



What Happens If the Individual Mandate Is Struck Down?

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The Affordable Care Act guarantees that each of the 57 million nonelderly Americans with pre-existing conditions can obtain insurance. This protection cannot exist, however, unless consumers are also required to carry insurance before they become sick or injured—and this ACA provision is under attack by conservatives who falsely claim it is unconstitutional. The case is now with the Supreme Court. If people wait until they are sick to purchase insurance, they will drain all the money out of an insurance plan that they have not paid into, driving up costs for everyone else. We know this is true because we've seen it happen. Seven states enacted pre-existing conditions laws without a coverage requirement:

- **Kentucky:** Forty insurers left Kentucky's market by some estimates, and only two remained before the law was repealed.¹
- **Maine:** Thirteen of Maine's 18 major insurance carriers stopped issuing new individual policies. Many also doubled their premiums.²
- **New Hampshire:** New Hampshire's insurance law left it with nearly no carriers in its individual insurance market. The state enacted an emergency tax to compensate insurers for the costs of the law, which was repealed in 2002.³
- **New Jersey:** Premiums rose as much as 350 percent in New Jersey after its pre-existing conditions law took effect. Even HMO plans, which tend to resist premium increases, nearly doubled in price.⁴
- **New York:** The percentage of nonelderly New Yorkers without insurance grew 21 percent, with premiums increasing as much as 40 percent per year.⁵
- **Vermont:** Vermont fared better than other states with similar laws, but its premiums spiked an average of 16 percent in two years.⁶
- **Washington:** Nonmanaged care options disappeared entirely from Washington's individual market. Eventually, entire counties had no private individual insurance options at all.⁷

In contrast, Massachusetts enacted a law just like the Affordable Care Act that contains both insurance regulations and a coverage requirement. As a result, "The average individual premium in [Massachusetts] fell from \$8537 at the end of 2006 to \$5143 in mid-2009, a 40% reduction while the rest of the nation was seeing a 14% increase."⁸

Endnotes

- 1 Adele M. Kirk, "Riding the Bull: Experience with Individual Market Reform in Washington, Kentucky and Massachusetts," *J. of Health Politics, Policy and Law* 25 (133) (2000).
- 2 Maine Bureau of Insurance, *White Paper: Maine's Individual Health Insurance Market*, (2001)
- 3 Ibid.
- 4 Alan C. Monheit and others, "Community Rating and Sustainable Individual Health Insurance Markets in New Jersey," *Health Affairs* 23 (167) (2004).
- 5 Mark A. Hall, "An Evaluation of New York's Reform Law," *J. of Health Politics, Policy and Law* 25 (71) (2000).
- 6 Mark A. Hall, "An Evaluation of Vermont's Reform Law," *J. of Health Politics and Law* 25 (101) (2000).
- 7 Kirk, "Riding the Bull"; Maine Bureau, *White Paper*.
- 8 Jonathan Gruber, "The Senate Bill Lowers Non-Group Premiums: Updated for New CBO Estimates" (Boston: Massachusetts Institute of Technology, 2009).