HealthAffairs | Robert Wood Johnson Foundation

Health Policy Brief

UPDATED: JUNE 13, 2011

Pre-Existing Condition Insurance Plan.

Amid disappointing enrollment, the government has taken steps to make the program more attractive to people with preexisting health conditions.

WHAT'S THE ISSUE?

People with illnesses or disabilities may be unable to obtain private health insurance, or may find that the coverage offered them is so costly that they cannot afford it or that it does not cover the care they need.

In the Affordable Care Act of 2010, Congress created a temporary Pre-Existing Condition Insurance Plan program to offer coverage to uninsured adults with preexisting conditions until 2014. (From 2014 on, all health plans will be prohibited from restricting coverage of preexisting conditions or charging higher premiums to people with health problems, so the program will no longer be needed.)

Despite early predictions that the Pre-Existing Condition Insurance Plan program would be overwhelmed with applicants, only about 18,000 people had enrolled as of March 2011. As a result, the US Department of Health and Human Services (HHS) announced that, as of July 2011, premiums would be cut and eligibility requirements would be eased in the states where the federal government administers the program directly.

This brief describes recent changes and discusses implications for the program and the Affordable Care Act.

WHAT'S THE BACKGROUND?

People buy insurance to obtain help with future costs. Unless restricted by regulation, insurers generally charge higher health insurance premiums to people who are more likely to incur higher health care expenses. A person with a preexisting condition is generally considered "high risk" because that condition may make him or her more likely to need high-cost health care services. Such a person may face higher premiums than one who is not known to have a preexisting condition simply because the insurer knows more about the former's probable future health care costs.

DRIVING UP COSTS: Because they expect to incur medical costs, people who know they have a health problem may be more likely to seek health insurance than those who either don't have a health problem or don't know that they do. Insurers call this behavior "adverse selection." An insurer that enrolls more than the expected number of sick people may have difficulty selling policies that are properly priced to cover the higher-than-average expenses of its sicker enrollees. One way that insurers guard against enrolling an unusual number of sick people is to restrict coverage of preexisting conditions. That generally excludes from coverage any treatment for conditions that people have when they apply for insurance.

10.1377/hpb2011.10

$5 billion

Federal funding
The amount Congress appropriated to fund the new program through 2013.

The Health Insurance Portability and Accountability Act of 1996 said these restrictions could apply for only a year for people who got health coverage through their employers. However, millions of Americans who buy their own coverage may still be subject to a permanent exclusion of coverage for preexisting conditions until 2014, when the terms of the Affordable Care Act take full effect.

BEFORE HEALTH REFORM: Prior to enactment of the Affordable Care Act, some thirty-four states had already set up high-risk pools that offer coverage to an estimated 200,000 Americans with preexisting conditions. However, this is only a small fraction of the estimated total number of people who need such coverage. Enrollment in the state pools is low, probably because premiums are high (often more than 200 percent of market premiums for healthy people) or because the coverage offered does not meet their health care needs, or both.

Offering coverage through a high-risk pool is expensive. By definition, the people served by the pools are likely to have high costs, the total of which exceed even the high premiums charged by the pools. States have raised premiums, increased cost sharing (such as deductibles), or limited enrollment in attempts to keep both premiums and subsidies to the pools affordable. Florida actually closed enrollment in its state pool in 1991. Some other states have had long waiting lists for people to obtain coverage.

States without high-risk pools use other mechanisms to improve access to coverage for people with preexisting conditions. These include requiring that an "insurer of last resort" offer one or more plans to people who cannot obtain coverage in the private market. Some other states limit insurers' ability to charge higher premiums based on an applicant's health status.

Five states—New York, New Jersey, Massachusetts, Maine, and Vermont—have what are called "guaranteed issue" requirements that restrict the ability of insurers to deny coverage based on health status. These guaranteed issue states also require some form of "community rating" under which premiums cannot vary based on an individual's health status. The combination of guaranteed-issue and community-rating requirements increases the likelihood that people with preexisting conditions will be offered coverage and that such coverage will be affordable.

WHAT'S IN THE LAW?

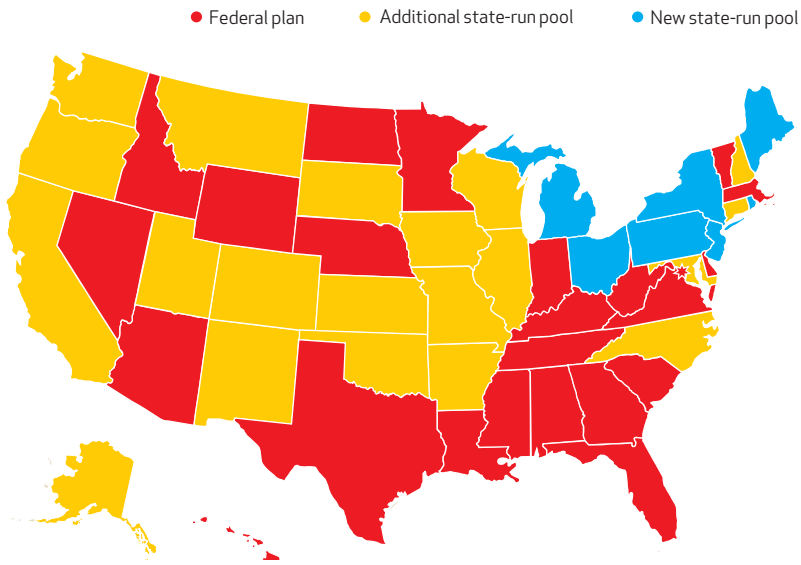
To expand coverage, the Affordable Care Act built on the existing infrastructure of state high-risk pools by creating temporary, federally funded pools as well. The temporary pools will operate until 2014, when enrollees will be able to transition to insurance plans that will then not be permitted to have preexisting condition exclusions.

