United States General Accounting Office

GAO

Report to the Chairman and Ranking Minority Member, Committee on Labor and Human Resources, U.S. Senate

September 1995

HEALTH INSURANCE PORTABILITY

Reform Could Ensure Continued Coverage for up to 25 Million Americans

GAO/HEHS-95-257

GAO

United States
General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

B-265732

September 19, 1995

The Honorable Nancy Kassebaum
Chairman
The Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Labor and Human Resources
United States Senate

Millions of Americans face discontinuity in their health care coverage when they change employers, and others do not change jobs because of concerns about losing health care coverage. In fact, individuals with health problems may face extended periods in which their new health plan does not cover their medical conditions because of exclusions for preexisting conditions.

Many states have passed health insurance reforms aimed at portability, but federal law allows these reforms to apply only to some health plans. Consequently, the Congress has been considering approaches to broaden the protections available to allow people to change health plans without facing lapses in health care coverage. In particular, S. 1028 includes provisions to increase the portability of health care coverage when individuals change health plans.[1] Allowing individuals to receive credit for their previous health care coverage in many cases would exempt them from having to wait before being fully eligible under their new health plan.

You asked us to provide information on (1) the protections offered by current state and federal health insurance portability reforms, (2) the number of people who could be affected by broader national portability standards, and (3) other issues related to the design of national portability standards. Because this report expands on our previous testimony[2] and is based on our work on health insurance regulation and an analysis of the Bureau of the Census' March 1994 Current Population Survey (CPS), we did not obtain agency comments. It was conducted in accordance with generally accepted government accounting standards between June and August 1995.

[1]S. 1028, The Health Insurance Reform Act of 1995, introduced by Senators Kassebaum and Kennedy, was unanimously reported, as amended, by the Senate Committee on Labor and Human Resources on August 2, 1995.

[2]Health Insurance Regulation: National Portability Standards Would Facilitate Changing Health Plans (GAO/T-HEHS-95-205, July 18, 1995).

Results in Brief

Although current federal and state laws have generally improved the portability of health insurance, an individual's health care coverage could still be reduced when changing jobs. Between 1990 and 1994, 40 states enacted small group insurance regulations that include portability standards, but the federal Employee Retirement Income Security Act of 1974 (ERISA) prevents states from applying these standards to the health plans of employers who self-fund. As a result, some in the Congress have proposed broader national portability standards.

We estimate that up to 21 million Americans a year would benefit from federal legislation that would waive preexisting condition exclusions for individuals who have had continuous health care coverage. In addition, perhaps as many as 4 million Americans who at some time have been unwilling to leave their jobs because of concerns about losing their health care coverage would benefit from national portability standards. Such a change, however, could possibly increase premiums, according to insurers.

Background

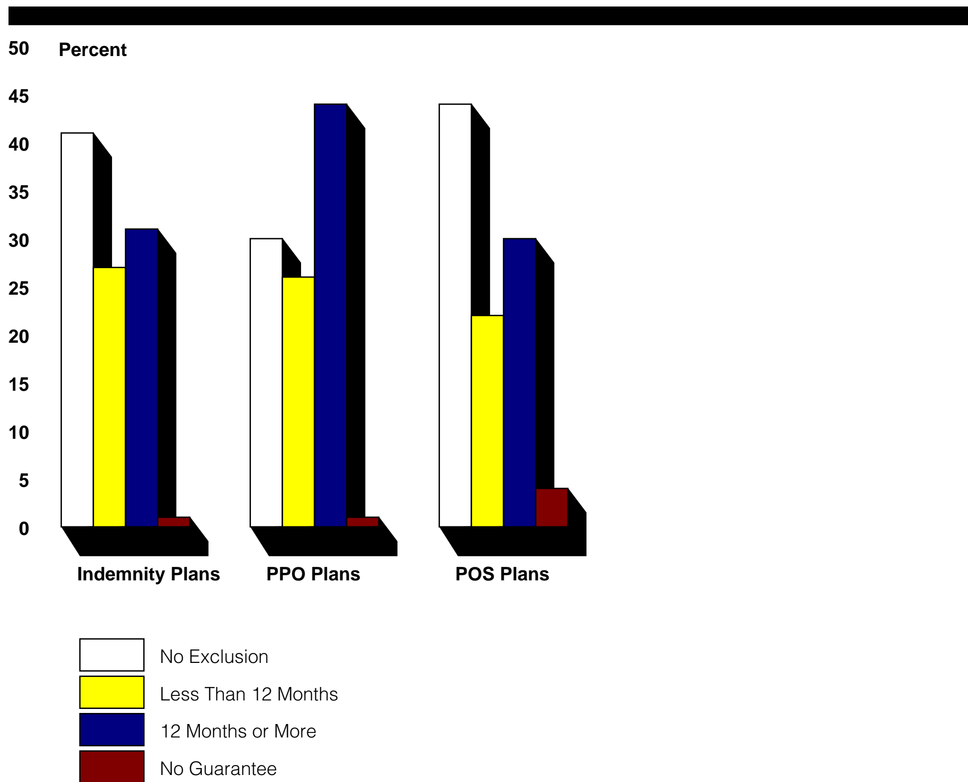
Because most Americans receive their health insurance from their employers, changing jobs can disrupt their health care coverage. If a new employer does not offer health insurance, an individual must either depend on another source of health care coverage (such as a spouse's plan or purchasing individual coverage) or become uninsured. Even if a new employer offers coverage, the new plan's benefits may be more limited or more expensive than the previous plan's.

