

House Bill 10-1008 Pro/Con Analysis

For the Health District of Northern Larimer County Board of Directors

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| Bill Title: | Concerning a prohibition against consideration of gender in setting rates for individual health insurance policies |
| Issue Summary: | Disallows the use of gender as a factor in setting health insurance rates for individuals who purchase their health insurance through the individual market |
| Date of Analysis: | February 3, 2010 |
| Bill History: | 01/13/2010 Introduced In House - Assigned to Health and Human Services |
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BILL SUMMARY

House Bill 10-1008 disqualifies gender as a factor in rating health insurance premiums in the individual health insurance market.

Background

In the individual health insurance market in Colorado, insurance carriers use gender as a factor in setting premiums for insurance (gender rating). Across the country in states where gender rating is allowed and in Colorado, women are typically charged more than their equally situated male counterparts for the same coverage. In Colorado, gender rating has been prohibited in the small group market, meaning that insurance plans for organizations with 50 or fewer employees can not use gender as a factor in setting premiums for the group. House Bill 1008 would prohibit insurance carriers from considering gender when establishing insurance rates for individual plans.

Most people with private health insurance (not Medicaid or Medicare) receive their coverage through their employers. There are many people, however, who must purchase health insurance on their own. In Colorado, it is estimated that in 2007 around 130,000 women purchased their insurance through the individual market.¹ Most of these women paid anywhere from 10% to 60% more for their insurance than men who were similar in age and health status.² In a recent internet search, health insurance quotes for a single, non-smoking, 30 year old woman were as much as \$550 per year higher than for a single, non-smoking, 30 year old man. Quotes for the non-smoking woman, in fact, were consistently higher—up to 50% higher—than for a man who uses tobacco.³

Insurance carriers and underwriters support the use of gender rating in the individual market, noting the difference in claims histories as the reason for higher premiums for women. Insurers say that between the ages of 19 and 55, women tend to visit the doctor more often and produce more health insurance claims than men.⁴ This discrepancy levels out around age 55, with men producing higher claims later in life. Individual insurance premiums reflect this, as men above age 55 are often charged more for their health insurance than women, while women under age 55 typically pay more than men.⁵ If gender rating were not allowed, insurance executives assert that average prices in the individual market would rise. Though currently 11 states ban gender rating, there is insufficient evidence to prove or disprove the claim; and a recent review from the National Conference of State Legislatures was unable to determine if a ban on gender ratings affected premiums in those states.⁶

¹ *Colorado: Health Insurance Coverage of Women 19-64, States (2006-7), U.S. (2007), 2008*, Kaiser Family Foundation.

² Testimony of Lisa Codispoti, Senior Council, National Women's Law Center. Colorado Health Care Task Force. August 10, 2009.

³ Internet search conducted on February 1, 2010: <http://www.ehealthinsurance.com/ehi/individual-health-insurance.fs>

⁴ "Women buying health policies pay a penalty," Robert Pear, *New York Times*, 10/28/08.

⁵ Nowhere to Turn: How the Individual Health Insurance Market Fails Women. Presentation by Lisa Codispoti, Senior Council, National Women's Law Center. Colorado Health Care Task Force. August 10, 2009.

⁶ Brown, J. (2009). Women pay up to 50% more for health insurance premiums. *The Denver Post*, October 25, 2009.

Recent History with Health Insurance Rating

Over the past 16 years, the Colorado General Assembly has enacted a string of legislation that has affected premium rating in the small group market. In 1993, the General Assembly allowed sole proprietors to enter the small group market (as Business Groups of One), guaranteeing them access to certain benefit packages, and imposed modified community rating, which began in January, 1998. Under the modified community rating, premiums for benefit packages could vary from a standardized rate only by age, family composition, geographic area and the specific plan design selected. In 2003, in response to an erosion of coverage in the small group market, the General Assembly passed a bill to provide some rating flexibility, allowing insurers to include certain case characteristics to establish a group's premium rate including: 1) smoking status, 2) claims experience, 3) standard industrial classification, and 4) health status. After September, 2004, carriers were allowed to vary group premiums from the modified community rating between an increase of up to 10% and a decrease of up to 25%. In 2007, the General Assembly made it illegal to use either claims history or health status as a rating factor in the small group market.

