Government Mandates Pose a Threat to Affordable Coverage

One of the most significant threats to health coverage affordability is the increasing number of government mandates that drive up the costs of health coverage for Texas consumers and businesses. Government mandates related to provider payments, provider contracting, and benefits not only drive up the costs of health care but also limit innovation, private market negotiations, and consumer choice.

In an era of skyrocketing health care costs, Texas must be mindful of the unintended consequences of government mandates.

While often well-intended, government mandates typically have adverse effects on health insurance costs, which lead directly to higher premiums for consumers. When the government mandates something in health care, a small population may benefit from the particular mandate, but premiums go up for everyone. While a single mandate can increase premiums as a little as 1%, a 1% in premiums has a large financial impact on families and employers. Every 1 percent increase in premiums costs consumers and employers an estimated $230 million a year in the fully insured market.

Mandates shift costs to the private market, where Texas employers are then forced to decide between reducing employer benefits, lowering wages, requiring employees to share more of the cost for their health coverage, laying off employees, or even closing their doors altogether.

Curbing Costly Government Mandates

TAHP Position: TAHP opposes all government mandates, including payment, contracting, administrative, and benefit mandates, which stifle private market competition, limit consumer choice, and drive up the cost of health care.

TAHP supports:

- The ability of health plans to competitively negotiate contracts with health care providers in the private market without restrictive government mandates that limit competition.
- Health plans having the freedom to competitively contract with the highest-value and quality providers and pharmacies available in order to provide consumers with enhanced access to quality, cost-effective health care.
- Effective, efficient regulations and transparency requirements that protect consumers and providers without driving up costs.

Government Mandates:

- **Limit or eliminate private market competition**
- **Increase the cost of health care premiums**
- **Stifle innovation**
- **Reduce consumer choice of affordable coverage options**

Types of Mandates

Any Willing Provider or Contracting Mandates

Any Willing Provider mandates restrict private market negotiations by forcing health plans to contract with any health care provider regardless of whether that provider meets quality standards, whether there is already sufficient patient access, or whether it will increase the cost of health care for consumers and businesses. An Any Willing Pharmacy mandate, promoted by the Obama Administration but ultimately abandoned, would have increased Medicare costs for taxpayers by $21.3B over 10 years. Consumers have seen anywhere from 6 to 21% higher premiums as a result of Any Willing Pharmacy mandates.

> "*Any Willing Provider laws…can limit competition by restricting the ability of insurance companies to offer consumers different plans…these restrictions on competition may result in insurance companies paying higher fees to providers, which, in turn, generally result in higher premiums and may increase the number of people without coverage.*"

Federal Trade Commission August 2011

Payment Mandates or Government Price-Setting

Instead of allowing for private-market negotiations, government payment mandates require private health plans to pay providers at a government-determined rate. When government sets privately negotiated rates at "billed charges" or "usual and customary charges," it creates perverse incentives in the market and often results in negative consequences. Currently in Texas, there is no legal limit to what providers can set as their billed charges, and no state agency regulates providers for billing excessive amounts. Billed charges (or provider prices) have little or no connection to underlying market prices, quality, or actual health care costs, and these amounts are usually not what is accepted and negotiated in the market. These billed charges are often 10 to 20—even 100—times what Medicare pays for the same services.

These mandates incentivize providers to remain out of network, significantly increase health care costs, increase consumer out-of-pocket costs and lead to more expensive health insurance premiums for employers and consumers.

Benefit Mandates

A health benefit mandate requires carriers to offer additional benefit coverage for specific health care services, types of providers and types of enrollees and dependents. Nationally, there are an estimated 2,200 or more state mandates requiring insurance companies to cover, for example, the cost of treatments such as acupuncture, fertility treatment, or substance abuse programs. These mandates can increase the cost of health care anywhere from 10 to 50 percent. Texas ranks 6th in the nation for the highest number of mandates. New health benefit mandates were responsible for as much as 23 percent of all premiums from 1996-2011.

The Affordable Care Act further increased benefit mandates by requiring health plans to cover the "essential health benefits" package for health insurance coverage starting on or after January 1, 2014, including benefits such as ambulatory patient services, emergency services, hospitalization, and more.

Administrative Mandates

Administrative mandates are often disguised as "standardization" and "transparency" efforts, but tend to prohibit standard business operations or mandate standardization of business operations in the private market. Like all mandates, administrative requirements always complicate private business operations and add costs to the system. Administrative mandates include prohibiting standard payment options such as credit card payment or mandating when and how a plan can require copayments. TAHP supports reasonable government oversight to protect consumers. However, forcing all insurers into the same narrow box stifles innovation and ensures that increased operational costs are passed on to employers and consumers without corresponding value being added into the system.