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New Law Does Little to Help Missouri's Uninsured:

Analysis of HB818's Impact on Health Insurance Reform

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HB818, introduced by Representative Doug Ervin, originally contained aggressive provisions to make Missouri's high risk insurance pool more affordable, to make health insurance more affordable and to allow portability of coverage when employees change jobs. The final version of HB818, which was vastly different from the original bill, makes some positive changes, but also contains troubling and costly provisions.

HB818 does little to curb health insurance costs or to help low-income uninsured Missourians. The challenge remains to develop an affordable plan to assure that every Missourian is insured and has access to the quality care he/she needs.

Positives & Negatives of HB818

- Provides for limited portability when an employee has purchased an individual insurance plan and changes jobs. It also provides some new protection for renewing insurance, benefits and coverage.
- Insurance companies still have the ability to increase costs, limit benefits and deny coverage, as long as they do it on a consistent basis.
- Encourages the use of high deductible plans with health savings account and encourages and/or requires the use of cafeteria plans. These will primarily benefit those with higher incomes and good health.
- Some individuals will benefit from tax credits and deductions for health insurance costs that they do not already deduct on the federal insurance. This is a perk for those who have insurance, but it is not clear that it will enable uninsured Missourians--most of whom have low incomes--to purchase health insurance.
- Seriously ill Missourians who formerly were not eligible for, or could not afford, insurance in the Missouri Health Insurance Pool will benefit from HB818.
- Covering dependents for a longer period of time is also helpful for some families.
- HB818 will likely have a steep cost to the state. In addition to lost revenue through cafeteria plans, health savings accounts, tax credits and tax deductions, the Departments of Revenue and Health & Senior Services say they will have to substantially increase their staffs to administer the bill's provisions.
- HB818's initial estimated fiscal note was "unknown, exceeding $26.1 million" in the first full year of implementation[1], with projected increased cost in out years.

[1] See fiscal note for TAFP HB818 at http://www.moga.mo.gov/Oversight/OVER07/fishtm/1261-22T.ORG.htm

Summary of HB818 main provisions

This brief provides an analysis of HB818 that was passed by the Missouri Legislature and signed into law by Governor Matt Blunt on June 1, 2007. Following are the major provisions of HB 818:

- Requires the Missouri Consolidated Health Plan to offer qualified employees and retirees the option of choosing a high deductible insurance plan combined with a health savings account
- Enacts state tax credits for a portion of the cost of health insurance for self insured individuals
- Enacts state income tax deductions for a portion of individuals' health insurance premiums
- Limits the time health insurance carriers can exclude or limit benefits when an individual has a pre-existing condition
- Allows some portability of insurance when an employee changes jobs
- Makes the Missouri Health Insurance Pool (High Risk Pool) more affordable, but with potential high costs to state general revenue.
- Requires insurance that offers coverage to dependents to continue to offer coverage until age 25
- Requires health carriers or health benefit plans that offer prescription drug coverage to inform enrollees, in writing or electronically, of deletions in formularies at least 30 days prior to the effective date of the deletion.
- Allows the Department of Health & Senior Services to collect the medical debt owed to hospitals and other providers by uninsured individuals.
- Expands and loosens qualifications required to practice midwifery.

Who are the uninsured in Missouri?

To understand the potential impact of HB818, it is helpful to provide some context about the uninsured in Missouri. According to the most recent US Census data, there are more than 700,000 Missourians who are uninsured.[2] Uninsured Missourians tend to have lower incomes. Nationally, data indicate 42% of individuals in households with incomes less than $25,000 are uninsured. Only about 18% of those with incomes over $50,000 lack health insurance.[3] Firms paying higher wages (defined as those in which fewer than 35% of employees make less than $20,000 per year) are more likely to offer Employer Sponsored Insurance (ESI): 65% of high wage firms offer ESI compared to 42% of low wage firms .[4]

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[2] www.census.gov

[3] ibid

[4] DeJulio, B. Presentation on results of the Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2006.at Missouri Foundation for Health 2007 Health Summit. Also available at www.kff.org/insurance/7527/index.cfm.

