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Ready for Reform? Health Insurance Regulation in California Under the ACA

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Overview

- 1 The federal Affordable Care Act (ACA)
- 2 Health reform as a catalyst for regulatory change
- 3 California context for health reform implementation
- 4 Criteria for evaluating reform options
- 5 Options for reform

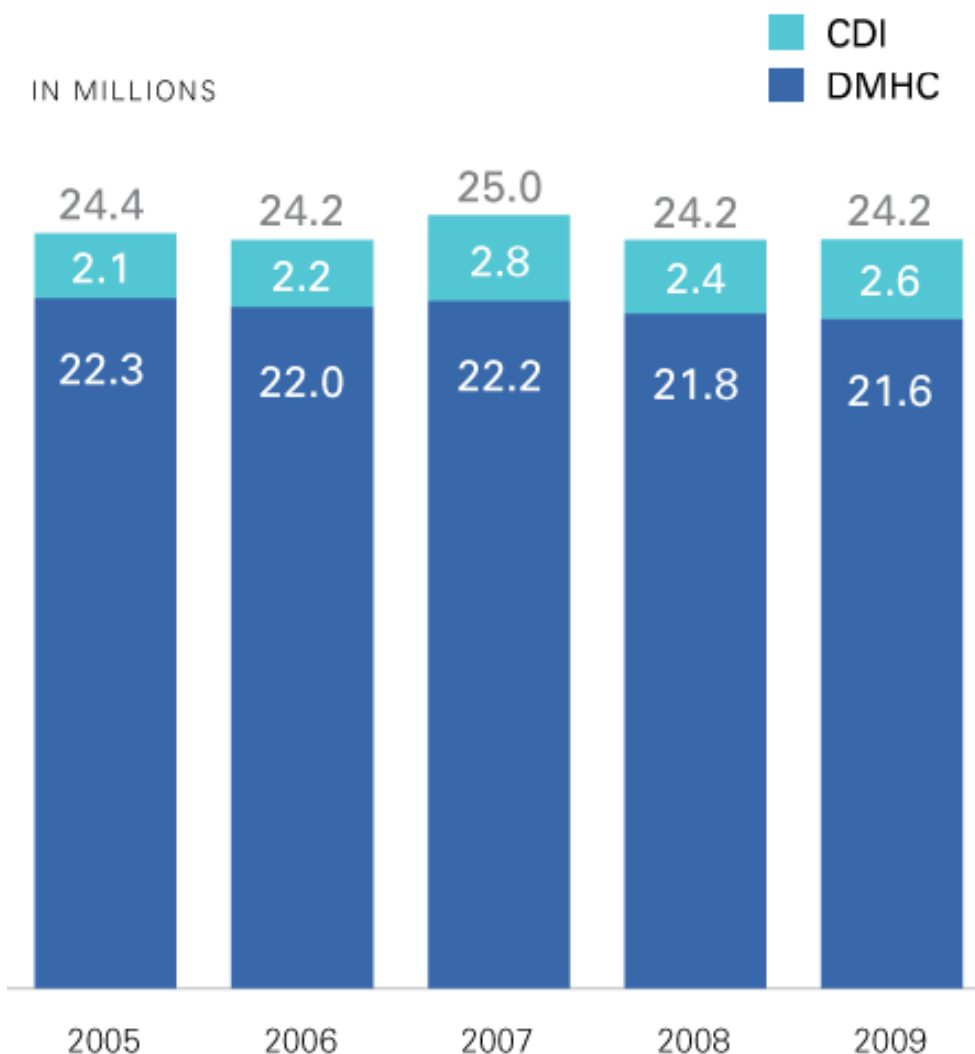
Historical Context

Two state agencies: California Department of Insurance (CDI) and Department of Managed Health Care (DMHC)

- Historical, statutory, and structural differences
- Early legal distinctions between insurance and prepayment
- Increasing state standards and regulatory authority on managed care
- Creation of DMHC (2000)
- Over time, policy and market changes blurred the bright line differences
 - Preferred Provider Networks (PPOs) in insurance products
 - Some PPOs under DMHC
 - Higher cost sharing than early traditional HMOs in most products on the market
 - Statutory changes enacted to apply across all product types