WHY IS THIS ISSUE IMPORTANT?

The Board of Directors of the Health District has strongly opposed insurance rating based on health and claims experience in the past. Much of the current discussion surrounding health care reform, today, centers on the availability of adequate, affordable health insurance for all citizens. Wide discrepancies in insurance premiums could make coverage unaffordable for women, forcing them to go without insurance. The Health District has long advocated on behalf of coverage of the uninsured because of the health implications of going without insurance. According to the Institute of Medicine (IOM) 2002 report, "Care Without Coverage," uninsured patients with chronic conditions like diabetes or heart disease are less likely to have regular check-ups or get medications to control their disease.⁷ The report also found that uninsured patients with breast, cervical, colorectal and prostate cancer or melanoma are more likely to die prematurely because of delayed diagnosis.

REASONS TO SUPPORT BILL:

- Supporters favor the bill as a move closer to community rating in the individual market. The argument in favor of community or modified community rating is that it's inherently more fair because risk is spread throughout the risk pool and people are not penalized or denied coverage for having a history of illness or pre-existing condition. This bill is an incremental approach to achieving the goal of community rating that would protect women from insurance premiums that are increasingly unaffordable.
- Women's advocacy groups have argued that the wide discrepancies in premiums between men and women cannot be justified by actuarial principles.⁸ A 2009 report by the National Women's Law Center (NWLC) found that in Colorado, premiums for men and women can vary by as much as 50-60%. Supporters argue this bill is a necessary consumer protection measure to prevent insurers from capriciously charging higher premiums to women.
- By removing gender as a rating factor in the individual market, HB 1008 more closely aligns the individual with the small group market, making the purchase of health insurance in Colorado a more comparable undertaking for all Colorado residents

REASONS TO OPPOSE BILL:

- Opponents of the bill argue that gender rating is fair. Women age 19-55 are higher utilizers of healthcare and their claims cost more, even when excluding maternity care. If Colorado eliminates gender rating, premiums might go down for some women but rise for men. If healthy men then dropped out of the market due to rising premiums, it would create instability in the market and, eventually, increase prices for everyone.

⁷ Institute of Medicine, Care Without Coverage, Too Little, Too Late, May 2002

⁸ "[Women buying health policies pay a penalty](#)," Robert Pear, *New York Times*, 10/28/08.

- Opponents could argue that while women do pay more than men for insurance at younger ages, they can benefit from the consideration of gender as they age. The use of gender in rating could balance out over the long-term for both men and women.
- Opponents of the bill might argue that rather than simply prohibit gender rating, the Legislature could require insurance companies to prove the rate differences are actuarially justified. This would be a solution that's fairer for everyone.
- Opponents argue that moving closer to community rating in the individual market is a mistake. Pure community rating in either the small or non-group market when not combined with mandates or incentives to bring everyone into the risk pool will likely result in an adverse-selection death spiral. Knowing that they could purchase coverage at any time, younger, healthier people who are less expensive to cover may not do so in sufficient numbers to balance insurance pools. When this happens, premiums reflect the higher average costs of older and less healthy people, and people with low- or moderate-incomes are not be able to afford coverage. That said, eliminating only the consideration of gender is likely to have a much smaller impact on the market than a move to pure community rating.

About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. Analyses are based on bills or issues at the time of their consideration by the Board and are accurate to the best of staff knowledge. It is suggested that people check to see that a bill has not changed during the course of a legislative session by visiting the Colorado General Assembly web page at www.state.co.us/gov_dir/stateleg.html. To see whether the Health District Board of Directors took a position on this or other policy issues, please visit www.healthdistrict.org/policy.

About the Health District

The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this analysis or the Health District, please contact Carrie Cortiglio, Policy Coordinator, at (970) 224-5209, or e-mail at ccortiglio@healthdistrict.org