State-Mandated Benefits in Massachusetts

What are state mandated benefits?

State-mandated benefits are specific services, treatments, supplies, and practitioners that employers and health plans are required to cover under Massachusetts law. Today, Massachusetts health plans and employers provide coverage of 45 specific state-mandated benefits. According to Massachusetts General Law Chapter 3 §38C, the Massachusetts Center for Health Information and Analysis (CHIA) is required to issue a comprehensive report at least once every four years on the cost and public health impact of all existing mandated health insurance benefits. The report concluded that existing state mandated benefits accounted for approximately $2.47 billion in premiums in 2018, representing 17.3% of every premium dollar.

2023-2024 Legislative Session:

This legislative session, approximately 131 bills have been filed to mandate coverage of certain health care services or treatments, often also seeking to eliminate health plans' ability to manage costs, safety, or efficacy of the mandated benefit. 56 of the proposed bills mandating coverage of services attempt to eliminate consumer cost-sharing, which will have the unintended consequence of significantly raising health care premiums, including:

- Mandated coverage and elimination of cost sharing for perinatal, childbirth, and postpartum services, estimated to increase premiums for individuals and small businesses by over $238 million over a period of 5 years according to a 2021 CHIA mandated benefit review. (House Bill 1137 Sabadosa/ Senate Bill 646 Friedman)
- Mandated coverage of human donor milk, estimated to increase premiums for individuals and small businesses by over $735 million over a period of 5 years according to a 2022 CHIA mandated benefit review. (House Bill 1030/ Senate Bill 696 Gregoire/O'Connor)
- Mandated coverage of hearing aids and related services, estimated to increase premiums for individuals and small businesses by more than $255 million over a period of 5 years according to a 2021 CHIA mandated benefit review. (House Bill 1024 Giannino)
- Mandated coverage of acupuncture for a broad array of conditions, estimated to increase premiums for individuals and small businesses by over $97 million over a period of five years according to a 2015 CHIA mandated benefit review. (House Bill 1120 Pignatelli/ Senate Bill 722 Velis)

Talking Points:

- State-mandated benefits increase costs and disproportionately impact small businesses and consumers by increasing the cost of health insurance coverage.
- The scope of state-mandated benefit bills pertains to fully-insured policies only, specifically individuals who purchase coverage on their own or receive it through a small or medium-sized business. Large companies typically "self-insure," providing employee health benefits by directly paying health care claims to providers and are governed by the Federal Employee Retirement Income Security Act (ERISA). Due to preemption of ERISA, self-insured plans are not required to provide state mandated benefits. CHIA's *2023 Annual Report on the Performance of the Massachusetts Health Care System* found that 59% of commercially insured residents were enrolled in a self-insured plan in 2021. As more employers self-insure, state laws mandating specific types of benefits and services impact an increasingly smaller portion of the privately insured marketplace. Employers that do not or cannot self-insure, typically small businesses, would be compelled to include benefits they may not desire. Thus, the addition of new mandates will encourage more employers to self-insure and avoid benefits required by the state. As a result, the cost of these mandates will be borne by the small businesses remaining in the state's fully insured market.
- Health insurance premiums, cost sharing, and medical costs are inextricably linked. The major contributing factor to the increases in premiums that consumers and businesses bear has been the rising cost of medical services charged by providers.

- Various types of cost containment and cost-sharing mechanisms, including tiered and select networks, deductibles partnered with health savings accounts, and varying copayments, coinsurance, and other forms of cost-sharing are essential to help control health care costs and keep monthly premiums at a minimum. Restricting or limiting benefits that may be subject to cost-sharing would eliminate the ability for employers and consumers to select health plans with these features, increasing monthly premiums for all consumers and putting an additional financial strain on small businesses and working families.
- Consumer protections already exist to insulate insured members from cost sharing liability. Both the Minimum Creditable Coverage (MCC) requirements established by the Health Connector and the Essential Health Benefit (EHB) requirements under the federal Affordable Care Act (ACA) establish regulatory limitations on a member's exposure to out-of-pocket expenses. The ACA is very prescriptive in defining the total maximum copayments, coinsurance, and deductibles that an individual will be responsible for in a given year, and strictly limits cost-sharing to reduce the member's financial burden. Each enrollee's out-of-pocket costs for health care, including all member spending for prescription drugs, may not exceed a certain dollar amount every year.
- Additionally, under the ACA, health plans in Massachusetts are required to provide coverage for a broad range of preventive services and plans may not impose cost-sharing, such as copayments, deductibles, or co-insurance, on patients receiving preventive care services.
- The elimination of cost sharing will increase premiums. In compliance with the ACA, all health insurance products offered to individuals and small businesses must fit into narrow actuarial value ranges, meaning that the ratio of consumer costs to insurer costs is heavily regulated. The amount of out-of-pocket expenses a member may be subjected to depends on the metallic tier into which the particular member's health plan falls. For example, a member who enrolls in a Platinum product will pay more each month in monthly premiums but will spend less out-of-pocket each time they receive health care services. As a result, even minor reductions to copayments or coinsurance for a medical or prescription drug benefits make a product's benefits to the member richer, increasing the plan's actuarial value and bringing it into a higher metallic tier, ultimately raising the premium cost for the consumer.