Individuals who are uninsured also tend to work in small businesses. The table below shows the percent of workers who have health insurance in different size firms.

	1996	***2006***
All large firms[5]	99%	98%
Firms with 50-199 workers	97%	92%
All firms	66%	61%
Firms with 3-9 workers	56%	48%

Of all industries, state and local government are the most likely to offer health insurance as a benefit of employment. Ninety percent of those employed by state and local government are offered health insurance.[6] Retail, wholesale, agriculture, mining and construction are the industries least likely to offer health insurance as a benefit, and only 57% of those employed in these industries are offered health insurance by their employer.[7]

The central question in assessing HB818's effectiveness as insurance reform should be whether or not it targets its benefit to uninsured Missourians.

HB818 requires state employees' plan to offer high deductible insurance with health savings accounts

The Missouri Consolidated Health Plan is the state employee health insurance program that covers most state employees. HB 818 requires the state to offer employees a high-deductible health plan combined with a health savings account (HSA) as an alternative to the current insurance packages it offers.

The Committee on Legislative Research, Oversight Division, indicates in its fiscal note for HB 818 that it is unlikely that high-deductible plans with HSAs will be appealing to a large number of state employees. The analysis cites that Kansas and Utah have implemented similar plans, with very limited participation. In Utah only five employees chose this insurance option; in Kansas 120 employees chose it.[8]

The analysis in the fiscal note offers two reasons that uptake is likely to be low in Missouri. First, the Oversight Division estimated that an employee cannot save enough in the premium cost to offset his/her portion of the deductible, plus the (estimated) 10% required co-insurance charges.[9] The Oversight Division concludes that choosing this option would not make financial sense to most state employees. Secondly, Missouri state employees have low salaries; over 80% make less than $40,000 per year.[10] The study completed by the Oversight Division estimated that without a decrease in the

[5] ibid
[6] ibid
[7] ibid
[8] See fiscal note for TAFP HB818 at http://www.moga.mo.gov/Oversight/OVER07/fishtm/1261-22T.ORG.htm.
[9] ibid
[10] ibid

premium cost for the employee, the total of the deductible cost, plus a 10% co-insurance cost for claim amounts above the deductible would be a financial burden for most state employees.[11]

An additional consideration is the cost of this provision to the state. The Oversight Division estimates that it will cost at least $100,000 to set up the high-deductible plan with HSAs, and another $100,000 to educate state employees about the option.[12] These are costly amounts considering the low estimated participation rate.

Tax credits and income tax deductions enacted as incentives to purchase insurance

HB818 enacted three different incentives to purchase insurance. Individuals who are self-employed are newly eligible for a refundable tax credit equal to the amount of federal tax liability on their costs to purchase health insurance.

The second incentive allows individuals to deduct 100% of the amount paid for non-reimbursed qualified health insurance premiums from his/her taxable income when computing Missouri state taxes.

A third tax incentive allows a state income tax deduction of the amount an individual has paid as a member of a "Health Care Sharing Ministry." A Health Care Sharing Ministry is defined as a "faith-based, nonprofit organization that acts as a source of information between members who have financial, physical or medical needs and members who can assist with those needs."

According to James Lansberry, spokesperson for Samaritan Ministries International, individuals become a member of a Health Care Sharing Ministry by signing a statement that they embrace specified faith tenets. Individuals also agree to make specified monthly donations to the ministry. If a member has a medical need, he/she submits it to the ministry. If the need meets established criteria, it is published in a monthly communication and other members are assigned to send their monthly donation to the member in need.[13] Mr. Lansberry was very clear that the members should not consider this insurance, since there is no guarantee that the medical need will be paid for by the ministry. Since this is not "insurance", some of the members also have either purchased health insurance, or receive it as a benefit of employment.

All of these provisions apply only to the extent the amount is not already included in the taxpayer's itemized federal deductions.

It is unlikely that these provisions will have a substantial impact on individuals who do not have access to employer-sponsored insurance. Most of Missouri's uninsured residents have low incomes and will not have expendable income to purchase individual insurance, even with a tax break at the end of the year. The new tax incentives in HB818 will

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[11] ibid
[12] ibid
[13] For a detailed description of a Health Care Sharing Ministry, please go to www.samaritanministries.org

primarily lessen the burden of those who already have sufficient income to afford to purchase health insurance.