Most private health plans have waiting periods for new enrollees and limit coverage for preexisting conditions. These limitations allow insurers to ensure that new enrollees have not purchased insurance just because they have become sick. However, the risk of losing health care coverage discourages workers from changing jobs, leading to a phenomenon known as "job lock."

Employer benefits surveys have found that waiting periods and preexisting condition clauses are common, even among larger employers. KPMG Peat Marwick in 1994 reported that, among employers with at least 200 employees, 62 percent of health plans have time periods during which an employee must wait before getting coverage, typically lasting less than 3 months. The Peat Marwick survey also found that 59 percent of indemnity plans, 70 percent of preferred provider organization (PPO) plans, and 56 percent of point-of-service (POS) plans have preexisting condition

exclusions.[3] In contrast with the other plan types, health maintenance organizations (HMO) do not typically have preexisting condition clauses. As shown in figure 1, most of these preexisting condition exclusions last for 1 year or more.

Figure 1: Preexisting Condition Limitations, 1994



Note: "No guarantee" means that the preexisting condition exclusion is indefinite in duration.

Source: Health Benefits in 1994, KPMG Peat Marwick.

[3]Indemnity refers to plans that allow enrollees free choice of their health care providers, who are reimbursed on the basis of fee-for-service charges. PPOs provide enrollees a financial incentive to use providers that have contracted with the plan and are generally reimbursed on the basis of discounted fee-for-service charges; enrollees can use other providers at a higher out-of-pocket cost. Point-of-service plans provide enrollees with a primary care physician to coordinate referrals to specialist care and also provide strong financial incentives to use providers with whom the plan has contracted. Health maintenance organizations (HMO) require enrollees to use only providers who have contracted with the health plan and who may be paid on the basis of discounted fee-for-service charges, salary, or per enrollee. See Health Benefits in 1994, KPMG Peat Marwick (Washington, D.C.: 1994).

Federal and State Laws Promote Health Insurance Portability

The Congress and the states have taken several initiatives to improve the portability of health care coverage. These include national standards that allow some people to temporarily continue group health care coverage despite losing their jobs and state laws providing portability to insurance policies sold to small firms. However, despite these steps, many Americans still are concerned that their health care coverage may be disrupted if they change jobs.

COBRA Coverage Continuation Requirements

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) required continued health care coverage for some individuals after losing their employment.[4] The COBRA requirements generally allow individuals who leave a job to continue their health plan for up to 18 months by paying no more than 102 percent of the premium previously paid by the employer and employee, even if the employee starts a new job that offers health care coverage.[5] A recent study found that 22 percent of eligible individuals continued health care coverage through the COBRA requirements.[6] Another study estimated that the COBRA requirements increased mobility by 10 percent among those with health insurance.[7]

State Initiatives

Recently, we reported that most states enacted small group health insurance reforms between 1990 and 1994.[8] We found that 40 states have included portability provisions in their small employer health insurance legislation. These provisions require insurance carriers to waive preexisting condition limits or waiting periods if an individual has been continuously enrolled in a health plan. The states vary in the size of groups for which these provisions apply, the length of time allowed between health plans for coverage to be considered continuous, and how coverage

[4] 29 U.S.C. 1161 et seq.

