured or purchasing individual insurance, but persons currently receiving health insurance from their or their spouse's employer.

[5] J. Appleby, "New Survey: 'Cadillac Tax' Would Force Employers To Trim Health Insurance Costs," *Kaiser Health News,* December 3, 2009, http://www.kaiserhealthnews.org/Stories/2009/December/02/cadillac-tax-cost.aspx

Methods

California HealthCare Foundation (CHCF) and the National Opinion Research Center (NORC) jointly produce the California Employer Health Benefits Survey. Researchers at NORC design and analyze the survey results. National Research LLC (NR) administers the telephone survey. Findings from the 2009 survey were derived from a random sample of 827 interviews with employee benefit managers in private firms in California. NR conducted interviews from April to July 2009. The sample of firms was drawn from the Dun & Bradstreet list of private employers with three or more workers. The margin of error for responses among all employers is +/- 3.4 percent.

This survey questionnaire is similar to a national employer survey conducted annually by the Kaiser Family Foundation and Health Research & Educational Trust (HRET). Both California and U.S. surveys ask questions about Health Maintenance Organizations (HMO), Preferred Provider Organizations (PPO), Point-of-Service (POS) plans, and High-Deductible Health Plans with a Savings Option (HDP). Both surveys ask questions about eligibility for enrollment, employer and employee contributions, covered benefits, employee cost-sharing, and plan enrollment.

To control for item non-response bias, missing values within these variables were imputed using a hot-deck approach. NORC researchers calculated weights as follows: First, the basic weight was determined, followed by a survey non-response adjustment. Next, to reduce the influence of weight outliers, NORC researchers trimmed weights. Finally, a post-stratification adjustment was applied.

National Opinion Research Center

University of Chicago
1155 East 60th Street
Chicago, IL 60637
(773) 256-6000
http://www.norc.org

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UC Berkeley Center for Labor Research and Education

Institute for Research on Labor and Employment
University of California–Berkeley
2521 Channing Way
Berkeley, CA 94720-5555
(510) 642-0323
http://laborcenter.berkeley.edu

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Watson Wyatt Worldwide

901 N Glebe Road
Arlington, VA 22203-1853
(703) 258-8000
http://www.watsonwyatt.com

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