

BY JOHN CARROLL

Efforts To Kill Coverage Mandates Run Up Against Powerful Forces

When the Florida Legislature gathered this year, it took up matching Senate and House bills that set out to roll back 52 state mandates on what health plans were required to offer their small-company members.

The bills' backers had some powerful support. The Florida Chamber Federation trumpeted its position by releasing a new study that showed small businesses dropping health insurance in record numbers. Health plans such as Blue Cross and Blue Shield of Florida rolled up their sleeves for the tussle as well.

Their theme: Something had to be done, and a new law that would allow health plans to offer a bare-bones policy to small employers — dropping expensive coverage mandates while adding a more flexible approach to copayments and deductibles — was presented as a logical step. Basic health care without the mandates, the chamber maintained, beats nothing at all.

In the end, though, it was the chamber and its legislative confederates that got beat. By the time legislators finished with the bill, mandates were back in. Only flexible copayments and deductibles survived.

“They basically gutted the heck out of the bill,” says Leslie Dughi, a lobbyist for the chamber. “Nobody had any trouble with a copayment of a couple of thousand dollars, but when they wanted to play with mandates — which, to me, seem less innocuous — everyone got upset.” In particular, Dughi fingered physician groups for the defeat.

State coverage mandates were a popular feature on legislative agendas throughout the '90s. Legislatures, often responding to a deep-seated public distrust of managed care plans, were agreeable to pushing through laws requiring plans to cover various treatments and procedures. But when the economy soured last year and premiums shot up at a double-digit pace, a few legislators began launching bills in the hopes of rolling back mandates — at least for

small companies that feel the most pain from big rate hikes.

Two states, Arkansas and North Dakota, passed no-frills insurance legislation last year, says Don Young, MD, president of the Health Insurance Association of America. Other legislators have been raising the issue as well.

“Consequences to mandates”

“They just went ahead, mandating all these things without any regard for the costs to workers and employers,” says Young. “Now they are seeing there are consequences to mandates.” One study from the U.S. General Accounting Office shows mandates adding from 5.4 percent to health care costs in Arkansas to 22 percent in mandate-rich Maryland.

Add those higher costs to businesses' leaner, meaner bottom line dictated by a weak economy, and you have a recipe for brewing up a mandate backlash.

“The state of the economy definitely intersects with this issue,” says Richard Cauchi, senior policy analyst at the National Conference of State Legislatures. But the most visible response to actually gain ground around the country, he says, has been the rise of new initiatives that require states to analyze the financial impact of any mandate carefully before it's added to the books.

“Some see it as a compromise, a way to put the brakes on,” says Cauchi, “but not a prohibition.”

Texas, New Jersey, and five other states added the review requirement last year, says Cauchi, who can point to a similar spike in fiscal review

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policies during the late '80s, when health care costs were spiraling out of control in a sour economy.

"It's too early to say if this revival will be widespread or limited experiments," says Cauchi about the drive to de-mandate. One method gaining favor in some states, including Indiana, has legislators trying to come up with a policy consensus about mandates that would protect patients but still leave plans able to provide more affordable coverage.

Fresh from being overwhelmed by a legislative counterpunch, Dughi sees the opposition responding to a simple pocketbook issue: "Doctors see this as taking money out of their pockets."

Bare-bones coverage seems to be a turnoff for doctors and consumers.

Young, though, points to some powerful support from legislators who, after watching a friend or family member fight an uninsured illness, went on to sponsor a coverage mandate. Mandates for mammograms touch on sensitive women's health issues that are often considered political suicide to oppose. There's plenty of legislative muscle behind proposed new coverage requirements in many states this year.

For instance, Maryland — one of the first states in the country to require insurers to cover expensive in-vitro fertilization procedures — is looking at expanding the mandate to cover couples who want to use donated sperm when the husband's sperm count is low. The Maryland General Assembly loosened restrictions on its in-vitro mandate in 2000, when it cut the time couples had to show they were trying for a pregnancy from five years to two.

Barking up wrong tree

There's a big problem facing bare-bones initiatives — consumers just don't want them, according to Barbara Yondorf of Yondorf & Associates. "They're just not interested."

Two years ago, Yondorf published a study of bare-bones policies, finding that most workers considered them a "bad deal." Most of the small employers surveyed didn't think much of them either. And there was more — notably, exemption from mandates didn't translate into big savings; most reflected about a 10-percent cost decrease, compared with other plans that included the mandates.

Reluctant employers

Mandates were increasingly focused on sensitive women's health issues, such as mammograms, pap smears, and complications due to pregnancy, that employers were reluctant to interfere with. And the Health Insurance Portability and Accountability Act pre-empts state laws that may attempt to trim certain federal mandates such as maternity care.

Some bare-bones initiatives also have been hobbled by a cap on maximum benefits, says Young. Consumers don't want any kind of no-frills approach if it leaves them vulnerable to the costs of a catastrophic illness.

If they have to choose between a benefit cap of, say, \$25,000 and a mandated policy, they'll go with mandates. The key, Young says, is providing health plans with the flexibility to customize the best coverage for a company — without the caps.

Proponents, though, counter by saying that no matter how sensitive certain types of coverage may be, the issue here is whether companies opt out altogether. Dughi points to research that she maintains will support the argument that a bare-bones policy will save 20 percent. And with most analysts pointing to years of double-digit inflation ahead, this is one issue that refuses to go away.

"If I have anything to do with it, we will file this again," says Dughi, who already has received commitments from the bill's two sponsors to try again next year. "You've got to give employers and carriers the chance to work together. Everybody, in the best of all worlds, wants a Cadillac — but in reality a lot of people aren't getting a thing." **MC**