The legislature dodged discussion of a key consideration: are these tax credits and deductions, which are a fairly small for an individual, worth their considerable negative impact on the state's general revenue? The cost of tax deductions for personally purchased insurance premiums was estimated to range from $2.4 mil to $11.2 million per year.[14] The costs of the refundable tax credit and the tax deduction for contributions to Health Care Sharing Ministries were not included in the fiscal note.

HB818 makes Missouri's High Risk Pool more affordable for individuals, but with a potential cost to state general revenue

The Missouri Health Insurance Pool (MHIP) was established to provide an insurance alternative for Missourians who could not obtain individual health insurance because of a pre-existing condition. The MHIP was more expensive than high risk pools in most other states. For enrollees over age 50 with incomes at the state median, MHIP premiums cost from 10 to 30% of their gross income.[15] By increasing access to MHIP, seriously ill uninsured Missourians could benefit greatly. Providing insurance to these individuals also has the benefit of decreasing uncompensated care for them, thus generating cost savings for those who are insured.

HB818 makes several important changes to the MHIP:

- It decreases the maximum rate from 175% to 150% of rates applicable to individual standard risk (which will likely result in lower premiums for those in the MHIP)
- Requires all eligible individuals to be offered the option of a high-deductible health plan with a Health Savings Account
- Lowers the amount of increased private insurance premium cost an individual must experience in order to be eligible for the pool, but only until December, 2009.
- Makes the MHIP the Health Insurance Portability and Accountability Act of 1996 (HIPAA)-qualified pool[16]
- Expands the Board of Directors to include five additional ex officio members (two members of the House of Representative, two Senators, and one member from a Missouri hospital)
- Mandates the Board to study ways to finance the MHIP and make recommendations to the General Assembly by January 1, 2008.

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[14] See fiscal note for TAFP HB818 at http://www.moga.mo.gov/Oversight/OVER07/fishtm/1261-22T.ORG.htm

[15] Pollitz, K. *Fact Sheet* from *Cover Missouri Project: Report 6: The Missouri Health Insurance Pool: Issues for Policymakers.* Missouri Foundation for Health, March 2006.

[16] For an explanation of HIPAA-qualified pools please see Pollitz, K. *Cover Missouri Project: Report 6: The Missouri Health Insurance Pool: Issues for Policymakers.* Missouri Foundation for Health at www.mffh.org.

Improving the State's MHIP and making it more accessible to high risk Missourians is extremely important. However, without new cost constraint mechanisms on the rising cost of medical care for individuals with preexisting conditions, it is a short term solution. House Bill 818 makes the MHIP more affordable for individuals, but shifts the burden of long-term financing onto state general revenue.

HB 818 requires that insurance providers pay the difference between the funds provided by individual premiums and the total cost of all claims. However, the insurance providers are then allowed to take a tax credit against their premium tax liability for that amount. These tax credits will lower total tax paid to the state, thereby decreasing general revenue. Insurance companies may pay in the short run, but are held harmless in the long run.

HB818 establishes the Missouri Health Insurance Portability and Accountability Act

The new Missouri HIPAA creates standard definitions, coverage and some new requirements in the individual, small and large group insurance markets, including:

- Defines when pre-existing conditions limitations may by imposed
- Defines credible coverage
- Creates requirements for special enrollment periods
- Establishes rules regarding affiliation periods
- Outlines factors that may not be considered in establishing eligibility limits
- Prohibits higher premiums for select individuals in group health plans
- Allows premium discounts or rebates in return for compliance with health promotion and disease prevention. (These discounts will not be used in computing small group rate bands.)

Insurance carriers will not be allowed to base eligibility of individuals within group plans on factors such as claims history, medical history, or medical condition. However, the companies are allowed to set higher premiums, or limit benefits as long as all similarly situated individuals within the group are treated under the same rules.