[5] Other situations can also occur to qualify an individual for COBRA continuation coverage. For example, a family member who loses health care coverage as a result of death or divorce of an insured worker may continue coverage for up to 36 months. Also, a disabled individual may continue health care coverage for a total of 29 months but may be required to pay 150 percent of the premium for the final 11 months. COBRA continuation requirements do not apply to employers with fewer than 20 employees.

[6] On the basis of a sample of individuals aged 40 through 64, 1.3 million individuals and their dependents maintained health care coverage through COBRA's continuation requirements. Patrice Flynn, "COBRA Qualifying Events and Elections, 1987-1991," Inquiry, Vol. 31 (1994), pp. 215-220.

[7] Jonathan Gruber and Brigitte C. Madrian, "Health Insurance and Job Mobility: The Effects of Public Policy on Job-Lock," Industrial and Labor Relations Review, Vol. 48, No. 1 (1994), pp. 86-102.

[8] Health Insurance Regulation: Variation in Recent State Small Employer Health Insurance Reforms (GAO/HEHS-95-161FS, June 12, 1995).

between current and prior policies is linked for determining the effect of preexisting conditions.

We also reported that most state reforms have included, in addition to portability provisions, guaranteed issue, guaranteed renewal, and limits on preexisting condition exclusions. For guaranteed issue, states vary in whether insurers are required to actively offer a single plan to all small employers, offer two or more plans, or offer all of their plans with a guarantee that a plan would be issued. Every state we examined except Georgia requires insurers to guarantee renewal of a health policy regardless of health status or claims experience, with limited exceptions. We found that 41 states limit the use of preexisting conditions to deny coverage for specific illness, with about half limiting the term of preexisting conditions to no more than 1 year and ten states shortening the waiting period to 6 months or less.[9] Finally, we found that, to varying degrees, most states impose rating restrictions on health insurers. For example, some states have limited the factors that insurers can use to estimate premiums, narrowed the range in rate differences among different groups, or adopted adjusted community rating.

State insurance reforms, however, cannot address the portability issue for every employee. Under ERISA,[10] health plans that are self-funded by employers are not affected by state insurance regulation, including portability requirements. We estimate that about 44 million Americans are in self-funded health plans that states cannot regulate, even indirectly.[11] States have also generally limited their reforms to insurance policies sold to small firms. Furthermore, no analysis exists on the number of individuals affected by these state reforms.

Current Federal Legislative Proposals

Several bills introduced in the 104th Congress, including S. 1028, H.R. 1604,[12] and H.R. 1610,[13] propose to reduce disruptions in health care coverage and job lock by increasing the portability of health insurance. In

[9]New Hampshire limits preexisting conditions to no more than 3 months if an individual has not had any medical expenses associated with the condition in the last 3 months; otherwise, the preexisting condition limit is 9 months.

[10]Public Law 93-406, 88 Stat. 829 (classified as amended at 29 U.S.C. 1161 et seq.) (1988).

[11]Employer-Based Health Plans: Issues, Trends, and Challenges Posed by ERISA (GAO/HEHS-95-167, July 25, 1995).

[12]H.R. 1604, The Working Families Health Access Act of 1995, was introduced by Representative Nancy Johnson on May 10, 1995.

[13]H.R. 1610 was introduced by Representative Bill Thomas on May 11, 1995.

effect, these bills would limit the length of time that preexisting condition clauses can restrict health care coverage by providing credit for individuals who have been continuously enrolled by another group health plan. Thus, individuals with medical conditions who change health plans when they change jobs would not have to wait before receiving full coverage. In addition, S. 1028 would allow individuals who have exhausted their 18 to 36 months of COBRA continuation coverage, or who were ineligible for COBRA continuation because their prior firm employed fewer than 20 employees, to convert to individual coverage without having to meet eligibility requirements such as waiting periods or preexisting condition exclusions. This approach provides broader protections than existing state laws because it applies to all health plans, including self-funded plans and those offered by larger employers.[14] See appendix I for a comparison of state laws and S. 1028.

