

Mandated Benefits, Good Or Bad? At N.Y. Hearing, Reviews Are Mixed

By **MARGO D. BELLER**

Are mandatory health care benefits hazardous to the health of New York's insurance and business communities? According to these interests, being forced to offer such coverages as outpatient treatment of alcoholism or substance abuse, mammography screening, home health care or maternity care coverage could drive industry to sell insurance, increase the number of uninsured workers and deprive the state of needed income from the businesses that would be forced to close because of the prohibitive cost of providing insurance.

Then there is the scenario voiced by medical and other health care-related interests: without mandated care, large numbers of people who need health care coverage would not be able to afford it; an expansion of mandated benefits is needed.

Both sides voiced their views on October 25 when the Senate Democratic Task Force on Health Insurance chaired by Sen. Martin M. Solomon held a public hearing in New York City.

"State mandated benefits are a predictable strategy for a society whose fondness for public services far exceeds its willingness to pay for them," stated Jon R. Gabel, associate director of Policy Development and Research with the Washington, D.C.-based Health Insurance Association of America. "One appealing facet of employer-mandated benefits is that they seemingly extend the protection of society's safety net without raising taxes.

"In reality, however, mandated benefits constitute a tax on employer-sponsored health insurance — pricing out of the insurance market many of the most vulnerable members of the workforce."

COST WILL INCREASE

"The cost for the mandate will continue to increase every year, adding to the financial burden on employers and employees. Costs will increase not only because of the spiraling increases in health care costs in general, but also because health insurance coverage will increase demand," argued Edward Reinfurt, vice president of the Business Council of New York State.

"Small employers often cannot afford to self-insure. The only option for a small employer faced with spiraling increases in health care costs, exacerbated by mandated benefits, is to eliminate employee health insurance entirely," warned Christopher Booth of Hinman, Straub, Pigors & Manning, legislative counsel for the New York State Conference of Blue Cross and Blue Shield Plans.

Sitting in the middle is the state's Insurance Department. Outlining the department's position was Mary A. Griffin, executive assistant to Superintendent James Corcoran. All legislation that would mandate benefits or services of additional providers would be opposed by the department "unless there was a potential for cost savings or that the mandate involves

an overriding public policy of the state."

However, she continued, the department will support legislation that would require health insurers to "make available" certain benefits with the choice of adding the benefit left to the policyholder.

As for the cost of mandates, according to Griffin, it has been the practice of the Insurance Department to "estimate the cost of a particular mandate at the time it is proposed." But it is "often difficult to provide an exact estimate of cost" because often insurers are "providing the proposed mandated benefit on a voluntary basis when such a benefit is being considered for enactment as a mandate."

When the department has attempted to get actuarial information from insurers in these cases, "we are advised that such information is not available because the benefit is not separately priced and the experience is not separately recorded," she said. "The reasons given by insurers for not giving individual attention to the experience and rating of these mandated benefits is that they have minimal effect on the total premium and cannot be easily broken out of the total rate."

FORCED TO ESTIMATE

Thus, she said, the department is forced to estimate the cost as a percentage of the typical premium for a comprehensive health insurance policy. For example, she noted, in the case of alcoholism and substance abuse the department concluded that "under a typical group major medical policy, the percentage of total premium that would be attributable to a total package of inpatient and outpatient alcoholism and substance abuse benefits would be 2 percent of the comprehensive premium with approximately 1.6 percent for inpatient coverage and .4 percent for outpatient coverage."

Mandated coverage for alcoholism and substance abuse was the primary thrust of Susan Jacobs, an attorney with the Legal Action Center of New York. Calling alcoholism and drug addiction "among the most significant public health problems facing the State of New York," Jacobs pointed out that "large numbers of people with alcohol and drug problems are not in treatment because they cannot afford it. Indeed, many group health insurance policies do not allow someone in desperate need of treatment to obtain reimbursement for that necessary medical care and there is no requirement that they do so.

"When New York State mandated outpatient coverage for addiction treatment in 1983 and 1988, insurers were only required to make available inpatient coverage. It is clear from the seriousness of the addiction problems that we have in this state that...available coverage is not good enough."