Under the label of the Pre-Existing Condition Insurance Plan, which took effect on July 1, 2010, a new pool was established in each state. States could choose either to operate their own pool or allow HHS to do so. HHS selected the Government Employees Health Association Inc., a nonprofit association that offers health insurance to federal employees and their families, to administer plans in the twenty-three states and the District of Columbia that chose the federal option.

The remaining twenty-seven states chose to administer their own plans (Exhibit 1). They could set up a new high-risk pool if they did not previously have one; create an additional high-risk pool alongside an existing one; contract with a nonprofit entity to operate a new pool on the state's behalf; or build on other existing state programs to help cover high-risk people.

EXHIBIT 1

Temporary Federal High-Risk Pools Administered by the States or the Federal Government



SOURCE US Department of Health and Human Services. **NOTES** Twenty-three states and the District of Columbia (red) have requested that HHS run the program for them. Twenty states (yellow) will set up a new high-risk pool alongside an already existing pool. Seven states (blue) will create a new pool for the first time.

18,000

Actual enrollment
Enrollment in the new high-risk pools stood at only 18,000 as of March 2011.

BENEFITS: The benefits offered by the plans are based on the "essential health benefits" defined in the Affordable Care Act. They include hospital care, mental health and substance abuse services, noncustodial skilled nursing services, prescription drugs, preventive care, and maternity care. Cosmetic surgery, custodial care, in vitro fertilization, elective abortion, and experimental care are not covered under the program.

Although several hundred thousand people were projected to enroll in the Pre-Existing Condition Insurance Plan, enrollment over the course of 2010 and 2011 has been well short of expectations. As a result, the federal government modified the benefits structure to encourage enrollment.

As of January 1, 2011, additional plan options were made available. The standard plan option now features a $2,000 medical deductible and a separate $500 drug deductible. A second or extended plan option has even lower medical and drug deductibles. A third option is high-deductible health plan that can be combined with a health savings account.

ELIGIBILITY REQUIREMENTS: The temporary pools are intended to cover US nationals—citizens or permanent and temporary legal residents—who are unable to find coverage elsewhere. To be eligible to participate in the new pools, a person must have been uninsured for at least the previous six months. Current participants in state pools are ineligible to participate in the new plans unless they go without coverage for six months.

Originally, applicants for the Pre-Existing Condition Insurance Plan had to present proof that they had been denied coverage by an insurer because of a preexisting condition. Effective July 2011, however, people applying for coverage under the federally administered plans will no longer need to obtain a letter of denial from a health insurance company. Rather, they can simply provide a letter from a doctor, physician assistant, or nurse practitioner dated within the last 12 months stating that they have or, at any time in the past had, a medical condition, disability, or illness.

PREMIUMS: Since the program was introduced, HHS has twice adjusted the premium structure in the states in which the federal government administers the pools. Effective July 1, 2011, premiums for the federally administered plans in 17 of these states and the District of Columbia are to be reduced by as much as 40 percent below previous levels. Exhibit 2 shows the reductions for a sample of these states and the District of Columbia. Premiums will remain unchanged in six additional states where the government administers the pools, but where rates were already considered very close to those offered in the private market. In states that have chosen to administer the pools, premiums will continue to be set at states' discretion, subject to approval by HHS.

FUNDING: Congress appropriated $5 billion to fund the new program through 2013. Approximately five to seven million Americans are estimated to lack health insurance and have a preexisting condition. Some early estimates were that the $5 billion in funding could run out by 2011 if as many as 375,000 people had enrolled last year. However, as of March 2011, enrollment stood at about 18,000, suggesting that any funding problems are far from imminent.