Estimating the Number of Individuals Affected by National Health Insurance Standards

Overall, we estimate that as many as 21 to 25 million people per year could be affected by national portability standards, should they be enacted. Individuals who could be affected include those currently insured who change jobs and their dependents, individuals who lose their jobs and are no longer eligible for COBRA continuation coverage, and individuals who face job lock due to health insurance concerns.[15] Table 1 shows each of these affected groups and our estimates of the number of individuals that the proposed legislation could affect.

Table 1: Number of People Affected by National Health Insurance Standards

Affected group	Millions of people
Individuals with health insurance who change jobs	11.5
Dependents of individuals with health insurance who change jobs	6.7
Individuals no longer eligible for COBRA continuation coverage	1.8-2.3
Individuals facing job lock	1.0-3.6

Insurance regulation that ensures portability could benefit people in a variety of ways. Without portability standards, people with preexisting medical conditions who change health plans could be denied coverage for their conditions and may have to pay out of pocket for necessary medical services. Others may have to pay for COBRA continuation coverage in

[14]S. 1028 would expressly allow state laws to continue to be enforced if they are more generous than the national standards.

[15]Some of these individuals would already have portability because they may change to a health plan regulated by the states or that does not have preexisting condition exclusions.

addition to paying for their new private health plan to ensure that their medical conditions are covered. Some people will remain in a job or turn down job offers because of health insurance concerns. A few people who exhaust their COBRA continuation coverage, or are ineligible for COBRA coverage after leaving a job, will be unable to purchase individual coverage at any price if they have a severe medical condition, such as acquired immune deficiency syndrome, severe diabetes, or heart disease.[16] Finally, individuals who change employers may find that, even if the employer offers a choice of health plans, their choice is limited to health plans without preexisting condition exclusions.

Portability Standards Would Reduce Discontinuity in Health Care Coverage for People Changing Jobs

The largest group of people affected by the proposed legislation is those who change jobs. On the basis of our analysis of the CPS, over 20 million Americans changed jobs in 1993. Nearly 12 million of these people also maintained employer-based health care coverage.[17] Additionally, nearly 7 million nonworking dependents received employer-based coverage through these job changers.[18] Without portability standards, many of these individuals faced preexisting condition exclusions or waiting periods with their new health care coverage. Furthermore, individuals with preexisting conditions could face a period in which their new plan does not cover their condition. As an alternative, some could purchase COBRA continuation coverage if they want to be insured for a preexisting condition, though such coverage would be duplicative.

The proposed legislation would benefit such individuals to the extent that their coverage would not lapse while they are between health plans. Because about three-quarters of job changes are voluntary and therefore

[16]A study by the Agency for Health Care Policy and Research (AHCPR) found that, in 1987, 1.6 million people under age 65 had been denied private health insurance due to poor health. This number includes 2.5 percent of the uninsured and some individuals receiving coverage through state-sponsored health plans, such as high-risk pools. See Karen Beauregard, Persons Denied Private Health Insurance Due to Poor Health (AHCPR Pub. No. 92-0016), National Medical Expenditure Survey Data Summary 4, Agency for Health Care Policy and Research, Public Health Service (Rockville, Md.: 1991).

[17]Employer-based coverage also includes health plans sponsored by unions or both unions and employers.

[18]For spouses who are both employed, we can determine from the CPS data only whether each individual has employer-based health care coverage but not which employer provides the coverage. However, this is not likely to significantly affect our results because individuals who change jobs but elect to receive coverage through their spouse's employer instead of their new employer could still be required to meet preexisting condition clauses for their new health plan. Furthermore, although in some cases individuals who change jobs may already be receiving coverage through their spouse and, therefore, would not need to change health plans, in other cases, an employed spouse who receives coverage through an individual who changes jobs would also be required to change health plans and possibly fulfill preexisting condition limits. Because these two cases would largely offset each other, they would not significantly affect our estimates.

unlikely to mean a significant gap in employment, we estimate that S. 1028 would allow about 9 million individuals (with 5 million dependents) to change jobs without having any preexisting condition clause exclusions.[19] Also under S. 1028, the remaining 3 million job changers (with 2 million dependents) would likely have reduced waiting periods, if any at all, before receiving full eligibility for coverage.

