

The U.S. House has directed several committees to propose changes to the new health care law. They have indicated they will work to pass legislation to establish Association Health Plans, reform medical malpractice law, expand Health Savings Accounts, and allow the purchase of insurance across state lines. SMC member Joe Vater, Jr. explains that topic.

**Health Care Reform .....By Joseph A. Vater, Jr., Esquire**

Health care reform is too often discussed in sound bites without reflecting on the current status of the law and whether suggested changes will improve matters. This article will focus on these issues as they relate to selling health insurance across state lines.

Currently in Pennsylvania, an insurance company from out of state is permitted to come in to Pennsylvania and to sell health insurance policies so long as the insurance company and the policies it wishes to sell are approved by the Pennsylvania Insurance Commission. Access to the Pennsylvania health insurance market might be limited to outside insurers who may not wish to incur the expense of becoming licensed and having a policy approved or may not have the financial strength required by the Pennsylvania Insurance Commission which may be more stringent than other states' requirements.

Each state may require certain coverage mandates to be included in every health insurance policy issued in that state. This can be in addition to requirements mandated for all group health policies under federal law. These state mandates will result in coverage being more costly in one state as opposed to another state where the mandated coverages are not so significant. Finally, even if an insurance company is willing to become licensed in Pennsylvania that insurance company must be able to negotiate favorable contracts with physician and hospital networks to be able to compete in Pennsylvania.

In order to provide meaningful competition in the sale of health insurance across state lines, significant legislative changes are necessary. Historically, insurance of any type has been a subject left to each individual state to regulate. In order to permit the unfettered sale of health insurance across state lines, federal law would have to preempt state laws, rules and regulations involving health insurance companies and health insurance policies. This could take one of two forms. Federal legislation could establish regulations involving financial and other requirements that would be necessary for a health insurance company to be permitted to sell policies across state lines. Alternatively, an insurer licensed in one state to sell health insurance would be permitted to sell health insurance in every state. If the first option is selected, the federal government will become much more involved in the health insurance markets than it currently is. If the second option is selected, concerns about the financial stability of insurance companies will become an issue. Health insurance companies will gravitate to states which have weaker financial requirements and policy holders may not be protected if the health insurance company is liquidated.

Even if a health insurance company is freed from Pennsylvania's requirements involving licensing, any legislation that intends to advance competition will have to contain a provision that ensures access to physician and hospital networks. This could

be accomplished by mandating that any physician network or hospital network be required to negotiate with a health insurance company on the same terms that it has with any other health insurance company.

As with most legislation, the devil will be in the details. Companies are urged to review any legislation that claims to permit the sale of health insurance across state lines very carefully to determine whether the legislation will have the desired effect of reducing health care premiums while at the same time protecting participants and employers from undercapitalized insurance companies.

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