

## **The State of Health Care Reform in California 2007 Year in Review**

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The problems facing the American health care system have been pretty constant since the late '90s: rising costs, increasing numbers of uninsured, and too much money spent for too little quality. While these are nationwide systemic issues, a distinct lack of leadership at the federal level has led states and localities to take matters into their own hands. Several states have implemented meaningful reforms or are making health care reform a priority. California, usually in the forefront on social and health policy, has seen several ballot initiatives and other measures occurring on a fairly regular basis since the early 1990s. But none of these prior efforts have yielded much in the way of actual reform due to the difficult political environment and legislative structure of the state.

2007 was a particularly active year in California for health care reform efforts with some of the most concerted and effective discussions in recent years. We saw proposals from several different angles: one plan from the Governor, three from the state legislature, and a major health care initiative implemented by San Francisco.

Concerned about the impact of the uninsured on the city public health system and the inefficiency and cost of providing care primarily through emergency rooms, San Francisco passed an ordinance in 2006 requiring employers to either spend a minimum amount in providing coverage for employees or pay the city directly to provide care on their behalf. In combination with these employer payments, San Francisco plans to repurpose existing public health dollars to extend primary care-focused public health care to all otherwise uninsured city residents. The employer funding requirements would be effective for most employers on January 1, 2008, with the city health program phasing in throughout 2008.

At the state level, 2007 started with four distinct proposals competing for support. Governor Schwarzenegger announced early in the year that health care was a strong priority and released details of an ambitious plan to the press. At a high level, the Governor's plan mandated that all Californians be required to maintain health insurance. To help enable universal coverage, the proposal expanded access to individual insurance, mandated employers provide insurance for employees, and expanded public insurance programs. To pay for the expanded coverage, the plan proposed limiting insurance company profits, taxing doctors and hospitals, and requiring minimum employer expenditures.

The legislature also put forth three competing bills to address our health care challenges. Separate proposals from Fabian Nunez (D-Los Angeles) and Don Perata (D-East Bay) were similar to the Governor's plan, and were eventually consolidated as Assembly Bill (AB) 8. Both were "pay or play" proposals that would maintain the employer-sponsored health care environment and implement a purchasing coalition to offer coverage to employees whose employers did not provide the mandated level of benefits, and other

individuals currently uninsured under our employer-based system. The consolidated bill expanded coverage through three tactics: increased eligibility under current public programs (MediCal, Healthy Families, etc.), mandatory minimum employer contributions for employee health care coverage, and increased access to individual health insurance. Despite the parallels to his own plan, the Governor vetoed AB 8, stating that it didn't achieve 100% universal coverage (the bill did not contain an individual mandate requiring all Californians maintain health insurance) and that the bill placed too much of the financial pressure for solving the problem on employers.

The third legislative proposal was a re-introduction of Senate Bill (SB) 840 by Sheila Kuehl (D – Santa Monica), a single-payer universal coverage bill that was vetoed by the Governor in 2006. Under SB 840, all California residents would be eligible for comprehensive state-provided health care coverage no longer dependent on employment status. The bill would prohibit private health care coverage (except certain supplemental benefits), dismantling the current health care funding system. Funding for the new state-run universal system would be expected to be provided through existing health care spending, administrative efficiencies and payroll taxes.

Together, the Governor's and the Nunez/Perata proposals are representative of today's mainstream health care reform: incrementally expand current systems to cover most or all of the uninsured. Despite other ideas proposed by Republicans (tax incentives to impact health care coverage choices) and progressive/far-left Democrats (scrap the current system entirely in favor of single-payer government coverage), the mainstream has gained momentum. The governor's plan, amended somewhat and formally introduced to the legislature for consideration, has been passed by the Assembly. Although the Senate's response has been mixed in light of the projected budget shortfall, this plan forms the likely path for health care reform in 2008. As discussions continue, Sacramento continues to move towards an incremental reform package geared primarily at extending coverage to the uninsured.

In 2008, there are still several hurdles facing reform efforts at all levels in California. The San Francisco ordinance faces a challenge in federal court by the Golden Gate Restaurant Association, who is arguing that the spending requirement is invalid due to preemption by the Employee Retirement Income Security Act (ERISA). ERISA designates the federal government as the principal entity responsible for regulating employee benefit plans and restricts the ability of local and state governments to legislate requirements affecting plans. Any state reform efforts legislating employer requirements would likely face similar hurdles in court.

Other challenges facing state reform efforts are the California proposition system and the current budget crisis. Because of constitutional restrictions on budget initiatives, any reform bill would require a ballot measure to confirm popular support and provide any public funding. Given the very public, very expensive ballot fights waged between interest groups over health care reform and similar topics in the past, combined with a serious state revenue shortfall, passage of a reform proposal by the state government is no guarantee of implementation.

So while it appears that momentum towards health care reform in California is strong, 2008 will be the big test. Passage of the compromise bill between the Democrats in the legislature and the Governor is possible, but actual reform will require navigating the state budget crisis and passing voter approval through a ballot initiative that could be put before voters for the November election.

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