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SOMETHING OLD, SOMETHING NEW: TEXAS' TWO HIGH-RISK POOLS

Thanks to national health reform, Texas now has two separate high-risk pools that offer health insurance to Texans who cannot get coverage in the private market due to pre-existing health conditions: the state-administered Texas Health Insurance Pool, established in 1998, and the federally administered Pre-existing Condition Insurance Plan created by the new federal health reform law. Because state law in Texas allows health insurers to deny coverage to people with pre-existing conditions in the individual market (coverage purchased directly from an insurer, as opposed to job-based coverage), many Texans with medical conditions can only get coverage through a high-risk pool. As of January 2014, the new federal health reform law will prohibit insurance companies from denying coverage or increasing premiums based on a person's health status or pre-existing conditions. Until then, high-risk pools will continue to provide a lifeline to tens of thousands of Texas residents who need health insurance. This *Policy Page* explains both of Texas' high-risk pools—their similarities, differences, and important upcoming changes.

- **Enrollment has begun for PCIP – the new federal high-risk pool created by health reform.**
- **PCIP has lower premiums and no pre-existing condition waiting period, big advantages over THIP.**
- **PCIP is only open to people who've been uninsured for at least 6 months. THIP does not require enrollees to be uninsured.**
- **THIP will launch a new low-income premium subsidy program in January 2011.**

Comparisons of Key High-Risk Pool Features

With two high-risk pools to choose from—the Texas Health Insurance Pool (THIP) and the new Pre-existing Condition Insurance Plan (PCIP)—Texans with pre-existing conditions will need to compare both options and see which one best meets their needs. Though they serve a similar purpose, they have different premiums, benefits, and eligibility criteria.

Premiums

Premiums vary between the two pools. Affordability has been a limiting factor in THIP, the existing state risk pool, which by state law must charge *twice* as much as the average rates charged to healthy people in the private, individual market for similar coverage. PCIP, the new federal risk pool, charges average individual market rates, so in general, PCIP's coverage is less expensive than THIP's.¹ THIP will start a new low-income, sliding-scale premium subsidy program in January 2011 with maximum discounts of up to 50 percent.

Benefits

PCIP and THIP both cover primary and specialty care, hospital care, and prescription drugs. PCIP offers a single plan option with a \$2,500 deductible and limits an enrollee's annual out-of-pocket cost-sharing to \$5,950 in-network. THIP's coverage is designed to be similar to commercial individual market coverage options, with deductibles ranging from \$1,000 to \$7,500 a year. Depending on deductible, annual out-of-pocket limits for THIP plans range from \$4,000 to \$12,500, plus copayments. A key benefit difference is PCIP has no pre-existing condition waiting period, and THIP has a 12-month

pre-existing condition waiting period for enrollees who do not have at least 12 months of prior coverage. In general, PCIP has better preventive benefits, with in-network preventive care such as annual physicals, mammograms, and cancer screenings fully covered by PCIP and not subject to enrollee deductibles or copays. In general, THIP has more generous pharmacy benefits, with prescription drugs subject to a separate, much lower deductible than medical benefits.

Eligibility

With differing eligibility criteria, some Texans will find they are eligible for only one of the two high-risk pool options. For example, PCIP is only open to people who have been uninsured for at least six months. This prevents current THIP enrollees and others with current health coverage from switching to PCIP unless they drop coverage and go uninsured for six months. THIP does not require applicants to be uninsured before enrolling, and thus will remain an important source of coverage for Texans with pre-existing conditions who want to maintain continuous coverage. THIP will continue to serve current enrollees as well as other Texans, for example people retiring before Medicare eligibility, exhausting COBRA coverage, or starting their own business, who cannot risk a six-month stretch without insurance coverage.

If a person is eligible for both programs and can choose between the two, on balance, PCIP will generally be a better deal with lower premiums and no pre-existing condition waiting period. The following sections provide more details on both pools' eligibility, premiums, benefit, and funding.

Two High-Risk Pools at a Glance		
	Texas Health Insurance Pool	Pre-existing Condition Insurance Plan
Administered by:	Nonprofit, political subdivision of the State of Texas. Governed by a nine-member board appointed by the Texas Insurance Commissioner.	U.S. Department of Health and Human Services
Coverage first offered on:	January 1998	August 2010
Premiums: <ul style="list-style-type: none"> ▪ Relative to premiums for healthy people in the private individual market for similar coverage ▪ Low-income subsidies ▪ Premium for a 40 year old female in Harris Co. ▪ Premium for a 60 year old male in Bexar County ▪ Full premium range for \$2,500 deductible plan 	Twice as much Yes, starting Jan. 2011 \$750/mo* \$970/mo* \$261 to \$1,586/mo*	Same rates No \$387/mo** \$688/mo** \$323 to \$688/mo**
Pre-existing condition waiting period:	Up to 12 months	None
Eligibility: <ul style="list-style-type: none"> ▪ Must be uninsured 6 months ▪ Must have rejection from insurer ▪ Can have access to job-based coverage ▪ Must be a citizen or legal resident 	No No (other ways to qualify) In most cases, no Yes	Yes Yes Yes Yes
Funding (in addition to enrollee premiums):	Assessments on health insurers. \$77 million in 2009.	Federal funding. \$493 million allocated to Texas over 3.5 years.