Covered Lives by Regulator

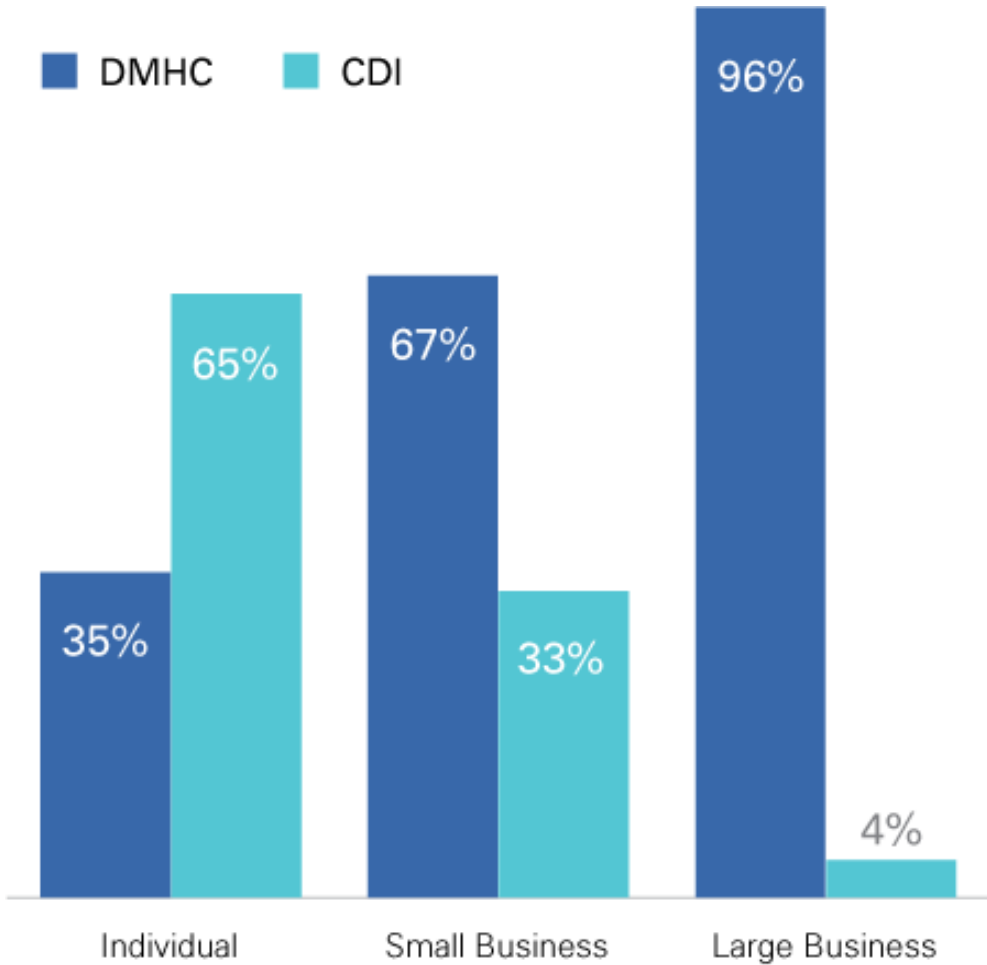
Figure 1: Number of Covered Lives in Coverage Regulated by DMHC and CDI, 2005-2009



Source: CDI and DMHC reporting

Share of Commercial Lives by Market and Regulator

Figure 2: Share of Commercial Covered Lives in Coverage Regulated by DMHC and CDI, 2009



Source: CDI and DMHC reporting

Federal Health Reform – Affordable Care Act (ACA)

- Fundamental reshaping of health care
- After the law is fully implemented in 2014, estimates are that nearly **96 percent** of documented, non-elderly California residents will be insured, either through their employer, individual coverage inside or outside of the new exchange market, or expansions in public coverage programs