The proposed legislation would also allow individuals to purchase individual-based health care coverage without preexisting condition limits if they had maintained group health care coverage for at least 18 months and are no longer eligible for COBRA continuation coverage. In addition, individuals employed by firms with fewer than 20 employees who lose their employer-based coverage are not eligible for COBRA continuation coverage, but they could immediately qualify for individual coverage through the proposed portability standards.[20] On the basis of COBRA continuation coverage election rates and turnover rates in small firms, we estimate that about 2 million individuals would be able to convert from employer-based coverage to individual coverage (although at a higher premium) without having to meet preexisting condition exclusions.

Portability Provisions Would Also Lessen Fear of Losing Coverage From Changing Jobs

The proposed legislation, however, would affect more individuals than those who change health plans because the standards would allow those workers who stay in their jobs out of concern over losing health care coverage to change jobs. Although studies of the extent of job lock have varying conclusions, we estimate that over time between 1 million and 4 million additional workers would change jobs if national portability standards were in effect.

Surveys have found that between 11 and 30 percent of individuals report that they or a family member have remained in a job at some time because they did not want to lose health care coverage.[21] Extrapolating from a 1993 survey by the Employee Benefit Research Institute, we estimate that the proposed portability standards would relieve as many as 3 million or 4 million Americans of job lock. Twenty percent of individuals who

[19]If an individual has had group health care coverage for less than 12 continuous months prior to changing employers, he or she may still need to fulfill a shorter preexisting condition limit.

[20]Fewer than 18 million individuals (including self-employed individuals) receive health care coverage from firms with fewer than 20 employees.

[21]See "Health Benefits Found to Deter Switches in Jobs," The New York Times, Vol. CXL (Sept. 26, 1991), pp. A1, B12 (survey by The New York Times and CBS News); Public Attitudes on Health Benefits, 1993, Employee Benefit Research Institute (Washington, D.C.: 1993); and similar surveys in 1991 and 1992.

reported job lock in their households cited preexisting conditions as the main reason for not changing jobs, according to this survey.

Other estimates of the extent of job lock among those with health insurance have varied. Although one study found little evidence of job lock,[22] other studies we reviewed found that job mobility was reduced by at least 20 percent for individuals with health insurance and more for those who could have high medical expenses. For example, one study estimated that job mobility for workers with health care coverage was reduced by nearly one-third for married men, over one-third for workers with large families (a proxy for high medical expenses), and two-thirds for workers with a pregnant wife.[23] Another study reported that employer-based health care coverage reduced job mobility by 23 percent for men and over 30 percent for women. On the basis of these results, the authors of the latter study conservatively estimated that approximately 1 million additional workers would have changed jobs but for job lock.[24]

Issues in Designing National Portability Standards

In addition to improving the availability of health care coverage for many Americans, national portability standards could also affect the affordability of coverage. While the standards would guarantee that individuals could change health plans without having to meet preexisting condition exclusions, the standards' effects on price and affordability of coverage are less clear, particularly for people with medical conditions.

Since the cost of health insurance coverage is often cited as the most critical determinant of whether firms or individuals purchase coverage, the expected effects on premiums are crucial in determining the net impact of state and federal insurance reforms on the level of coverage. High expected costs for an individual can mean a high premium, particularly for individual and small group policies. If government restrictions constrain premiums for individuals or a group, then insurers may be forced to raise premiums for all other workers.[25]

[22]Douglas Holtz-Eakin, "Health Insurance Provision and Labor Market Efficiency in the United States and Germany," in Social Protection Versus Economic Efficiency: Is There a Tradeoff? ed. Rebecca Blank (Chicago: University of Chicago Press, 1994).

[23]Brigitte C. Madrian, "Employment-Based Health Insurance and Job Mobility: Is There Evidence of Job-Lock?" The Quarterly Journal of Economics, Vol. 109, No. 1 (1994), pp. 27-54.

[24]Alan C. Monheit and Philip F. Cooper, "Health Insurance and Job Mobility: Theory and Evidence," Industrial and Labor Relations Review, Vol. 48, No. 1 (1994), pp. 68-85.