* THIP rates effective August 1, 2010 for \$2,500 deductible plan. THIP rates vary by deductible plan level, age, gender, geography, and smoking status. Full premium tables available at www.txhealthpool.org/rates.html.

** PCIP rates effective August 1, 2010 for PCIP's plan, which has a \$2,500 deductible. PCIP rates vary only by age. Premium tables available at www.pciplan.com/applicants/states/TX.html.

Texas Health Insurance Pool

Overview

The Texas Health Insurance Pool (THIP) was created by the Texas Legislature to provide health insurance to eligible Texas residents who are unable to obtain coverage from private insurers because they have a pre-existing health condition. The pool began offering coverage in 1998, and as of June 2010 had 26,894 Texans enrolled. Complete information about THIP is available online at www.txhealthpool.org.

Eligibility

To qualify for THIP, individuals must generally be under age 65, be a Texas resident, be a U.S. citizen or legal permanent resident, have no access to employer-sponsored coverage, and meet any one of the following criteria below:

- Be unable to get individual health insurance due to health reasons. Applicants can prove this with a notice of rejection by an insurer, a certification by an insurance agent that the applicant would be declined, or a diagnosis with certain medical conditions—such as cancer, heart disease, or diabetes—that would result in an insurance company rejection.
- Be able to only get an individual health insurance policy that excludes coverage for existing conditions; or
- Have had 18 or more months of previous employer-based health coverage with no gaps in coverage longer than 63 days. Such enrollees are afforded special insurance portability protections under federal HIPAA law.²

Most individuals who are eligible for job-based coverage (through their job, a spouse's job, or a parent's job), are ineligible for THIP—even if they are not enrolled in their job-based coverage—with the following two exceptions:

- Individuals transitioning from employer-sponsored coverage who have not exhausted their 18-month COBRA continuation coverage may access THIP coverage with a minimum six-month pre-existing condition exclusion period if otherwise eligible for the pool.³
- Individuals with job-based coverage who meet each of the following three conditions may elect THIP coverage: (1) they are employed part-time, (2) their employer makes no contribution toward their employer-sponsored coverage, and (3) the employer-sponsored coverage is more limited than the pool coverage. All other individuals with access to job-based coverage with limited benefits remain ineligible for the pool.

Premiums

THIP coverage is expensive. By state law, premiums are set at twice the average private, individual market rates charged to healthy people for the same coverage.⁴ Rates in the Texas individual health insurance market are completely unregulated. The average monthly premium in the pool is \$712 per month.⁵ Based on rating factors like age, gender, geographic area, deductible selected, and smoking status, THIP premiums range from \$160 to \$2,207 a month. Since the pool began offering coverage in 1998, premiums have increased 10.5 percent per year on average.

Upcoming Low-income Premium Subsidy Program

The high cost of THIP premiums places its coverage out of reach for many Texans, especially those with low and moderate incomes. In 2009, the Texas Legislature passed HB 2064 by Representative Smithee, which establishes a sliding-scale premium discount program for lower-income THIP enrollees. Premium subsidies will begin to address THIP affordability issues and help it serve the purpose for which it was created—increasing access to coverage for people who are medically uninsurable.

Premium subsidies will begin on January 1, 2011. Enrollees with household incomes below 200 percent of the federal poverty level (FPL, currently about \$36,600 for a family of three) will receive 50 percent off of premiums. Enrollees with household incomes between 200 and 300 percent FPL (\$36,600-\$54,900 for a family of three) will receive 30 percent off of premiums.

Subsidies will be funded by a portion of the “prompt pay” penalties that insurers and HMOs pay to network hospitals and doctors when they pay claims late. Based on prompt pay penalties paid in previous years, Texas insurers estimate that the portion of the penalties redirected to THIP may total \$10 million a year. But since the actual funding collected will depend on late claims payments, the amount collected from year-to-year cannot be known in advance. During 2010, THIP has been collecting prompt pay penalties that will be used to fund 2011 subsidies.

The amount of funding ultimately available for subsidies will be limited and is unlikely to be enough to cover all current THIP enrollees who are eligible. THIP estimates that about 3,000 enrollees could receive premium assistance in 2011, should THIP collect \$10 million in 2010 prompt pay penalties. Based on member surveys, THIP anticipates that it has more enrollees in who are income-eligible for subsidies than likely funding will cover. If this turns out to be the case, THIP anticipates having to start a waiting list.

