Equity Assessment Framework for Public Health Laws and Policies

Example: Marketplace Special Enrollment Periods

The example provided highlights considerations for states with a state-based exchange considering whether to open another special enrollment period for COVID-19, or for states using the federally-facilitated marketplace that may want to advocate for a national special enrollment period. As the number of cases, hospitalizations, and deaths varies a great deal across and even within states, it will be important to consider the role of health care coverage in mitigating some of the effects of the pandemic.

1. **What is the issue and how does the law or policy address it?**

   Based on 2018 data, 8.5% of the U.S. population, or 27.5 million people, lack health insurance. This statistic varies by state and is impacted by whether or not a state adopted Medicaid expansion. The states with the highest uninsured rate – Texas (17.7%), Oklahoma (14.2%), Georgia (13.7%) and Florida (13%) – did not expand Medicaid. In comparison, several states that did expand Medicaid have uninsured rates below 5%, including Rhode Island (4.1%), Hawaii (4.1%), Vermont (4%), and Massachusetts (2.8%), as well as the District of Columbia (3.2%)

   This is significant during the COVID-19 pandemic because uninsured individuals may be less likely to seek diagnosis and treatment, have higher costs if they do access medical care, and suffer incidental effects as a result, undermining their financial stability. This will mostly burden the young (age 19-25), people with less than a high school education and household incomes under $50,000 a year, and Hispanic and Black individuals, all groups with higher uninsured rates than the U.S. average.

   Recognizing this issue, 11 states and DC enacted Marketplace Special Enrollment Periods to allow uninsured individuals and individuals with plans that are not ACA-compliant the opportunity to obtain coverage. As of June 23, 2020, only California, New York, Maryland, Massachusetts, DC, and Vermont continue to have active open enrollment periods. It is important to note that all of these states operate their own exchanges. The Trump administration has decided not to re-open the federally facilitated marketplace (healthcare.gov) and instead plans to pay hospitals for the cost of treating uninsured COVID-19 patients. However, a special enrollment period is always available for qualifying life events, which include the loss of job-based health care coverage.

2. **How are community voices included in identifying and defining the issue and deciding what law or policy approach to take?**

   Governors, attorneys general, legislators, and professional associations have all expressed support for or requested a marketplace special enrollment period due to COVID-19. There has also been an emphasis on the need for expanded outreach to consumers to educate them about their options under either a general or COVID-19-specific special enrollment period. There is an opportunity for states to engage healthcare navigators, Community Health Workers/Promotores de Salud, faith-based organizations and leaders, and state unemployment or workforce agencies, among others, to conduct outreach and support enrollment, targeting uninsured individuals and communities that are most vulnerable.

3. **What is the historical context of the issue?**

While the uninsured rate dropped significantly from 2013 to 2016, it has been increasing since 2016. A number of factors influenced this change, including:

- Lack of Medicaid expansion or changes to the Medicaid program that make it more difficult to obtain and maintain insurance,
- The "public charge" rule,
- Repeal of the individual mandate penalty, and,
- Expansion of non-ACA plans.

In 2018, the majority of individuals with health insurance were covered under a private plan (67.3%) while the remainder (34.4%) were covered under public plans, like Medicare, Medicaid, and the VA. Individuals may have more than one insurance type in a calendar year, but employer-provided coverage is the most common, covering 55.1% of people in 2018.

The most common reasons individuals are uninsured include: cost; unavailability of employer-sponsored coverage; living in a non-expansion state; not being aware of or not qualifying for financial assistance; and being undocumented. Cost tends to be the most cited and overarching barrier (45% of adults in one study), whether considering employer-provided, marketplace, or public coverage options. People of color and low income people are disproportionately impacted, being most likely to work in jobs that do not provide coverage, or falling in a coverage gap (making too much to qualify for Medicaid but not enough to qualify for marketplace credits, which uses the federal poverty level as a lower limit).

4. **How does the law or policy impact different population groups?**

Evidence suggests that people are taking advantage of the Marketplace Special Enrollment Period due to COVID-19. For example:

- Maryland reports more than 43,000 people enrolled as of June 18.
- Covered California reports that more than 155,000 people have signed up for coverage, which is 2 times higher than normal.
- Colorado reported more than 14,000 people enrolled between March 20 and April 30.
- Nevada saw 6,017 people enrolled in two months, with 5,479 being new consumer enrollments.

However, a further breakdown of enrollment data is not currently publicly available, so it is difficult to tell the effect across population groups or whether people became eligible due to job loss or were previously uninsured but took advantage of the special enrollment period due to COVID-19. Since the uninsured population is more likely to include people of color, younger people, and people with lower socioeconomic status, it is likely that these groups have most benefited from the special enrollment period.

5. **What are the known or expected outcomes of a given law or policy?**

Establishing Marketplace Special Enrollment Periods is intended to allow uninsured individuals the opportunity to obtain coverage at a time when such coverage might be crucial. In addition to this state-level option, the Families First Coronavirus Response Act prohibits cost sharing for diagnosis and prohibits prior authorization requirements for diagnostic services, and some states have taken further action to require insurers to cover a vaccine if one becomes available, and waive cost-sharing for COVID-19 treatment and related conditions.

If individuals are insured, and with these other protections in place, they may be more likely to seek out diagnosis and treatment, which will help reduce morbidity and mortality associated with COVID-19 and, if patients seek out care, will contribute to the control of the spread.

However, there may still be disparities for the people at greatest risk, as efforts to reach the uninsured even in non-pandemic times are challenging.

6. **What other options can achieve the same or similar outcome?**

There have been broad calls for a national special enrollment period due to COVID-19, which would enable 38 states using the federally-facilitated marketplace to establish COVID-19-specific special enrollment periods. This was unsuccessful.

States, however, can implement policies to require insurers operating in the state to cover COVID-19 vaccination, waive cost-sharing for treatment, waive prior authorization requirements for COVID-19 testing and treatment, and prevent policy terminations and extend grace periods for premium payments. States can also request approval for Section 1135 waivers to waive or modify certain requirements under Medicare, Medicaid, CHIP, and HIPAA, which all 50 states have done. As the COVID-19 pandemic response evolves, states will need to be flexible and responsive as outbreaks emerge or re-emerge and community spread continues so that vulnerable groups are not left without essential coverage and treatment options.

7. **Can the solution be successfully sustained?**

In the short term, outreach to communities about eligibility for coverage, including subsidies and lower-cost plans, is critical. This outreach should be conducted in a culturally-sensitive manner – with attention to language and literacy and channels of distribution. States have a vested interest in ensuring that uninsured and underinsured individuals are not further disadvantaged during the current public health emergency. It will be important for states to collect and report data about who is getting insurance, whether they can maintain it, and who is losing coverage as both the public health and employment impacts of the pandemic fluctuate. Quality data will allow states to target enrollment efforts and identify the need for additional policies at the state level to ensure access to testing and treatment related to COVID-19. What remains to be seen is whether there will be the need for another special enrollment period, extension of the open enrollment period coming up this fall, or broader adoption of state actions to ensure coverage and access to care in the absence of additional federal action to address the issue.

SUPPORTERS

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