



Every Child Is Eligible for Coverage: An End to Coverage Denials for Pre-Existing Conditions



The days when insurers are able to discriminate against the sickest children are history. Because of recent changes to state and federal health care laws, as of September 23, 2010, insurers are no longer allowed to deny health coverage to children because of a pre-existing condition. This important new protection for children creates a fairer insurance market and sets the stage for private market reform in 2014.

Coverage Denials for Pre-Existing Conditions Contribute to Uninsurance

When an individual applies for health coverage, insurers review the applicant's medical history in a process called "medical underwriting" to determine whether or not to offer that person coverage. Insurers can also use the information found in the underwriting process to determine the amount of the premium or deductible (which can vary based on age, health status, etc.). California law already prohibits insurers from excluding care for pre-existing conditions, such as diabetes or an injury, for more than twelve months.

A recent Congressional investigation found that the four largest for-profit health insurance companies refused coverage to over 650,000 Americans from 2007 to 2009 because of a pre-existing condition (about one in every seven applicants), and "routinely denied health insurance coverage for individuals under the age of 30."¹ An estimated 1.1 million Californians under age 25 have been diagnosed with a pre-existing medical condition for which they could be denied coverage.² In fact, because of pre-existing conditions, 600,000 to one million Californians are considered "high-risk" and identified as "uninsurable".³ For these individuals, insurance programs like the state Managed Risk Medical Insurance Program (MRMIP) and the new federal Pre-Existing Condition Insurance Plan (PCIP) offer some much needed, but limited, relief.⁴

Pre-Existing Condition Coverage Denials for Children: A Thing of the Past

Pre-existing condition coverage denials are truly a thing of the past for children in California – **Assembly Bill 2244** (Feuer) goes into effect on January 1, 2011 and will achieve four things:

- 1) Conforms state law to the new federal requirement under the Patient Protection and Affordable Care Act (ACA), that prohibits insurers from denying coverage to any children due to a pre-existing condition.**⁵ Under the ACA, beginning in 2014, insurers will be prohibited from denying coverage to individuals of *any* age due to a pre-existing condition.
- 2) Limits the amount of premiums that insurers can charge for children's coverage.** Specifically, children with pre-existing conditions cannot be charged more than twice what other children are charged for the same coverage, when they sign up during an annual open enrollment period. This means that a child with asthma, diabetes, or a heart condition cannot be charged more than double the premium that a healthier child pays for the same coverage.⁶ The ACA prohibits insurers from charging different premiums to anyone based on a pre-existing condition beginning in 2014.
- 3) Creates "open enrollment" periods for families to purchase coverage for children.** Families can purchase coverage in the individual market during the initial 60-day open enrollment period beginning on January 1, 2011; during the month of the child's birthday; and after certain "trigger events" involving the loss of other coverage, such as a parent losing dependent coverage or the loss of Healthy Families eligibility. Children with pre-existing conditions who enroll outside open enrollment can be charged premiums significantly more than twice as much as the premiums for healthy kids.
- 4) Bars any insurers that decide not to sell insurance coverage for children from selling any new plans in the individual insurance market for five years.** Considering that the California Health Benefit Exchange will begin to cover millions of Californians in 2014, this is a lucrative market that insurers may not want to miss out on. In the meantime, to assuage concerns over adverse selection and uneven market risk, AB 2244 allows plans to assess a 20 percent premium surcharge on families who fail to keep their children continuously enrolled in coverage in order to ensure that children are not enrolled only when they get sick.

In addition, one legislative analysis found that there were unknown, but potentially significant, state General Fund savings of tens of millions of dollars from reduced enrollment in public coverage programs if families are able to obtain private coverage for children who are now denied.⁷

Preserving Children's Coverage Options

In reaction to the federal ACA requirement that prohibits pre-existing condition denials for children, some insurers announced they would halt sales of child-only health insurance plans in California and nearly 30 other states.⁸ Because these insurers don't want to sell plans to cover sick children and those with the highest needs, they decided to stop selling new child-only plans for *any* kids! Most insurers in California still insure children in the individual market when covered as a dependent, however the requirements of AB 2244 apply to both child-only policies and children's dependent coverage that is part of a family plan.

Child-only private insurance plans are an important source of coverage for as many as 100,000 children in California.⁹ This coverage option is critical for the parents who seek child-only policies because they cannot afford coverage for the whole family or they work for employers that do not offer coverage of dependents, but they understand the importance of health coverage for their children.