PROS AND CONS: HHS hopes to increase enrollment in the program by making it easier for people to qualify and by reducing premiums in many states. However, whether or not the goal will be achieved remains to be seen. As noted, a person still must have been uninsured for at least the previous six months to qualify for the Pre-Existing Condition Insurance Plan program. But people who have serious health conditions are generally not willing to forgo health insurance for six

EXHIBIT 2

Premium Reductions in the Pre-Existing Condition Insurance Plan for Selected States

State	Premium reduction	Monthly premium January–June 2011[a]	Monthly premium July 2011[a,b]
Alabama	–40.0%	$328	$197
Arizona	–40.0	313	188
Delaware	–40.0	325	195
District of Columbia	–18.3	310	253
Florida	–40.0	352	211
Kentucky	–40.0	295	177
Louisiana	–24.8	307	231
Mississippi	–2.2	269	263
South Carolina	–14.7	293	250
Virginia	–40.3	281	168

SOURCES US Department of Health and Human Services. **NOTES** States shown are among those whose Pre-Existing Condition Insurance Plan programs are administered by HHS and whose premiums have been reduced. [a]Premium rates are for the Standard Option plan, enrollees ages 35–44. [b]No set ending date for premium.

months if they can afford premiums for any sort of coverage. In addition, the cost of the "standard" plan option, even after it has been reduced, may still be too high to make enrollment affordable for many people.

Supporters of the program emphasize that even with its low enrollment the Pre-Existing Condition Insurance Plan coverage is an improvement over the options that are otherwise available. HHS, for example, predicts that the program may provide numerous benefits to enrollees—including improved health for enrollees, improved worker productivity through fewer absences from work, and reduced financial burden for both enrollees and health care providers, who will have to provide less uncompensated care.

Critics have voiced their view that the tepid response may indicate that the program is inefficient. Republican lawmakers expressed their concerns in a January 2011 letter to HHS Secretary Kathleen Sebelius, noting that enrollment had fallen far short of expectations. However, expanded high-risk pools have been a key element of some Republican lawmakers' alternative health care proposals, and even some opponents of the Affordable Care Act would like the Pre-Existing Condition Insurance Plan program to succeed.

40%

Premium rate reduction
The federal government will reduce monthly premiums by up to 40 percent starting July 1, 2011.

WHAT'S NEXT?

HHS has asked state-run plans to consider whether they may want to make additional changes to their individual programs, including lowering premiums. In addition, HHS will continue outreach efforts to such groups as the American Red Cross and the American Heart Association, to increase public awareness of the program. Several state plans have launched their own marketing campaigns to increase awareness and enrollment. In addition, starting later this year, HHS will pay fees to insurance agents and brokers to help people enroll in the program.■

RESOURCES

Centers for Medicare and Medicaid Services, "Estimated Financial Effects of the 'Patient Protection and Affordable Care Act' as Amended," April 22, 2010.

Chollet, Deborah J., "How Temporary Insurance for High-Risk Individuals May Play Out under Health Reform," *Health Affairs* 29, no. 6 (2010): 1164-7.

Congressional Budget Office, Letter to Sen. Michael B. Enzi, Ranking Member of the Committee on Health, Education, Labor, and Pensions, June 21, 2010.

Hall, Jean and Janice Moore, "Realizing Health Reform's Potential: Pre-Existing Condition Insurance Plans Created by the Affordable Care Act of 2010," The Commonwealth Fund, October 2010.

Kaiser Family Foundation, "Explaining Health Reform: Questions about the Temporary High-Risk Pool," July 2010.

Kaiser Family Foundation, "Issues for Structuring Interim High-Risk Pools," January 2010.

Kaiser Family Foundation, "Pre-Existing Condition Insurance Plan: Operation Decisions and Preliminary Funding Allocations," July 2010.

Nichols, Len M., "Implementing Insurance Market Reforms under the Federal Health Reform Law," *Health Affairs* 29, no. 6 (2010): 1152–7.

US Department of Health and Human Services, "HHS Secretary Sebelius Announces New Pre-Existing Condition Insurance Plan," July 1, 2010.

US Department of Health and Human Services, "HHS to Reduce Premiums, Make It Easier for Americans with Pre-Existing Conditions to Get Health Insurance," May 31, 2011.

US Department of Health and Human Services, "Pre-Existing Condition Insurance Plan Program," Interim Final Rule with Comment Period, July 30, 2010.

US Government Accountability Office, "Health Insurance: Enrollment, Benefits, Funding, and Other Characteristics of State High-Risk Health Insurance Pools," July 22, 2009.

About Health Policy Briefs

Written by
Amanda Cassidy
Principal
Meitheal Health Policy
(Cassidy previously worked for the Centers for Medicare and Medicaid Services, in the Office of Legislation and the Center for Medicare Management.)

Editorial review by
Deborah J. Chollet
Senior Fellow
Mathematica Policy Research

Len M. Nichols
Director
Center for Health Policy Research and Ethics
George Mason University

Ted Agres
Senior Editor for Special Content
Health Affairs

Susan Dentzer
Editor-in-Chief
Health Affairs

Health Policy Briefs are produced under a partnership of *Health Affairs* and the Robert Wood Johnson Foundation.

Cite as:
"Health Policy Brief: Pre-Existing Condition Insurance Plan," *Health Affairs*, Updated June 13, 2011.

Sign up for free policy briefs at:
www.healthaffairs.org/healthpolicybriefs