Applications for premium subsidies were mailed to all current THIP enrollees at the beginning of July 2010. Applications are not available for people not currently enrolled, because at this point, THIP does not anticipate sufficient funding to extend subsidies to new enrollees.

THIP enrollees interested in the premium subsidy program should return their application as soon as possible. THIP accepts members’ prior year’s tax returns as proof of income. THIP enrollees who are not required to file taxes or whose household income has changed substantially since filing 2009 taxes may prove income using an alternate method.

Pre-existing Condition Waiting Period

Care related to pre-existing conditions is excluded from THIP coverage for the first 12 months. This waiting period does not apply to THIP members who are HIPAA-eligible. For enrollees who are not HIPAA-eligible, THIP “credits” any prior coverage to reduce the pre-existing condition waiting period. For example, a pool applicant with three months of prior insurance coverage will be subject to a nine-month exclusion period. THIP members who are still within their 18-month COBRA continuation period when they enroll are subject to a minimum six-month pre-existing condition exclusion period.⁶

Benefits

The pool’s nine-member Board of Directors determines the pool’s covered services, exclusions, annual deductibles, coinsurance requirements, and co-payment amounts. State law directs the board to design pool coverage to be consistent with policies available in the commercial individual health insurance market.⁷

Covered services include hospitalization, emergency care, surgery, physician office visits, home health care, hospice care, serious mental illness services, physical therapy, and prescription drugs. The pool utilizes a Blue Cross and Blue Shield of Texas statewide preferred provider network. Enrollees pay 20 percent coinsurance for services delivered by preferred providers and 40 percent coinsurance for out-of-network providers. THIP offers five different deductible levels: \$1,000, \$2,500, \$3,000 (health savings account qualified), \$5,000, and \$7,500. In 2009, 75 percent of THIP members were enrolled in the \$2,500 or \$5,000 deductible plans, with enrollment split nearly evenly between the two.⁸ Out-of-pocket maximums in THIP range from \$4,000-\$12,500 per year depending on which deductible-level plan is chosen.

All THIP plans have a \$2 million lifetime maximum. The new health reform law prohibits dollar-value lifetime limits in insurance plan years beginning after September 23, 2010, but this provision does not apply to high-risk pool coverage (to

THIP or PCIP). However, because state law directs THIP to adopt coverage consistent with private market coverage, THIP will likely adopt coverage with no lifetime limit as it becomes prevalent in the private market.

Funding

Because state risk pools generally serve less healthy individuals, the average claims cost per enrollee is typically quite high. No state's risk pool relies solely on enrollee premiums to cover claims costs. THIP is financed primarily by premiums paid by enrollees and assessments on insurers and HMOs. The pool does not receive any state General Revenue funding. In 2009, THIP collected \$199 million in member premiums, \$77 million in insurer assessments, and \$11 million in federal grants. In 2009, THIP paid out \$273 million in medical and pharmacy claims and \$13 million in administrative expenses.⁹ Over the 12-year history of the pool, enrollee premiums have accounted for 66 percent of pool revenue and insurer assessments have accounted for 33 percent of revenue.¹⁰

Pre-existing Condition Insurance Plan

Overview

The Pre-existing Condition Insurance Plan (PCIP) was created by the new federal health reform law. U.S. Department of Health and Human Services (HHS) offered each state the opportunity to administer its own risk pool under health reform. Governor Perry, along with 20 other governors, opted instead to let the federal government administer the new high-risk pool for their states. PCIP is a temporary plan that will operate until 2014, when health reform will prohibit health insurers from denying coverage or charging higher premiums based on pre-existing conditions.

HHS has contracted with the Government Employees Health Association (GEHA) to administer PCIP benefits in the 21 states that opted for a federally administered plan. PCIP enrollment started on July 1, 2010 for coverage starting on August 1. PCIP information and application forms in English and Spanish are available at www.pciplan.com.

Eligibility

To enroll in PCIP, applicants must meet the following three criteria:

- Be a citizen or national of the United States or lawfully present in the United States;
- Have been uninsured for at least the last six months; and
- Have had trouble getting insurance due to a pre-existing medical condition.

To demonstrate that they have had trouble getting insurance due to a pre-existing medical condition, applicants must submit a letter from an insurance company within the last six months rejecting them for coverage due to pre-existing conditions, or offering only limited coverage that excludes benefits for pre-existing conditions. Unlike THIP, PCIP does not currently have a list of medical diagnoses that qualify a person for coverage without having to get an insurer rejection letter.

The health reform law prohibits insurance companies from rejecting children under age 19 from coverage due to pre-existing conditions after September 23, 2010. Once they can no longer be denied coverage, children can enroll in PCIP only if the premium they are offered in the private market is at least twice as much as PCIP premiums.

