



PREMIUM ASSISTANCE IN AB 8: PROMISING STRATEGY, BUT QUESTIONS REMAIN

The Democratic leadership's health reform legislation includes a little-discussed effort to use job-based insurance to provide health coverage to low-income workers and their families. AB 8 (Núñez) proposes an innovative twist on a strategy used by other states – known as premium assistance – that would require health plans and insurers to make coverage modeled on Medi-Cal and Healthy Families available to many low-income workers and their families. Specifically, AB 8 would require health plans to make this coverage available to certain low-income families as part of any contract with employers.

AB 8 requires employers either to spend a certain amount on health-related services for their workers or pay a fee to the state. Employees of employers that pay the fee are eligible to receive coverage through a new purchasing pool established by AB 8. This *Brief* focuses on low-income employees of employers who *offer* coverage, rather than on families who would receive coverage through the purchasing pool. AB 8 refers to the mechanism to support job-based coverage for low-income families as a “benchmark plan”; this *Brief* uses the more general term premium assistance.¹

While untested, AB 8's approach to premium assistance could be more successful than similar efforts in other states. However, the measure's provisions raise important policy and technical issues that policymakers should address. Chief among these concerns are what benefits workers would receive, how much families would pay, and whether eligible families could choose whether or not to participate in premium assistance.

What Is Premium Assistance?

States generally use Medicaid dollars to purchase health coverage directly for low-income families. However, federal law allows states to use Medicaid dollars to subsidize private health coverage – generally job-based coverage – for low-income families.² This approach is known as premium assistance.

Premium assistance programs allow states to use employer funds to help support the cost of covering low-income families, thus reducing state costs. Premium assistance programs also may help reduce the number of individuals who switch from job-based to public coverage as states cover families at higher income levels.

Federal law limits the strategies states can use to implement premium assistance programs. States must ensure that those covered under premium assistance programs have access to the same services and do not pay higher costs than they would in the states' traditional Medicaid program.³ In addition, premium assistance programs must be cost effective, meaning that the cost of premium assistance must not be higher than providing coverage through states' traditional Medicaid program.

Why Hasn't Premium Assistance Been Successful?

Most states have had limited success with premium assistance.⁴ A 2003 review of premium assistance programs identified fewer than 200,000 total enrollees in 14 states, who accounted for less than 0.5 percent of all Medicaid beneficiaries in the US.⁵ Observers attribute the limited success of premium assistance programs to a number of obstacles, including:

- The lack of job-based coverage for low-income families;
- Difficulty in ensuring that families receive the full set of Medicaid benefits when job-based coverage includes fewer services as well as challenges in ensuring that participants do not pay more than traditional Medicaid requires;
- Finding eligible workers and their families; and
- The high cost of private health insurance.⁶

How Would Premium Assistance Work Under AB 8?

AB 8 takes a novel approach to premium assistance. Other states have tried to supplement the benefits provided by employers to ensure that participants have the full array of benefits available under the state's Medicaid program. However, some states have indicated that it can be difficult to obtain information on the benefits that employers offer in order to determine what additional services the states need to provide and whether such an approach is cost effective. Instead of supplementing employer-provided benefits, AB 8 requires health plans that contract with employers to make two new job-based coverage options available to workers and their families who are eligible for Medi-Cal or Healthy Families.⁷ One would provide benefits that are "equivalent" to those provided by Medi-Cal, and the other would provide benefits "equivalent" to those provided by Healthy Families. This coverage would be available to workers and their families if they are offered job-based coverage and are eligible for Medi-Cal or Healthy Families, which under AB 8 would include children and parents with incomes up to 300 percent of the poverty line.⁸

AB 8 could help cover currently uninsured workers and their families as well as relieve low-income families with job-based coverage from high premium contributions or other excessive out-of-pocket costs. Uninsured workers could receive health coverage for their family through premium assistance if they are eligible under AB 8 and if their employer offers coverage. In addition, eligible workers who pay large amounts for premiums or deductibles for job-based coverage could switch to premium assistance coverage in order to lower their share of costs.

