

# Massachusetts: Map for Missouri?

## Employer Mandate

The employer mandate is a prominent feature of the Massachusetts health reform legislation. This analysis discusses employer mandates and their potential application in Missouri. The brief summarizes a longer report prepared for the Missouri Foundation for Health by researchers at Saint Louis University.

## Background: Why is Reform Needed?

An employer mandate requires that employers contribute toward their employees' health insurance premiums. Historically, most employees in the United States have received their health insurance through an employer-sponsored system. In recent years, the rate of uninsurance has been rising in Missouri due to changes in the economy and declining employer-sponsored insurance. About 80 percent of uninsured Missourians are in families with at least one full- or part-time worker. Instituting an employer mandate in Missouri similar to the one in Massachusetts would enable many working uninsured to obtain health insurance through their employer.

## The Massachusetts Employer Mandate

The major components of the employer mandate include:

- ◆ **The Rules of “Play or Pay.”** The Massachusetts plan requires that businesses either “play” by contributing a “fair and reasonable” contribution to the costs of employee health insurance or “pay” the state an annual penalty of up to \$295 per employee. Currently, the Massachusetts Division of Health Care is developing the fair and reasonable standards, which will be presented in 2007 prior to the implementation of the mandate.
- ◆ **Minimum Business Size for Mandate.** The Massachusetts play or pay provision applies to businesses employing 11 or more full-time employees.
- ◆ **Enforcement.** Employers included in the mandate who do not contribute a fair and reasonable amount toward employee health insurance will be subject to an annual penalty of \$295 per employee. In addition, employers who do not offer health insurance may be subject to a free rider surcharge, if their employees use medical care that is billed to the state's Uncompensated Care Pool.

## An Employer Mandate in Missouri: Issues for Policymakers

If an employer mandate like Massachusetts' were implemented in Missouri, 102,400 currently uninsured Missourians (12.1% of uninsured Missourians) could likely obtain employer-sponsored insurance. The

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extent to which an employer mandate for health insurance would solve the problem of the uninsured in Missouri depends on a number of factors:

- ◆ **Fair and Reasonable Contributions.** Policymakers would need to define a fair and reasonable standard for employer contributions.
- ◆ **Implementation.** The specifics of any legislation requiring an employer mandate would need further discussion. At issue would be: the size of businesses included under a Missouri mandate; the required level of contribution per uninsured employee for businesses who choose to pay instead of play; and the possible effect employer mandates would have on employment and wages.
- ◆ **Universal Coverage.** An employer mandate alone would not achieve universal coverage of workers and their dependents because even if employers offer health insurance employees may not take it. Without an accompanying individual mandate that residents purchase affordable health insurance, tens of thousands of working Missourians could continue to “opt out” of employer-sponsored health plans.
- ◆ **Employee Retirement Security Act of 1974 (ERISA) Preemption.** ERISA is a federal law prohibiting states from requiring employers to provide health insurance to their employees. However, it is unclear at this time whether pay or play provisions are prohibited under ERISA. Currently, the courts are reviewing if play or pay provisions are allowed under ERISA.

## Summary

For an employer mandate similar to the one in Massachusetts to be successful in Missouri, legislation authorizing the mandate would have to establish a fair and reasonable standard to measure employer health coverage contributions. Also, the legislation would need to address questions of implementation and enforcement. To effectively contribute toward universal coverage in Missouri, an employer mandate must be accompanied by an individual mandate.

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*The information presented here is taken from a series of issue briefs prepared by the Saint Louis University Health Policy Legislative Analysis Team. Other subjects covered by the series include Medicaid expansion, an insurance purchasing pool, a premium assistance program, and individual mandates. The authors of this brief are Dan Gentry, PhD, Associate Professor of Health Management and Policy, School of Public Health; Sidney Watson, JD, Professor of Law; and Timothy McBride, PhD, Professor of Health Management and Policy, School of Public Health.*