Federal Health Reform – Affordable Care Act (2)

- Imposes a mandate on individuals to have health insurance coverage
- Expands eligibility and federal funding for public coverage programs such as Medicaid (Medi-Cal in California)
- Establishes state-based health insurance exchanges through which individuals and small employers can purchase coverage
- Provides federally funded subsidies for qualifying individuals and small groups purchasing through an exchange
- Imposes new requirements on health insurance carriers (issuers in federal law)

Federal Health Reform – Affordable Care Act (3)

- Shift in the role of the federal government and states related to health insurance regulation
- New federal standards and some federal enforcement
- States continue to have a central role in regulating health coverage
- Still much that is unknown about the role of states
- The role for states varies by the specific provisions of the ACA, the issue, and federal guidance
 - Examples: Medical loss ratio and rate review

Federal Health Reform – Affordable Care Act (4)

Federal health reform goals will require consistent and reliable state regulation:

- Consumer choice
- Consumer protection
- Product compatibility
- Efficiency
- Fair competition
- Risk spreading
- Exchange marketplace
- Mandatory uniformity and standards

California Context

Two regulators – CDI and DMHC:

- Different legal frameworks and orientations
- Different areas of regulatory emphasis
- Mixed success with identical statutes
- Mixed success with mandatory coordination and joint regulations
- Different relative strengths and weaknesses in each department

Goals for Regulation in California

Criteria for evaluating regulatory reform options:

- Improve the consumer experience
- Ensure transparency and accountability
- Ensure consistent interpretation of federal law
- Evaluate potential system costs and savings
- Build on the strengths of the two departments

Options for Reforming Regulation in CA

1 – Consolidate in one agency

- Option most likely to maximize efficiency, effectiveness, and uniformity
- Report considers the relative strengths of the two regulators, specifically in the context of the ACA

2 – Institutionalize coordination and consistency

- Report suggests strategies to require and encourage consistent results

Option 1: Consolidation

In the context of ACA, relative advantages of DMHC:

- Experience on ACA issues: minimum benefits, access to care, quality monitoring, and oversight of integrated systems like accountable care organizations
- Expertise on managed care and integrated delivery systems is compatible with many ACA delivery system reforms
- Stand-alone state agency focused on health care
- Statutory mandates for consumer education, protection, and transparency with related structures (HMO Help Center); lead agency in federal Consumer Assistance Program
- Position inside the state administration creates opportunities for collaboration and shared resources on reform
- Fewer consumers impacted

Option 1: Consolidation (2)

In the context of ACA, relative advantages of CDI:

- Experience on ACA issues: Actuarial and legal expertise related to ACA provisions such as premium rate review, medical loss ratio, and setting the actuarial value of market products
- Expertise on rate review and rate regulation compatible with ACA reforms
- Voting member of the National Association of Insurance Commissioners with access to and knowledge of terminology and model laws
- National perspective and relationships with other insurance regulators to aid in monitoring national companies
- Role in licensing agents and brokers can provide early warnings about troublesome market trends and access barriers

Option 1: Consolidation (3)

Report discusses potential pitfalls and unintended consequences

- Premature elimination of product options
- Carriers unable or unwilling to meet different standards
- Delays or complications in implementing health reform simultaneously

Suggests potential mitigation strategies

- Phase-in any consolidation or transfer of products
- Reorganize by product type
- Establish clear lines of authority and responsibility

Full analyses and transition planning beyond scope of the report

Option 2: Institutional Consistency

Suggestions to improve consistency and collaboration

- Require regulatory consistency
- Re-invigorate the Joint Senior Level Working Group
- Require timely public reporting
- Improve and consolidate data collection and reporting
- Require joint public reporting on the ACA
- Re-align statutes and regulations
- Mandate functional consolidation

Conclusion

More analyses and review are needed – report scratches the surface.

Goal is to jumpstart a conversation among policymakers and stakeholders since most ideas would require legislative change.

The ACA presents both an opportunity and an imperative to take another look at how we regulate health insurance in California.