The measure does not specify how much employers would be required to contribute for each individual who enrolls in premium assistance coverage. However, the bill requires employers to spend 7.5 percent of payroll on health-related expenditures unless they pay a fee to the state.⁹ Workers would pay a premium contribution, and the state would pay any additional amount needed to pay health plans a negotiated rate.¹⁰

Health plans could choose not to provide premium assistance coverage. If they do not provide such coverage, they would be required to collect employers' contributions for eligible workers

and send the payments to the state to help support the cost of the purchasing pool created by AB 8. Workers and their families then would be able to receive comparable coverage through the pool.

This model could help address two shortcomings of other premium assistance efforts. First, to the extent health plans that provide job-based coverage make premium assistance plans available, eligible workers could have access to coverage. This strategy thus could help overcome the obstacle of finding eligible families. However, the success of the plan also would depend on making sure that workers understand the options that are available to them. AB 8 would require health plans to include information about premium assistance in a document known as "evidence of coverage" – a description of a plan's benefits that is distributed to new enrollees – but this notice may not provide workers with sufficient information to make an educated decision about premium assistance because few are likely to read the details of the notice.¹¹ Second, AB 8 could address another shortcoming of other premium assistance efforts because the coverage would have to offer benefits that are "equivalent" to those offered by Medi-Cal or Healthy Families; thus the state may not need to provide supplemental benefits.

Would Premium Assistance Include Fewer Benefits Than Medi-Cal or Healthy Families?

Premium assistance programs must provide all benefits provided by a state's Medicaid program, unless the state has a special agreement with the federal government that waives this requirement. AB 8 requires health plans to offer "coverage equivalent to" that available under Medi-Cal or, in the case of families with somewhat higher incomes, Healthy Families.¹² It is unclear, however, if premium assistance coverage would include dental, vision, and mental health benefits offered by traditional Medi-Cal. Currently, Medi-Cal managed care enrollees receive some services, such as dental and mental health services, through either the traditional fee-for-service system or county mental health systems, and not through their managed care plan. It is not clear whether premium assistance coverage would include these benefits directly or otherwise ensure that these benefits are available to enrollees.

The confusion regarding what benefits AB 8 would provide arises in part from the use of the terms "benchmark" and "equivalent." Federal Medicaid law uses the term "benchmark equivalent" to refer to a set of benefits that is different from, but has the same value as, another set of benefits.¹³ Because AB 8 uses the term "benchmark" to refer to premium assistance coverage and uses the term "equivalent" to define that coverage, it is unclear whether AB 8 would require premium assistance to provide exactly the same benefits as Medi-Cal or Healthy Families.

Would Premium Assistance Cost Sharing Conflict with Federal Law?

Federal Medicaid law limits the amount of premiums and other out-of-pocket costs that states can require recipients to pay. Specifically, states cannot charge premiums to Medicaid recipients if they have incomes of up to 150 percent of the poverty line. In addition, the total level of premiums, copayments, and other cost sharing cannot exceed 5 percent of a family's income. States can apply the 5 percent limit on either a monthly or quarterly basis. These limitations would apply to families in AB 8's premium assistance program, whether they receive Medi-Cal or Healthy Families benefits.¹⁴

It is unclear what level of premiums and cost sharing low-income families would pay under AB 8's premium assistance plan. The bill allows the Managed Risk Medical Insurance Board (MRMIB) to establish premium contributions for those enrolled in premium assistance, but does not specify whether the contributions should be the same as, or different from, the amounts families in the purchasing pool would pay. If they are the same as those for the purchasing pool, they could conflict with federal law. AB 8 allows MRMIB to set employees' premium contributions at up to 5 percent of household income for families with incomes at or below 300 percent of the poverty line who are covered under the purchasing pool. The limit on premium contributions would be determined after accounting for reduced taxes families would pay. However, the measure also contains what appears to be contradictory language that would prevent parents with incomes above 133 percent and up to 300 percent of the poverty line from paying any premiums.¹⁵

An employee's share of cost for coverage under the purchasing pool may be larger than the amount allowed under federal law for three reasons. First, federal law places limits on total cost sharing – including premiums, copayments, and any other costs paid by families – whereas AB 8 places limits only on premium contributions. If families covered under premium assistance are required to pay the same amounts as those covered under the purchasing pool, these amounts also could exceed the limits imposed by federal law. In addition, AB 8 does not provide a mechanism for ensuring that employers do not withhold premium contributions for workers who are later determined to be eligible for public coverage.

