



Bad Ideas

A series of briefs examining proposals that could negatively affect health care coverage

H.R. 2355, The Health Care Choice Act: The Wrong Prescription for America's Health Care Needs

Once again, conservatives are promoting a bad idea under the guise of helping the uninsured. The *Health Care Choice Act* (H.R. 2355), sponsored by Rep. John Shadegg (R-AZ), will be a setback for Americans who need high-quality, affordable health care. This legislation, favored by the Bush Administration, would undermine state laws designed to protect health care consumers: It would allow insurance companies to sell policies across state lines bound only by the laws of the state in which they are located—avoiding the requirements of the states where policyholders live. The legislation would drastically alter the landscape of the individual marketplace, where more than 16 million Americans currently receive their health coverage.¹ The *Health Care Choice Act* would be a financial boon to insurers—and a disaster for health care consumers, particularly those in vulnerable populations.

Some of the most serious problems with this legislation

- **H.R. 2355 will create a “race to the bottom” by insurers:** Because the legislation would allow insurance companies to locate in, and follow the regulations of, one state while selling insurance to people in any other state, insurers would be free to relocate to those states with the fewest consumer protections. Strong state consumer protection laws were achieved through hard work by advocates and state legislators. H.R. 2355 would allow insurers to circumvent these protections, which have been so important for consumers.
- **H.R. 2355 will hurt older and sicker individuals:** Since insurers will be able to flock to the states with the weakest regulations, consumer protections that make purchasing health insurance affordable for older and sicker individuals, such as community rating, rate bands, and guaranteed issue for people with preexisting conditions, would be undermined. Without these protections in place, older and sicker individuals will be charged higher and higher premiums, until they are essentially priced out of the market. While HIPAA² ensures that individuals cannot be denied access to insurance when moving from employer-based insurance to insurance in the individual market, it does not cover those individuals moving *from* the ranks of the uninsured *to* the individual insurance market. Five states have “guaranteed issue” protections, which prohibit insurers from denying coverage to residents who are not protected by HIPAA, and 22 states have laws that protect specific segments of their populations from being denied coverage.³ Consumers in those states could lose those protections if insurers moved to states without guaranteed issue legislation.

- **H.R. 2355 will increase the number of *underinsured*:** While more than 45 million Americans are uninsured, millions more are *underinsured*. Whether their health insurance is barebones coverage or is just less comprehensive than the typical plan, it leaves consumers exposed to high out-of-pocket health care costs. If H.R. 2355 is enacted, insurers will flock to those states with the fewest consumer protections and will then be able to sell plans that are stripped of certain key benefits, moving millions more Americans to the ranks of the underinsured. Consumers who live in states where state laws spell out certain benefits that insurance must cover—benefits such as diabetes supplies and education, cancer screening and treatment, emergency services, and many others—will lose the certainty that their medical needs will be covered by their health insurance. This bill would dramatically increase the number of underinsured in America.
- **H.R. 2355 will leave health care consumers more vulnerable to fraud and abuse:** This legislation will strip state insurance commissioners, whose job includes protecting their state’s residents from fraud and abuse, of the ability to regulate the insurance that residents of their states purchase. It will also require that the insurance commissioners in the largely unprotected states where insurers locate to be responsive to the complaints and claims of consumers in all 50 states, a monumental task that would overwhelm any insurance commissioner’s office. This will create a regulatory vacuum and will have a devastating effect on insurance oversight and efforts to protect consumers from fraud and abuse.
- **H.R. 2355 could have disastrous effects on the individual health insurance market, where more than 16 million people obtain their health coverage.** While the stated intent of this legislation is to make insurance more accessible and affordable for Americans, its effects would, in fact, be higher costs and reduced access in the individual market for many Americans, particularly those in vulnerable populations who need health care the most. This flawed piece of legislation is the wrong prescription for what ails the American health care system and will only intensify the many problems that already face health care consumers.

¹ U.S. Census Bureau, Current Population Survey, 2005 Annual Social and Economic Supplement, “CPS Annual Demographic Survey, March Supplement,” July 19, 2005, available online at http://pubdb3.census.gov/macro/032005/health/h05_000.htm. Note: This number does not include the 9.8 million people aged 65 and over who also purchase coverage in the individual market.

² “HIPAA” is the Health Insurance Portability and Accountability Act. For more information, see the Families USA Web page on HIPAA at <http://www.familiesusa.org/issues/private-insurance/consumer-rights-center/hipaa-and-portability-of.html>.

³ Georgetown University Health Policy Institute, “Summary of Key Consumer Protections in Individual Health Insurance Markets,” April 2004, available online at http://www.healthinsuranceinfo.net/newsyoucanuse/discrimination_limits.pdf.