The U.S. Department of Health and Human Services has reacted strongly to attempts by insurers to exclude coverage for children with pre-existing conditions and accused insurers of "renegeing" on a previous position to "make pre-existing condition exclusions a thing of the past."¹⁰ They have also outlined a number of tools, like open enrollment periods, available to address insurer concerns about adverse market risk.¹¹

Now, the California Department of Insurance (CDI) and Department of Managed Health Care (DMHC) need to work together to hold insurers accountable. It is also critical that parents are made aware of the importance of obtaining coverage for their children during the open enrollment period, and the consequences of failing to do so (higher premiums) or failing to ensure that their child is continuously covered (surcharge). CDI, DMHC, community-based organizations, health care providers, insurance brokers, schools, child care providers, and others can help educate families about the new insurance rules to make sure that all California children have health coverage.

¹ From page 5-6 of a memo to the Committee on Energy and Commerce regarding "Coverage Denials for Pre-existing Conditions in the Individual Insurance Market," (October 12, 2010), energycommerce.house.gov/Press_111/20101012/Memo.Pre-existing.Condition.Denials.Individual.Market.2010.10.12.pdf.

² C. Sebastian, et al., "Help for Californians with Pre-Existing Conditions," FamiliesUSA, (May 2010), www.familiesusa.org/assets/pdfs/health-reform/pre-existing-conditions/california.pdf.

³ Harbage Consulting, "Unavailable at Any Price: Why Many Californians Can't Buy Health Insurance at Any Price and the Urgent Need to Reform California's High Risk Pool," AARP (August 12, 2008), www.mrmib.ca.gov/MRMI/Unavailable_at_Any_Price_MRMI_Report-AARP.pdf.

⁴ For more about MRMIP and PCIP for individuals who have been denied coverage, see www.pcip.ca.gov/PCIP_Program/PCIP_MRMI_Comparison.aspx.

⁵ Under the ACA, this provision was supposed to take effect on September 23, 2010, however, the legislation to implement it in California, AB 2244, was not signed by the Governor until September 30, 2010 and does not go into effect until January 1, 2011; for more about the ACA, visit www.healthcare.gov.

⁶ Outside of the defined annual open enrollment period (i.e., the birth month of the child), insurers cannot deny coverage of a child (called "guarantee issue"), but they can charge a much higher premium. Premium rates for children's coverage, however, must be actuarially sound and will be subject to rate review provisions per SB 1163 beginning on January 1, 2011.

⁷ Assembly Appropriations Committee analysis of AB 2244 (May 19, 2010), leginfo.ca.gov/pub/09-10/bill/asm/ab_2201-2250/ab_2244_cfa_20100518_162542_asm_comm.html.

⁸ See *California HealthLine*, "Insurers Announce Plans To Stop Writing Policies for Child-Only Coverage," (September 21, 2010), www.californiahealthline.org/articles/2010/9/21/insurers-announce-plans-to-stop-writing-policies-for-childonly-coverage.aspx#ixzz12MacayhL; and Jim Sloan, "Major health insurance companies stop selling child-only policies," *Insure.com* (September 30, 2010), www.insure.com/articles/healthinsurance/health-care-reform/child-only-health-insurance-policies.html.

⁹ Based on California Health Interview Survey data as cited in letters from House Energy & Commerce Committee California Members Waxman, Capps, Matsui, Eshoo, & Harman to Aetna and Anthem Blue Cross executives (September 30, 2010), available at energycommerce.house.gov/documents/20100930/Kehaly.AnthemBlueCrossCA.2010.9.30.pdf and energycommerce.house.gov/documents/20100930/Andersen.AetnaHealthCA.2010.9.30.pdf.

¹⁰ See "Secretary Sebelius leads efforts to improve access to coverage for children with pre-existing conditions, urges states to take action," (October 13, 2010), www.hhs.gov/news/press/2010pres/10/20101013a.html; and "Sebelius Letter to America's Health Insurance Plans on Coverage for Children with Pre-Existing Conditions," (March 29, 2010), www.healthreform.gov/newsroom/children_preexisting.html.

¹¹ See "Questions and Answers on Enrollment of Children Under 19 Under the New Policy That Prohibits Pre-Existing Condition Exclusions," (Updated: October 13, 2010), www.hhs.gov/ocio/regulations/children19/factsheet.html.

Health Access California is a statewide coalition of consumer, labor, ethnic, senior, faith, and other organizations, dedicated to achieving quality, affordable health care for all Californians for over 20 years. Please visit www.health-access.org.

The 100% Campaign is a collaborative effort of **The Children's Partnership, Children Now and Children's Defense Fund California**. For more information, please visit www.100percentcampaign.org or contact Michael Odeh at modeh@childrennow.org or 510-763-2444.