Second, AB 8 may require some families to pay more than federal law allows because it applies the 5 percent limit after taking into account any reduction in the amount of state, federal, and payroll taxes attributable to the use of pre-tax dollars for employees' share of health care costs paid through Section 125 accounts.¹⁶ For example, AB 8 would allow a family at 300 percent of the poverty line to pay 6 percent of its income for

health care premiums if the use of a Section 125 account reduced the taxes a family owed by an amount that is greater than 1 percent of its income. Determining premium contribution limits on an after-tax basis would be complex and perhaps unworkable because tax savings would depend in part on deductions and credits such as the federal Earned Income Tax Credit (EITC).¹⁷ For example, excluding premium contributions from income could increase the federal income tax liability of some families who receive the federal EITC. Calculating an employee's tax savings also would require information that employers typically do not know, including earnings of other family members and income tax deductions that families claim for property tax, mortgage interest, charitable donations, and other items.

Would AB 8 Require Medi-Cal Enrollees to Switch to Premium Assistance?

AB 8 does not appear to require workers and their families to enroll in premium assistance programs if they are eligible, but the language is not entirely clear. Workers currently enrolled in Medi-Cal may not wish to switch to the health plan their employers use. For example, they may wish to maintain the same primary physician or other providers who have treated them for many years.

Would AB 8 Disrupt Funding for Safety-Net Providers?

While it is not clear whether AB 8 would require workers to switch to premium assistance, such a requirement could significantly disrupt the financing of public hospitals and community clinics. Approximately 2 million Medi-Cal beneficiaries are enrolled in county-sponsored health plans, which provide an important source of funding for safety-net providers. Approximately 1.5 million of these beneficiaries are enrolled in public plans known as "local initiatives" in nine counties that have so-called "two-plan" managed care models. In addition, more than 500,000 are enrolled in plans known as County Organized Health Systems, which are the only Medi-Cal managed care plans in eight counties.¹⁸

To the extent Medi-Cal enrollees switch from public plans to premium assistance, payments to public hospitals and other safety-net providers could decline – perhaps substantially – potentially putting at risk the ability of these institutions to treat Californians who would remain uninsured. The income of safety-net providers could decline because county Medi-Cal plans tend to contract with safety-net providers, thereby providing them with needed financial support. However, workers covered under premium assistance would receive coverage through their employers' health plan and would not have the option of choosing a

county-sponsored plan. Because employer health plans may be more likely to contract with private providers, premium assistance could reduce the revenues received by public hospitals and community clinics.

What Protections Would Apply to Workers Under Premium Assistance?

State and federal law guarantees a number of rights and protections to individuals enrolled in Medi-Cal. These include the right to a hearing if an individual believes he or she has been incorrectly denied benefits, confidentiality protections, and ensuring that when beneficiaries lose eligibility under one category of coverage they are screened for eligibility through other categories. These rights and protections implicitly apply to individuals who enroll in premium assistance. However, some observers question whether statutory language is needed to confirm that these protections apply under premium assistance.

Would AB 8 Treat Similar Workers Differently?

AB 8 aims to leverage employer funds to expand coverage to low-income workers and their families. However, not all workers would have access to the same coverage because only those eligible for Medi-Cal or Healthy Families could enroll in premium assistance. Other low-income workers – such as those who are not eligible because they do not have children – and higher-income workers could not obtain coverage available under premium assistance, even if they were willing to pay more for that coverage.

As a result, two workers who earn the same salary could have substantially different health benefits if they work for an employer that, for example, offers only a high-deductible plan to its workers. One worker with children may be eligible for premium assistance, while the other may not be eligible because she does not have children.¹⁹ The worker who is not eligible for premium assistance would have substantially higher out-of-pocket costs under the employer's high-deductible plan.²⁰ In addition, if a worker who is eligible for premium assistance increased her hours of work or received a pay raise, the higher salary could make her ineligible for premium assistance; she could not access the same coverage even if she wanted to pay more to receive it.