In the large group market, small group market, and for individuals, health insurance issuers are required to renew or continue coverage at the option of the plan sponsor or the individual, respectively. The bill contains several exceptions to this general provision for guaranteed ability to renew. Reasons that insurance may be discontinued are outlined. Notice must be given that insurance will be discontinued. There are penalties for insurers if they discontinue offering all insurance in the large or small group market. Carriers in the small and large group markets may discontinue offering particular insurance products in the market without penalty, if they follow certain provisions in the bill. In the individual market, at the time of coverage renewal, an employer may modify coverage, so long as modification is applied uniformly to all individuals with that policy form.

If employers pay any portion of a premium for their employees, they are required to set up a premium-only cafeteria plan. This does not apply to individuals who are self-employed.

Changes in the small market

The definition of "small market" was made more generous to include groups with at least two but not more than 50 employees (changed from 25). Small market insurance rates are allowed greater variance from the standard index rate: the allowed variance was increased from 25% to 35%. Rules were changed about minimum participation as well. Small group insurance carriers may not require participation greater than 100% of eligible employees in groups of three or fewer employees; 75% of eligible employees in groups with more than three employees.

HB 818 repealed provisions in current law that required insurance carriers in the small group market to offer a basic and a standard health plan to small employers, thus reducing the ability of small employers to make price comparisons for similar products among insurers.

An employee who is entitled to enroll in a small group health plan through new employment may retain an individually underwritten health benefit plan. The employer may provide a defined contribution in a cafeteria plan as long as the employer's contribution is the same for all plans. This gives an employee an opportunity to retain the same insurance when he/she changes jobs within the small market.

HB818 could increase insurance coverage for "dependents" up to age 25

Under HB818, group health insurance plans and Health Maintenance Organizations that provide coverage for dependents are required to provide coverage for dependents up to age 25, at the option of the enrollee. This could be very helpful for a segment of the population that often lacks insurance. According to the Kaiser Commission on Medicaid and the Uninsured, 31.5% of Americans ages 19-24 are uninsured.[17]

A "dependent" is defined as a person who is unmarried and no more than 25 years old, a resident of the state, and not insured under another group or individual health insurance plan. If a dependent is incapable of self-sustaining employment and is dependent on the enrollee for support, the enrollee must provide documentation of the dependent's need in order to maintain continued coverage beyond the age of 25.

Other changes not directly related to insurance reform

HB818 contains Senator Loudon's controversial provision that allows the practice of midwifery. Several groups have filed suit, claiming that this provision is beyond the scope of the bill. The plaintiffs include the Missouri State Medical Association, the Missouri Association of Osteopathic Physicians and Surgeons, the Missouri Academy of Family Physicians and the St. Louis Medical Society. Current understanding is that the suit only affects that one provision. Even if the court rules in favor of the plaintiffs, the rest of the bill will stand.

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[17] Kaiser Commission on the Uninsured, *The Uninsured: a Primer*. Data Tables, October 2006. http://www.kff.org/uninsured/7451.cfm.

The bill also allows hospitals and medical providers to turn the medical debt of uninsured Missourians over to the Department of Health and Senior Services, who in turn will arrange for the Department of Revenue to garnish tax refunds and lottery winnings, in order to collect the debts. These are turned over the Department of Health and Senior Services, who then return money to the provider.

This is a very problematic idea. First, providers can already collect medical debt through established processes. It is not clear that the process outlined in HB818 will have proper protections for the uninsured consumer. Second, this debt collection function is not an appropriate role for the Department of Health and Senior Services. The Missouri Budget Project opposes adding staff to collect medical debt, while the Department lacks sufficient staff to inspect nursing homes and other entities whose oversight is their responsibility, and is at the heart of their mission.

HB818 also sets up processes to inform and educate patients who receive positive results from prenatal tests for Downs Syndrome and other genetic disorders and conditions.

Finally, HB818 creates a new system for regulation of Medical Discount Plans, including clear disclaimers that these are not insurance plans.

The Missouri Budget Project is a statewide, nonprofit, nonpartisan organization that informs the public about the state's budgetary and tax policy options and their impact on low-income Missourians.