

## **Beyond Guaranteed Issue: Many Consumer Protections Needed In the California Individual Market**

Today in California, consumers trying to buy coverage on the “individual market” face major barriers, of availability, affordability, and administrative hassle. It is the least efficient, most expensive way to get coverage.

Yet Governor Arnold Schwarzenegger’s health reform proposal includes an “individual mandate,” requiring even those without employer-based or public program coverage to buy coverage as an individual.

The Governor’s proposal acknowledges that such a mandate to buy coverage in the individual market could not be implemented in the current California market. Most notably, insurers are currently allowed to deny coverage to consumers because of “pre-existing conditions.”

To address this issue, the Governor proposes “guaranteed issue,” to require insurers to provide coverage to all, and other changes. However, he does not propose the full range of consumer protections to make an individual mandate workable, much less fair. The only state in the nation to pass an individual mandate, Massachusetts, already had stronger-than-California consumer protections in place for over a decade before their reform law in 2006, and was compelled to add additional affordability and consumer protections along with the “individual mandate.”

Unlike those in group coverage, that have the benefit of employers or public programs negotiating for the best deal, individuals have little market power against big insurance companies. Mandates to buy in the individual market take away the one bit of leverage that individuals do have: the ability to say “no.” Any attempt to remove that ability needs to be coupled with a strong, robust oversight and enforcement on the insurance industry.

The need for these consumer protections are even more acute in California than in Massachusetts. Massachusetts has a much greater percentage of people in group coverage, especially employer-based coverage. This means relatively fewer people have to deal with the individual market in the first place.

In the absence of having an employer or public program using its bulk purchasing power, Californians need consumer protections. Below are several protections sought by consumer advocates generally, and ones that are essential if individuals are forced to buy in the individual market.

<b>Consumer Protection</b>	<b>California Governor's Proposal</b>	<b>Massachusetts After 2006 Reform</b>
<b>"Guaranteed Issue":</b> Access to coverage guaranteed; Insurers not allowed to deny coverage.	Yes. Governor's proposal includes "guaranteed issue." Not in place now.	Yes. "Guaranteed issue" was in place before reform, without an individual mandate.
<b>"Community Rating" for Health Status:</b> People are not charged more because of health status	Yes. Governor's proposal includes "community rating" for health status. Not in place now.	Yes. "Community rating" was in place before reform, preventing difference rates based on health status.
<b>"Community Rating" for Age</b> or other proxies for health status.	No. Governor's proposal does not prevent rate discrimination based on age, gender, or geography.	Yes. Was in place before reform. No difference based on gender. No more than a 2:1 difference on age, between the oldest and youngest.
<b>Minimum Benefits:</b> Coverage should be comprehensive, especially for preventative and chronic care.	California has some mandated minimum benefits, but major ones lacking. No minimum benefit mandate on prescription drugs, maternity coverage, or different types of preventative care.	Yes. Maternity, prescription drugs, and other preventative services are either already mandated or part of minimum.
<b>Affordability: A Standard for Both Premiums and Out-of-Pocket Costs:</b>  Combination of premium, deductible, and out-of-pocket costs should not be more than 5% of income, and less for low incomes under 300% of the federal poverty level.  Deductibles and overall out-of-pocket cost exposure should be capped.	In Governor's plan:  * For those above 100% FPL but under 250%, subsidized coverage costing 3%-6% of income, would include cost sharing, including \$500 deductibles and \$3,000 out-of-pocket cost maximum.  * For those over 250% FPL, <i>no limits</i> on premiums; only limits on cost sharing are a \$5,000 deductible, and a \$10,000 out-of-pocket cost maximum.	On premiums (for individuals): 0-150% FPL: No premium 150-200% FPL: \$35/mo 200-250% FPL: \$70/mo 250-300% FPL: \$105/mo \$30,000-35,000: \$150/mo \$35,001-40,000: \$200/mo \$40,001-50,000: \$300/mo Over \$50,000—no premium limit  For those under 300%, there is no deductible.
<b>Affordability Exemption from Mandate</b>	None in the Governor's proposal.	Yes. Affordability scale: \$0 up to 150%. \$35-105 up to 300% Up to 500% FPL, no more than 7.2% of income for premiums of a minimum credible coverage. Affordability standard does not take into account cost sharing

<b>Special Circumstance Exemption from Mandate</b>	None in the Governor's proposal.	Yes, a "hardship exemption," at least for now. Beyond affordability scale, individuals can make case for exemption based on high housing, child care, education or other costs, life events, or other issues.
<b>Tax Savings:</b> Employees' ability to pay premium (or share-of-premium) using pre-tax dollars, to improve affordability regardless of income	Yes. Included in the Governor's plan to be offered by all employers.	Yes. Section 125 plan required for employers of 10 or over.
<b>Standardized Benefits and Comparable Options:</b> Coverage options are comprehensible and easy to compare, through actuarially equivalent tiers, and standardized benefits.	Not included.	Yes. MA "Connector" organizes the market for individuals into 3 "tiers" of coverage, based on benefits and cost sharing.
<b>Ease of Signing Up:</b>	In Governor's plan, pool option only available for high-deductible plans for those above 250%.	Yes. Function of the MA Connector through its website and funding of outreach and enrollment services.
<b>Group Purchasing Option:</b> A robust "Connector" to negotiate on behalf of those in the unsubsidized individual market.	Not included.	Not included. The MA Connector negotiates and authorizes plans to be included in subsidized coverage, but not for those over 300% of the federal poverty level.
<b>Rate Oversight:</b> Insurers should justify rate increases above a certain percentage.	Not included.	Not included.

*For more information, contact Health Access, at 1127 11<sup>th</sup> Street, Suite 234, Sacramento, CA 95814. 916-497-0923. More information on the health reform is on our website, at <http://www.health-access.org>, and on our blog, updated daily.*