As a result, many workers at a company could have relatively inadequate health coverage compared to their coworkers with coverage through premium assistance. This disparity could create resentment among workers and discourage relatively low-wage workers from increasing their earnings in order to maintain coverage through premium assistance.

Who Would Determine Eligibility for Premium Assistance?

Federal law requires that employees of state or local agencies determine who is eligible for Medicaid.²¹ AB 8 does not specify which level of government would determine who is eligible for Medi-Cal coverage under premium assistance. Instead, the measure allows MRMIB to establish a process for determining eligibility. Currently, trained county human service workers determine who is eligible for Medi-Cal. However, both premium assistance and the purchasing pool under AB 8 would make major changes to Medi-Cal, potentially requiring an increased state role in the eligibility process. This role could be limited to collecting application materials and distributing them to county offices, or it could include performing initial steps in the eligibility process before forwarding materials to counties.

How Might Premium Assistance Be Improved?

AB 8 contains a promising foundation for developing a successful premium assistance program in California. Policymakers can make several changes, some of which are relatively minor, to build on the strategy contained in AB 8. Specifically, policymakers should:

- **Clarify that the benefits available under premium assistance would be the same as those under the traditional Medi-Cal and Healthy Families programs.** The measure's current language does not clearly indicate what benefits would be available under premium assistance.
- **Ensure that families would not pay more than allowed by federal law.** The current language should be modified to guarantee, at a minimum, that families covered under premium assistance do not pay more than 5 percent of their incomes on premiums and out-of-pocket costs. In addition, basing premium limit calculations on after-tax expenses would be unnecessarily complex and potentially unworkable.
- **Specify that eligible workers may retain Medi-Cal coverage and are not required to accept premium assistance.** While the current language does not explicitly require beneficiaries to switch to premium assistance, minor changes could clarify that beneficiaries could choose whether premium assistance works better for them.
- **Ensure that Medi-Cal's protections apply to workers enrolled in premium assistance.** Although AB 8 implicitly provides these protections, the measure could include additional language that affirmatively states that the same protections apply to premium assistance participants.

- **Ensure that workers with job-based coverage know they may be eligible for premium assistance.** The state could, for example, send letters to all workers who are potentially eligible – those whose employers opt to meet AB 8’s health spending requirement by providing health-related services – that explains premium assistance and indicates how workers can find out if they are eligible.
- **Allow workers who are ineligible for premium assistance to purchase coverage provided under premium assistance.** Workers who are not eligible because they do not have children or have slightly higher incomes should be able to receive the same benefits as those eligible for premium assistance, even if they have to pay more than they would pay for their employer’s basic health plan.
- **Clarify the roles of the state and local governments in determining who is eligible for Medi-Cal under premium assistance.** AB 8 would make substantial changes to

Medi-Cal, raising questions about the appropriate roles of the state and county human service offices. Although county workers historically have determined who is eligible for Medi-Cal, AB 8 may require an increased state role in the eligibility process.

Conclusion

The strategy outlined by AB 8 aims to leverage employer funds to expand coverage to low-income families. This strategy has the potential to reach a large number of workers, while ensuring that these workers have the same benefits and cost sharing that are available under the traditional Medi-Cal and Healthy Families programs. Policymakers can further improve the approach by clearly outlining what benefits workers would receive, ensuring that families would not pay more than allowed under federal law, and giving eligible workers the choice to participate.

David Carroll prepared this Budget Brief. The California Budget Project (CBP) was founded in 1994 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the CBP is provided by foundation grants, individual donations, and subscriptions. Please visit the CBP’s website at www.cbp.org.