Jacobs disagreed with the contention of the insurance industry, as typified by the position of Peter J. Flanagan, president of the Life Insurance Council of New York (LICONY), that mandated benefits interfere with the insurer

and policyholder's ability to design health benefits to meet the "specific needs" of the policyholder (particularly for multi-state or national employers), interfere with the collective bargaining process between employers and their unions, increase the difficulty employers have in meeting increases in premiums, encourage large and medium-sized employers to become self-insured (self-insured companies are not required to offer the mandated coverages) and encourage businesses to leave the state in an effort to contain their labor costs.

Rather, asserted Jacobs, mandated coverage for in-patient treatment could actually save the insurance industry money. "Studies show that insurance companies are already paying high costs for alcoholism and substance abuse by covering the complications and consequences of the addiction rather than treating the primary illness," she pointed out.

As an example, she quoted from a study conducted by Blue Cross/Blue Shield of California of enrolled state employees, 1973-79, showing that prior to entering treatment, "monthly medical bills for alcoholics and their families averaged \$135; the average medical costs for non-alcoholics and their families were \$20 per month. Five years later, the monthly medical costs for families in which the alcoholic had completed treatment had dropped to \$22 while inflation had brought the non-alcoholic families' medical expenses to \$50 per month."

CLAIMS DOUBTED

She scoffed at insurer claims that mandated benefits to cover alcoholism and drug dependency treatment services would increase costs and premiums to the realm of unaffordability or force more companies into self-insurance, thus resulting in a loss of quality and comprehensive health insurance for many subscribers.

As to this latter concern, she quoted a 1983 study by the American Psychiatric Association which indicated that 95 percent of self-insured companies surveyed voluntarily include coverage for alcoholism and drug abuse treatment services. This finding, she claimed, "indicates that the movement toward self-insurance is in no way related to legislative mandates for alcoholism and drug treatment benefits."

She concluded that the Insurance Law in New York "was amended to require outpatient coverage for those suffering from alcoholism in 1983, and amended again in 1987 to require outpatient coverage for substance abusers. Now is the time to make inpatient care available to all New Yorkers who need it."

The New York State Council of Blue Cross and Blue Shield Plans countered with a study of its own. Claiming that mandated benefits cost the Blues more than \$1.5 billion annually, with almost 20 percent of the premiums charged to employers to pay the cost of mandated benefits, Christopher Booth cited the example of Massachusetts and its experience with

mandated benefits.

According to Booth, there has been a \$500 minimum mandate for mental health and alcoholism benefits in the Bay State since 1976. The payments for these mandated benefits, he said, went from \$2 million in 1975 to \$45 million in 1986, with the total increase since 1975 being approximately 2,250 percent. In addition, Booth continued, since the mandate went into effect, more than 6,000 psychiatrists, psychologists and social workers have become eligible for direct reimbursement in Massachusetts; prior to 1976 there were fewer than 1,000 eligible providers in these fields, the study showed.

"Legislative mandates artificially imposed an increased supply of covered benefits which means that more people use greater services at higher aggregate costs," Booth asserted. "In the present crisis atmosphere of dramatically increasing health care costs, it is submitted that the priority should be on cost control, not on further expansion of the health care system."

Still, one insurance representative had to admit that there are incentives for employers to offer an attractive though costly health insurance plan. "Generally, employees will prefer to work for an employer who provides health care coverage in addition to competitive wages," pointed out Jack B. Helitzer, a vice president of Metropolitan Life Insurance Company.

This, he said, makes cost a critical factor for small employers in deciding on whether or not to provide health care coverage. "Where employers must compete for competent employees, the ability to provide health care coverage is a decided advantage," he commented. "Employers will opt for this advantage if they can."

Met Life and its affiliates have been headquartered in New York since 1868, with 17,000 people currently working in 196 facilities across the state; six million New York residents are covered. Drawing on this wealth of experience, Met Life's representative pointed out that when health care coverage can cost about \$3,500 per employee per year, "it is often difficult for a small employer to accept this cost if the average earnings of an employee are around \$15,000.... Where the workforce is relatively low-paid, most small employers have to think very carefully about whether they can afford to provide health care coverage."

There is too much risk for a small employer to self-insure, said Helitzer. "The risk is simply too great," he stated. "They must buy insurance, and if mandated benefits drive up the cost too far, then there is only one alternative — no coverage at all."

Metropolitan's experience, he said, is that "we do not sell very many small group policies which include New York mandated benefits. The reason is that these policies simply cost too much for many potential small business customers."

