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Coverage Now for Sick Children? Check Fine Print

By ROBERT PEAR

WASHINGTON — Just days after [President Obama](#) signed the new health care law, insurance companies are already arguing that, at least for now, they do not have to provide one of the benefits that the president calls a centerpiece of the law: coverage for certain children with pre-existing conditions.

Mr. Obama, speaking at a health care rally in northern Virginia on March 19, said, “Starting this year, insurance companies will be banned forever from denying coverage to children with pre-existing conditions.”

The authors of the law say they meant to ban all forms of discrimination against children with pre-existing conditions like [asthma](#), [diabetes](#), [birth defects](#), orthopedic problems, leukemia, [cystic fibrosis](#) and [sickle cell disease](#). The goal, they say, was to provide those youngsters with access to insurance and to a full range of benefits once they are in a health plan.

To insurance companies, the language of the law is not so clear.

Insurers agree that if they provide insurance for a child, they must cover pre-existing conditions. But, they say, the law does not require them to write insurance for the child and it does not guarantee the “availability of coverage” for all until 2014.

William G. Schiffbauer, a lawyer whose clients include employers and insurance companies, said: “The fine

print differs from the larger political message. If a company sells insurance, it will have to cover pre-existing conditions for children covered by the policy. But it does not have to sell to somebody with a pre-existing condition. And the insurer could increase premiums to cover the additional cost.”

Congressional Democrats were furious when they learned that some insurers disagreed with their interpretation of the law.

“The concept that insurance companies would even seek to deny children coverage exemplifies why we fought for this reform,” said Representative [Henry A. Waxman](#), Democrat of California and chairman of the Energy and Commerce Committee.

Senator [John D. Rockefeller IV](#), Democrat of West Virginia and chairman of the Senate commerce committee, said: “The ink has not yet dried on the [health care reform](#) bill, and already some deplorable [health insurance](#) companies are trying to duck away from covering children with pre-existing conditions. This is outrageous.”

The issue is one of many that federal officials are tackling as they prepare to carry out the law, with a huge stream of new rules, official guidance and brochures to educate the public. Their decisions will have major practical implications.

Insurers say they often limit coverage of pre-existing conditions under policies sold in the individual insurance market. Thus, for example, an insurer might cover a family of four, including a child with a heart defect, but exclude treatment of that condition from the policy.

The new law says that health plans and insurers offering individual or group coverage “may not impose any pre-existing condition exclusion with respect to such plan or coverage” for children under 19, starting in “plan years” that begin on or after Sept. 23, 2010.

But, insurers say, until 2014, the law does not require them to write insurance at all for the child or the family. In the language of insurance, the law does not include a “guaranteed issue” requirement before then.

Consumer advocates worry that instead of refusing to cover treatment for a specific pre-existing condition, an insurer might simply deny coverage for the child or the family.

“If you have a sick kid, the individual insurance market will continue to be a scary place,” said Karen L. Pollitz,

a research professor at the Health Policy Institute at [Georgetown University](#).

Experts at the National Association of Insurance Commissioners share that concern.

“I would like to see the kids covered,” said Sandy Praeger, the insurance commissioner of Kansas. “But without guaranteed issue of insurance, I am not sure companies will be required to take children under 19.”

A White House spokesman said the administration planned to issue regulations setting forth its view that “the term ‘pre-existing’ applies to both a child’s access to a plan and his or her benefits once he or she is in a plan.” But lawyers said the rules could be challenged in court if they went beyond the law or were inconsistent with it.

Starting in January 2014, health plans will be required to accept everyone who applies for coverage.

Until then, people with pre-existing conditions could seek coverage in high-risk insurance pools run by states or by the secretary of health and human services. The new law provides \$5 billion to help pay claims filed by people in those pools.

Federal officials will need to write rules or guidance to address a number of concerns. The issues to be resolved include defining the “essential health benefits” that must be offered by all insurers; deciding which dependents are entitled to stay on their parents’ insurance; determining who qualifies for a “hardship exemption” from the requirement to have insurance; and deciding who is eligible for a new long-term care insurance program.

As originally conceived, most of the new federal requirements would have taken effect at the same time, in three or four years. The requirements for people to carry insurance, for employers to offer it and for insurers to accept all applicants were tied together.

But as criticism of their proposal grew, Democrats wanted to show that the legislation would produce immediate, tangible benefits. So they accelerated the ban on “pre-existing condition exclusions” for children.

Consumers will soon gain several other protections. By July 1, the health secretary must establish a Web site where people can identify “affordable health insurance coverage options.” The site is supposed to provide information about premiums, co-payments and the share of premium revenue that goes to administrative costs and profits, rather than medical care.

In addition, within six months, health plans must have “an effective appeals process,” so consumers can challenge decisions on coverage and claims.

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