

## The Protections Americans Stand to Lose Under the McCain Health Care Plan

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Health care reform was one of the key issues sparred over by the vice presidential candidates during their recent debate. Alaskan Governor Sarah Palin defended Senator John McCain's health care plan, claiming that permitting the sale of private insurance across state lines would increase the affordability and accessibility of health care for Americans by removing restrictive regulations. However, these regulations protect consumers from being unfairly denied coverage based on their health status and from bearing excessive financial risk should they become sick. This brief examines how creating a national market without also creating comprehensive national regulations—as McCain and Palin have indicated with their plan—would remove essential state-based protections for Americans.

### Introduction

Republican presidential nominee John McCain's plan for health care reform would radically change our current system of health insurance coverage. A key component of the McCain plan involves permitting the interstate sale of private insurance,<sup>1</sup> thereby creating a new national individual insurance market and eliminating what McCain has called "the ... excesses of state-based regulation."<sup>2</sup> Yet it is precisely these "excesses of regulation" that provide the backbone of

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consumer protection for health insurance consumers. Much media attention has been directed to the McCain plan's effect on these protections. Both the nonpartisan group Annenberg Political FactCheck<sup>3</sup> and CNN<sup>4</sup> have declared that it would be a mistake to conflate McCain's proposed interstate competition with deregulation. However, this brief argues that creating a national market without also creating comprehensive national regulations—as McCain has indicated with his proposal—is tantamount to removing state-based consumer protections.

Allowing interstate sale of individual insurance would permit insurers to relocate to states with minimal regulation, thus leading to a “race to the bottom” that leaves Americans without the basic protections they have come to rely on. Importantly, McCain has not indicated the sorts of federal regulations that he would introduce into the new health insurance national market,<sup>5</sup> nor have his senior health policy advisers when describing the proposal.<sup>6</sup> On the other hand, McCain has frequently called the current health insurance protections “needless” and “costly” barriers to full market competition,<sup>7</sup> while giving little evidence that he would replace current state-level mandates with corresponding national regulations. The McCain plan's alternative to covering high risk individuals and those with pre-existing conditions would be to create state high-risk insurance pools called “Guaranteed Access Plans,” a model that has already proven to be unsustainable due to exorbitant costs and severely limited enrollment levels.<sup>8</sup>

As the recent financial meltdown has so dramatically demonstrated, we need a government that sets fair standards for consumers and businesses alike, and the health insurance market is no exception. Much has been made of the McCain plan's elimination of a few of these regulations<sup>9</sup>—such as mental health parity, cancer screening, and maternity coverage requirements—but there are many more important financial and health protections that consumers would stand to lose from deregulation, adding additional insecurity to the shoulders of already overburdened Americans. Deregulation would permit insurers to further deny coverage to individuals with even minor health conditions; cease to limit how much an insurer can increase premiums based on consumers' health status once enrolled; cease to require insurers to spend the majority of premiums on actual medical services, rather than administrative costs or profits; and cease to protect consumers from wrongful termination or denial of coverage, particularly for key diseases and conditions.

## Key consumer protections lost under the McCain Plan

**Guarantee Issue Protection:** Guaranteed issue regulations prevent insurers from denying applicants based on their health status. Three levels of protection exist amongst states: those where all insurers must issue all plans (in six states<sup>10</sup>); those where insurers must issue some plans (in eight states<sup>11</sup>); and those where only Blue Cross/Blue Shield must issue their plans as the insurer of last resort (in six states<sup>12</sup>). Regulations that guarantee coverage on the individual market are crucial, as even minor health conditions—be they short periods on antidepressants, prescriptions for allergy medicine, or visits to a therapist—can make individuals and their families ineligible for insurance. Strikingly, even having a caesarean section for child birth can be grounds for later denial of insurance.<sup>13</sup> In total, nearly 40% of individual insurance claims are rejected up front.<sup>14</sup> **Table 1** provides a complete list of state mandates for health insurance coverage.

**Minimum Medical Loss Protection:** Five states include provisions that mandate that insurers must spend at least 75% of premiums on medical services, rather than marketing, administration, or profits.<sup>15</sup> Companies operating in these states must refund any portion of consumers' premiums that do not meet this cap.