Premiums

The health reform law requires that PCIP premiums be consistent with average rates charged in the private market to healthy individuals, unlike THIP, which sets rates at twice this level. Rates for PCIP are not necessarily half of THIP's because benefits and rating structures vary between the programs, but in general, PCIP premiums are less expensive than THIP's.

PCIP premiums vary only by age and range from \$323 to \$688 a month. PCIP does not offer subsidies for enrollees with low incomes.

Pre-existing Condition Waiting Period

PCIP does not have a pre-existing condition waiting period.

Benefits

PCIP covers primary and specialty care, hospital care, and prescription drugs. PCIP offers a single plan level with a \$2,500 annual in-network deductible. In-network preventive services such as annual physicals, mammograms, cancer screenings, and immunizations are available with no cost-sharing. Doctors visits are subject to a \$25 co-payment and other services are subject to 20% coinsurance if delivered by preferred providers and 40% for out-of-network providers. PCIP has an annual out-of-pocket maximum of \$5,950 in-network and \$7,000 out-of-network. PCIP does not have a lifetime maximum.

Funding

As with all high-risk pools, premiums alone will be insufficient to cover medical claims. In addition to premiums, PCIP is funded by \$5 billion appropriated through federal health reform. Texas has been allocated \$493 million to cover pool expenses in excess of premiums through 2013. PCIP will dissolve in 2014, when health reform prevents insurers from deny coverage or charging more due to pre-existing conditions.

Several questions have been raised about the adequacy of PCIP funding. Whether the funding is sufficient to cover the 41-month period between now and 2014 will depend in large part on how many people enroll, how fast they enroll, and what medical care they receive—all items that cannot be predicted with much accuracy. The health reform law grants HHS authority to make changes to the program if necessary to keep it within budget, including limiting enrollment, raising premiums, or reducing benefits. Should funding prove insufficient, it is possible that HHS will make adjustments to the program to keep it in budget. It is also possible that Congress would appropriate additional funding.

Conclusion

Texas' current high risk pool provides vital coverage to nearly 27,000 Texans. With the introduction of PCIP, many Texans with pre-existing conditions who would otherwise be uninsured will get access to coverage. These programs provide concrete help right now to Texans who have trouble getting coverage in the private market because of a pre-existing condition. These programs serve as a bridge to 2014, when, because of health reform, health coverage will finally be available to all Texans regardless of their health status.

¹ PCIP's rates are not necessary half of THIP's because the programs have different benefits and different rating structures. For example, PCIP's coverage is more generous in terms of no pre-existing condition waiting period and preventive care with no out-of-pocket cost sharing. However, THIP's coverage has more a more generous pharmacy benefit. Differences in benefits are factored into the premiums, so even for the same deductible-level plan, PCIP premiums may not be half of THIP's. The plans also have much different rate structures. PCIP has just four premium rate levels based on the age of the enrollee. THIP has a much wider range of premium levels and premiums vary by geography, age, gender, deductible level, and tobacco use.

² The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires states to adopt an approach to guarantee access to non-group coverage without pre-existing condition exclusions for "HIPAA-eligible" individuals. Texas fulfills this requirement through THIP. To be HIPAA-eligible, a person must have had at least 18 months of prior group coverage not interrupted by a gap of more than 63 days in a row, not be eligible for other public or private coverage, and must elect and exhaust any available COBRA continuation coverage or similar state continuation coverage. People with prior coverage through individual insurance are not HIPAA eligible and are not extended the same protections, though they receive credit toward the THIP pre-existing condition waiting period for the number of months insured within the year prior to enrollment.

³ This exception applies to individuals who either did not elect COBRA or state continuation coverage during the limited enrollment period or selected COBRA or state continuation and then lapsed coverage.

⁴ THIP premiums are set at twice the average rate for commercial, individual-market, health insurance sold in Texas. To determine the average market rate, referred to as the "standard risk rate," the pool's actuary surveys the five largest commercial individual health insurers to collect current plan and premium information. After accounting for varying benefit designs of individual plans in the market, the actuary determines the standard risk rate. The pool's actuary updates the standard risk rate twice a year, and pool premiums are adjusted accordingly.

⁵ Milliman, Standard Rate Analysis for August 1, 2010, letter to Steven Browning, THIP Executive Director.

⁶ These members are not HIPAA-eligible because they did not elect and exhaust all available COBRA continuation coverage.

⁷ Texas Insurance Code, § 1506.151.

⁸ Texas Health Insurance Pool, *2009 Annual Report*, May 31, 2010, online: www.txhealthpool.org.

⁹ Ibid.

¹⁰ THIP, Board of Directors meeting packet, Net Loss/Assessment History Summary, May 26, 2010.

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