The situation is different for larger corporations, Helitzer explained, because "virtually all employers with a large presence in New York are unaffected by those mandates. This

is because almost all of them have abandoned the use of group health insurance as a means of providing health care benefits. As a result, their programs are exempt from state regulation under the provisions of ERISA. Only a very small handful of Metropolitan's large group health customers retain insured coverages.

"Those few large employers whose health care programs are still insured are largely exempt from most state-mandated benefits because their plans cover employees in multiple states, or because their plans are subject to collective bargaining. Wisely, in New York, most mandated benefit provisions do not apply in those cases. Ironically then, of all our large customers, only the State of New York, as an employer, is required to comply with all of New York's mandates."

However, said the insurance company executive, the fact that mandated benefit laws are not enforceable in large group cases "does not mean that all, or even a significant portion, or those employers fail to provide those benefits. Most large group plans do provide virtually all of the New York mandated benefits, although perhaps not in the same form and detail as required by statute."

He added that not all mandated benefits can be defended as "socially desirable," using the example of second surgical opinions. While originally effective in reducing unnecessary surgery, he said, it adds 6.8 percent to the cost of family coverage.

Besides, he said, doctors performing second surgical review today "are less likely to contradict the treating doctor's recommendation of surgery." He listed the reasons why as: other pressures on doctors to avoid unnecessary surgery may be working; reviewing doctors have learned that if they recommend against a colleague's surgery, their colleague will eventually be a reviewing doctor when they recommend surgery; or, a fear of a lawsuit for malpractice if it turns out the first doctor's recommendation of surgery was correct."

Edward Reinfurt told the Senate panel that there are health insurance policies that could be designed to be affordable for small business and its workers. The Business Council of New York vice president quoted from a survey done by the Milliman & Robertson for the Public Policy Institute; the study details the kind of "basic, no-frills policy" for the state that could be developed at a cost of approximately \$800 per adult and \$200 per child.

"Absent mandates," he stated, "a plan could be developed that would protect a worker and/or dependents against major, catastrophic medical bills, with an annual deductible of \$1,000 per person." As to the level of coverage such a policy would provide, the Public Policy Institute's plan "would cover 30 days hospitalization per year, certain outpatient hospital treatments, maternity care, emergency room services and certain physician services," according to Reinfurt.

Would private employers offer insurance if free of mandates? Reinfurt said that the Public Policy survey found that most of the 35 percent

of the small businesses that do not owe have health insurance for their employees have an open mind and are only stopped by the cost obstacle. A majority of that 35 percent, he said, would be willing to make contributions of \$510 on average to health care coverage for their employees.

The way the system now stands, he continued, the increased costs of mandated benefits are passed by the insurers to the buyer, whether it be the business or the individual purchaser. "The trend to mandate additional benefits will soon price the buyer right out of the health care market entirely, forcing him to forego even basic protection," he warned.

Another worry is the number of the uninsured, which Reinfurt attributed to the use of mandates. "The estimates on the number of the uninsured and their demographics vary," he said, "but what is clear is that as insurance premiums have increased, more people have become uninsured. Since mandates are a major cause of health care cost increases, it is possible to conclude that mandates do have an effect on the numbers of uninsured."

From the point of view of the Medical Society of the State of New York, while mandates increase costs, "this conclusion is meaningless in and of itself." According to Dr. Robert S. Bernstein, past president of the society, "Whether the cost of a particular mandate is acceptable depends on a comparative evaluation of the benefit mandated as against the benefit to be derived from alternative resource utilization."

"Clearly, more mandates will affect business and particularly small business. It is not clear, however, whether the private sector response to a total elimination of mandates would be adequate. Mandated coverage has not been demonstrated to lead to over-utilization in any study of which we are aware and the elimination of coverage as a utilization control device strikes us as fraught with danger."

"Finally, we do feel that a formal evaluation process as a pre-requisite to any mandated coverage is essential."

He stressed that the problem of expensive mandated benefits is a symptom of a disease, and that the whole health care financing system needs an overhaul.

"Unless we fully examine the effects which a particular financing initiative will have on other system sectors, the overall consequences of the initiative will, in all likelihood, be skewed and possibly even counter-productive," the doctor warned.

He urged the task force to "expand your inquiry beyond an evaluation of the availability of health insurance in New York State. We urge you to seek a comprehensive and systematic evaluation of the entire health care delivery system as well."