[25]Although the proposed federal bills do not contain rating restrictions, most states have enacted rating restrictions that would apply to health plans sold by third-party insurers.

Although empirical evidence is sparse, the possible price effects relate more directly to other health insurance reforms, such as guaranteed issue, than to portability. In fact, for the entire market, portability should little affect prices because the cost of these individuals would merely be shifted among health plans. Raised premiums could occur when a potentially high-cost individual transfers into a very small firm or the individual health insurance market. With no restrictions on ratings, the small firm's or the individual's premium could be significantly raised, which could lead to a decision to forego coverage.

For this reason, some insurers have opposed provisions in state and federal legislation to extend portability standards to individual-based health plans. They believe that high-cost individuals are the ones most likely to convert from a group health plan to an individual health plan, leading to increased premiums. Insurers disagree, however, about the extent to which national portability standards would cause higher premiums. Premium increases, if any, would depend upon the size of the covered group, rating restrictions imposed by state laws, and the extent to which the insurer uses medical underwriting to set premiums.

Federal and state legislators have tried to respond to these concerns to some extent. Several states, for example, explicitly recognize the greater uncertainties in the individual market by applying some reforms only to employers with at least two or three workers or only to self-employed individuals. In response to these concerns, S. 1028 as approved by the Senate Committee on Labor and Human Resources includes a provision that requires anyone converting to an individual health plan to have had continuous group health care coverage for the preceding 18 months for the portability standards to be effective. Furthermore, the bill would leave intact state laws that provide some price protection for individuals and small firms purchasing insurance in the private market.

Conclusions

Despite past state reforms and the COBRA continuation of coverage requirements, the lack of health insurance portability still concerns many Americans, particularly those with costly health conditions. Although many states have enacted portability standards for insurance carriers, ERISA preemption prevents states from applying the standards to self-funded employer-based health plans. We estimate that as many as 21 million to 25 million Americans a year could possibly benefit from proposed national portability standards. The extent to which insurers

would respond to these reforms with increased premiums, however, is uncertain.

Please call me on (202) 512-7125 if you or your staff have any questions about this report. Michael Gutowski, Assistant Director, and John Dicken, Senior Evaluator, were major contributors to this report.

Mark V. Nadel
Associate Director,
National and Public Health Issues

Contents

Letter 1

Appendix I Comparison of Proposed National Health Insurance Regulations and Existing State Insurance Regulations 14
Guaranteed Issue 17
Guaranteed Renewal 17
Portability 17
Preexisting Condition Exclusion 18
Rating Restrictions 18

Tables
Table 1: Number of People Affected by National Health Insurance Standards 6
Table I.1: State Small Employer Health Insurance Reforms 14

Figure
Figure 1: Preexisting Condition Limitations, 1994 3

Abbreviations

AHCPR	Agency for Health Care Policy and Research
COBRA	Consolidated Omnibus Budget Reconciliation Act of 1986
CPS	Current Population Survey
ERISA	Employee Retirement Income Security Act of 1974
HMO	health maintenance organization
POS	point of service
PPO	preferred provider organization

Comparison of Proposed National Health Insurance Regulations and Existing State Insurance Regulations

Most states have enacted health insurance reforms similar to those proposed by S. 1028; they are limited, however, to regulating insurance products sold to small employers. Thus, the national insurance reforms would apply to more health plans—including self-funded plans and those offered by larger employers—than existing state regulations. S. 1028 and most state regulations address four common areas: guaranteed issue, guaranteed renewal, portability, and limits of preexisting condition exclusions. The specifics of how these regulations would apply, however, vary. To the extent that state regulations are more restrictive than the proposed national standards, S. 1028 would allow the states to continue to enforce their regulations. Table I.1 summarizes current state regulations in these four areas.[26]