ENDNOTES

- ¹ AB 8 also uses the term “benchmark plan” more broadly to refer to coverage available to low-income families through the purchasing pool.
- ² States also can implement premium assistance through their State Children’s Health Insurance Program (Healthy Families in California), but AB 8 does not use that approach.
- ³ These requirements can be modified under a waiver with the approval of the federal government.
- ⁴ See, for example, Ed Neuschler and Rick Curtis, *Premium Assistance: What Works? What Doesn’t?* (Institute for Health Policy Solutions: April 2003) and Joan C. Alker, M.Phil, *Premium Assistance Programs: Do They Work for Low-Income Families?*, testimony to the House Education and Labor Committee (Georgetown University Health Policy Institute Center for Children and Families: March 15, 2007).
- ⁵ Ed Neuschler and Rick Curtis, *Premium Assistance: What Works? What Doesn’t?* (Institute for Health Policy Solutions: April 2003) and The Henry J. Kaiser Family Foundation, *Total Medicaid Enrollment, FY2004*, downloaded from <http://www.statehealthfacts.org/comparemtable.jsp?ind=198&cat=4> on August 2, 2007.
- ⁶ See, for example, NGA Center for Best Practices, *Helping the Working Poor Buy Insurance: Addressing Barriers to Premium Assistance* (September 28, 2006) and Joan C. Alker, M.Phil, *Premium Assistance Programs: Do They Work for Low-Income Families?*, testimony to the House Education and Labor Committee (Georgetown University Health Policy Institute Center for Children and Families: March 15, 2007).
- ⁷ Throughout this paper, the term “health plans” refers to health plans as well as insurers.
- ⁸ Medi-Cal would generally cover children and adults with family incomes up to 133 percent of the poverty line. Healthy Families would cover children with higher incomes. Parents with incomes above 133 percent of the poverty line technically would be enrolled in Medi-Cal, but would receive benefits available under Healthy Families.
- ⁹ The spending requirement applies to wages that are subject to withholding for Social Security taxes.
- ¹⁰ The federal government would provide funding to match the state’s premium costs.
- ¹¹ Enrollees also must be informed when a plan is changed.
- ¹² Even though parents with higher incomes would receive Healthy Families benefits, they technically would be Medi-Cal beneficiaries because of the method AB 8 uses to cover these parents.
- ¹³ The federal Deficit Reduction Act of 2005 allows states to provide different benefits to certain Medicaid beneficiaries. States can provide benefits from one of several “benchmark benefit packages” or can create “benchmark-equivalent” coverage. AB 8 uses this option in order to expand coverage to parents with incomes above 133 percent and up to 300 percent of the poverty line.
- ¹⁴ The state could seek a waiver of these limits from the federal government, but AB 8 does not require the state to seek such a waiver.
- ¹⁵ The bill limits the amount of the premium payments for parents enrolled in either premium assistance or the purchasing pool to what is required under state law. Because parents covered under premium assistance technically would be Medi-Cal beneficiaries, this language could prevent them from paying premiums higher than those allowed in the Medi-Cal Program, which are generally zero.
- ¹⁶ AB 8 would require all employers to establish Section 125 plans, also known as cafeteria plans, to allow employees to make premium payments that would not be subject to income or payroll taxes.
- ¹⁷ The EITC increases with income for families within certain income ranges. Excluding premium contributions would lower these families’ tax credit because it decreases their income.
- ¹⁸ Medi-Cal has three main managed care models, two of which are the two-plan model and County Organized Health Systems (COHS) model. Each county has only one of these models, but some counties do not have any managed care option. In the nine two-plan counties, beneficiaries can choose between a public health plan (local initiative) and a private health plan. Counties in the COHS model oversee a single health plan for all beneficiaries enrolled in managed care.
- ¹⁹ Adults without children generally are not eligible for Medi-Cal or Healthy Families.
- ²⁰ A similar situation could occur for workers with different family sizes. For example, a worker with two children earning \$45,000 would be eligible for premium assistance because her income is below 300 percent of the poverty line for a family of three (\$51,510 in 2007). However, a worker with one child who earned the same amount would not be eligible because her income is above 300 percent of the poverty line for a two-person family (\$41,070 in 2007).
- ²¹ Social Security Act Section 1902(a)(5) and Code of Federal Regulations, Title 42, Section 431.11 (1979).