**Rate Protection:** Health insurance premiums are often set to reflect a consumer's health status. Three levels of protection exist among states: those that prevent any differential pricing by age or sex (in two states<sup>16</sup>); those that limit differential pricing of premiums by age or other demographic factors (in five states<sup>17</sup>); and those that limit differential pricing by health status (in 10 states<sup>18</sup>). Given that even commonplace disorders—such as acid reflux or joint pain—can increase premiums by hundreds of dollars<sup>19</sup>—removing rate protections will burden families with even more financial risk.<sup>20</sup>

**TABLE 1**

**State mandates for health insurance coverage**

<b>Condition or treatment</b>	<b>Number of states with mandate</b>	<b>Condition or treatment</b>	<b>Number of states with mandate</b>
<i>Mammogram</i>	50	<i>Bone marrow transplants</i>	11
<i>Maternity stay</i>	50	<i>Hospice care</i>	11
<i>Breast reconstruction surgery</i>	49	<i>Hearing aids</i>	10
<i>Diabetic supplies</i>	47	<i>Second surgical opinion</i>	10
<i>Mental health parity</i>	47	<i>Ambulance services</i>	8
<i>Alcoholism</i>	45	<i>Birth centers/midwives</i>	8
<i>Emergency services</i>	44	<i>Other infertility services</i>	8
<i>Mental health general</i>	39	<i>Rehabilitation services</i>	8
<i>Off-label drug use</i>	36	<i>Blood lead poisoning</i>	7
<i>Drug abuse treatment</i>	34	<i>Chemotherapy</i>	4
<i>Prostate cancer screening</i>	33	<i>Long term care</i>	4
<i>Pku/formula</i>	32	<i>Lyme disease</i>	4
<i>Contraceptives</i>	31	<i>Morbid obesity treatment</i>	4
<i>Dental anesthesia</i>	31	<i>Anti-psychotic drugs</i>	3
<i>Well-child care</i>	31	<i>Cancer medication</i>	3
<i>Cervical cancer screening</i>	29	<i>Chlamydia</i>	3
<i>Colorectal cancer screening</i>	28	<i>Early intervention services</i>	3
<i>Diabetes self-management</i>	27	<i>Newborn sickle-cell testing</i>	3
<i>Mastectomy stay</i>	25	<i>Ovarian cancer screening</i>	3
<i>Mastectomy</i>	24	<i>Alzheimer's</i>	2
<i>Clinical trials</i>	23	<i>Blood products</i>	2
<i>Maternity</i>	21	<i>Congenital bleeding disorders</i>	2
<i>TMJ disorders</i>	20	<i>Rehabilitative services</i>	2
<i>Home health care</i>	18	<i>Kidney disease</i>	2
<i>Newborn hearing screening</i>	17	<i>Port-wine stain elimination</i>	2
<i>HPV vaccine</i>	16	<i>Prescription drugs</i>	2
<i>Bone mass measurement</i>	15	<i>Smoking cessation</i>	2
<i>Cleft palate</i>	14	<i>Minimum hysterectomy stay</i>	1
<i>In vitro fertilization</i>	13	<i>Minimum testicular cancer stay</i>	1
<i>Ambulatory surgery</i>	12	<i>Neurodevelopment therapy</i>	1
<i>Orthotics/prosthetics</i>	12	<i>Ostomy related supplies</i>	1
<i>Autism</i>	11	<i>Psychotic drugs</i>	1

SOURCE: Council for Affordable Health Insurance and Georgetown Health Policy Institute.

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***Pre-existing Condition Protection:*** Nineteen states<sup>21</sup> offer a patient-friendly definition of pre-existing conditions, limiting the designation to only previously diagnosed medical conditions. Additionally, states offer a wide range of look-back and exclusion periods, which together govern the length of time—from six months to no limit—when a health insurer can examine a consumer’s medical history to determine if a current condition can be designated as a preexisting condition, and thus restrict or deny coverage.

***Guaranteed Coverage of Conditions and Treatments:*** Many states mandate insurance coverage of certain conditions and medical treatments. Prior research has consistently shown that these mandates do not lower levels of coverage,<sup>22</sup> and in the case of preventative treatments—such as cancer screening—can improve use of valuable services.<sup>23</sup> Mandates for insurers to cover mastectomies, supplies for diabetics, regular check-up examinations of young children, emergency room services, mental health interventions, and autism treatment would all cease under the McCain plan. Americans with even minor health conditions already face formidable barriers to obtaining coverage on the individual insurance market,<sup>24</sup> and the sort of deregulation proposed by the McCain plan would leave these consumers with restricted or no options at all.<sup>25</sup>

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## Endnotes

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