Table I.1: State Small Employer Health Insurance Reforms

	Employer size	Guaranteed issue	Guaranteed renewal	Portability[a]	Preexisting conditions[a]
Alabama					
Alaska	2-25	Two plans	X	90 Link	6/12
Arizona	3-40	One plan[b]	X	31 No link	12/12
Arkansas	25 or less		X		
California	3-50	All plans[c]	X	30[d] No link	6/6
Colorado	2-50[e]	Two plans	X	90 Link	6/6
Connecticut	Less than 50	All plans	X	30 Link	6/12
Delaware	1-50	Two plans[f]	X	60 Link	6/12
Florida	50 or less	All plans	X	30 No link	6/12
Georgia	1-50				
Hawaii[g]					
Idaho	1-49	Two plans[h]	X	30 Link	6/12
Illinois	3-25		X	30 Link	12/12
Indiana	3-25		X[i]		
Iowa	2-50	Two plans	X	90 Link	6/12
Kansas	1-50	Two plans	X	31 Link	6/90 days
Kentucky	100 or less	One plan	X	60 No link	6/6
Louisiana	3-35		X	60 No link	12/12
Maine	Less than 25	All plans	X	90[j] Link	12/12
Maryland	2-50	One plan	X	N/A[k]	None
Massachusetts	25 or less	All plans[l]	X	30 Link	6/6
Michigan					

(continued)

[26]See Health Insurance Regulation: Variation in Recent State Small Employer Health Insurance Reforms (GAO/HEHS-95-161FS, June 12, 1995) for more details on state insurance regulations and a comparison with the National Association of Insurance Commissioners' model acts.

	Employer size	Guaranteed issue	Guaranteed renewal	Portability[a]	Preexisting conditions[a]
Minnesota	2-49	All plans	X	30 No link	6/12
Mississippi	1-35	One plan[m]	X	30 Link	12/12
Missouri	3-25	Two plans[n]	X	30 Link	6/12
Montana	3-25	Two plans[n]	X	30 Link	5 years/ 12 months
Nebraska	3-25	Two plans[n]	X	90 Link	6/12
Nevada					
New Hampshire	1-100	All plans	X	Yes[o]	3/3/9[p]
New Jersey	2-49	Five plans	X	90 Link	6/6[q]
New Mexico	2-50	[r]	X	31 Link	6/6
New York	3-50	All plans	X	60 Link	6/12
North Carolina	1-49	Two plans	X	60 No link	12/12
North Dakota	25 or less	Two plans	X	90 Link	6/12
Ohio	2-50	Two plans	X	30 No link	6/12
Oklahoma	50 or less	Two plans[f]	X	0[s] No link	6/12
Oregon	3-25	One plan	X	30 No link	6/12
Pennsylvania					
Rhode Island	50 or less	Two plans[t]	X	30 Link	6/12
South Carolina	50 or less	Two plans[f]	X	30 Link	12/12
South Dakota	25 or less		X		
Tennessee	3-25	Two plans[n]	X	30 No link	12/12
Texas	3-50	All plans	X	60 No link	6/12
Utah	1-50		X	90 Link	6/12
Vermont	1-49	All plans	N/A[u]	0[v] Link	12/12
Virginia	2-49	Two plans[w]	X	30 No link	12/12
Washington[x]	25 or less	All plans	X	90 Link	3/3
West Virginia	2-60		X	30 No link	12/12
Wisconsin	2-25	One plan	X	30 Link	6/12
Wyoming	2-25	Two plans[y]	X	90 Link	6/12

[a]States vary in the number of days that they allow between health plans for coverage to be considered continuous. The number in the "portability" column represents the maximum number of days each state allows. States also generally limit both the length of time an insurer may retroactively review an enrollee's medical experience to determine that a condition was preexisting and the length of time the insurer may deny coverage for any preexisting conditions. This is annotated in the table such that, for example, 6/12 means that the state limits the insurer to examining no more than the previous 6 months of an enrollee's medical experience and can apply the preexisting condition exclusion for no more than 12 months.

[b]This provision applies to groups of 25-40. Beginning on 7/1/96, this provision will apply to groups of 3-40.

[c]This provision applies to all groups of three or more.

[d]This may be extended to 180 days in cases where an individual changes employers but still maintains employer-based coverage.

[e]As of 1/1/96, the small group definition will include a business group of one.

[f]This provision applies to groups of 2-50.

[g]Hawaii was the first state to attempt universal coverage with its passage of the Prepaid Health Care Act in 1974. With the act's employer mandate and public programs to ensure coverage, the state comes closer to having universal coverage in place than any other state. Because this act was passed before the federal ERISA law, Hawaii is the only state granted an exemption under ERISA.

[h]This provision applies to groups of 2-49.

[i]Expressly refers to and limits cancellations.

[j]The services covered under the portability provision differ on the basis of whether an employee changes jobs or an employer changes coverage.

[k]Preexisting condition limitations are generally prohibited.

[l]A carrier has the option to deny issue to a group of five or fewer eligible persons if the group does not enroll through an intermediary.

[m]This provision applies to groups of 1-25.

[n]Each insurance carrier must sell a basic and standard plan as a guaranteed issue product.

[o]Time an individual was covered under a prior health plan must be credited toward any preexisting condition exclusion period of the new plan if coverage did not lapse. However, if coverage lapsed because of unemployment, carriers must treat the unemployment period as continuous coverage.

[p]A waiting period for preexisting conditions may be no more than 3 months if individuals incur no medical treatment expense in connection with the preexisting condition during those 3 months. Otherwise, the waiting period may be no longer than 9 months for a preexisting condition diagnosed or treated up to 3 months before the effective date of coverage.

[q]Preexisting condition limitations apply only to groups of five or fewer eligible employees and may not be imposed on larger groups.

[r]Related provisions exist under state Health Alliance Act.

[s]Time an individual was covered under a prior health plan must be credited toward any preexisting exclusion period of the new plan if coverage did not lapse. The act does not specify that previously covered services must have been comparable to current coverage.

[t]This provision applies to groups of 3-50.

[u]State has continuous open enrollment.

[v]Preexisting condition period must be waived if substantially similar coverage under a prior policy was in effect for the previous 9 months. Does not provide for a lapse in coverage.

[w]This provision applies to groups of 2-25.

[x]Washington passed the Health Services Act in 1993 to create a universal coverage program for all residents through an employer mandate. Although key provisions of this act have been repealed, the insurance reform components remain.

[y]This provision applies to groups of two or more.

Guaranteed Issue

S. 1028 would require guaranteed issue of all group insurance policies; that is, insurance carriers would be required to sell health insurance to all groups wishing to purchase it, and employers who offer health care coverage would be required to offer coverage to any qualifying employee. In our review of state small group health insurance reforms enacted between 1990 and 1994, we found that 36 states have guaranteed issue requirements that apply to small employers. However, only 11 states require that all insurance plans sold in that market have guaranteed issue; most states require that one or two plans be available as a guaranteed issue product.

Guaranteed Renewal

S. 1028 would also guarantee renewal of health insurance products by not allowing insurers to terminate or fail to renew a group policy. Between 1990 and 1994, 43 states enacted laws for guaranteed renewability of group insurance policies.

Portability

S. 1028 would provide credit for prior group health care coverage to reduce or eliminate preexisting condition limits when a person enrolls in a new group plan. The bill would reduce the preexisting condition exclusion by 1 month for each month that an individual was in a period of continuous coverage. Continuous coverage would be defined as coverage with a lapse of 30 days or less. However, a group health plan may impose a preexisting condition exclusion for services or benefits offered by the previous health plan.

We reported that 40 states have also enacted portability regulations for the small employer market. These laws vary in the period of time that they allow between enrollment in a new plan and whether they link the services provided in the former and current plans for enrollees to receive credit for a preexisting condition. In particular, 19 states allow for more than a 30-day lapse between enrollment in the two plans for coverage to be considered continuous. Furthermore, 14 states do not require a link

between the services provided in the former and current plans for the preexisting condition limit to be reduced or eliminated.

Preexisting Condition Exclusion

S. 1028, which defines preexisting conditions as those for which care was recommended or received within the previous 6 months, would limit preexisting condition exclusions to no more than 12 months. We found that 41 states limit the duration of preexisting condition exclusions, with 10 states having shorter limits than proposed by S. 1028.

Rating Restrictions

We found that at least 44 states included premium rate restrictions as part of reforms passed between 1990 and 1994. However, the extent to which the states narrow the range of premiums that insurers may charge varies greatly. S. 1028 does not include rating restrictions but would allow states to impose rating restrictions on insurers.

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015

or visit:

Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066, or TDD (301) 413-0006.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (301) 258-4097 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

info@www.gao.gov

PRINTED ON RECYCLED PAPER

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use $300

Address Correction Requested