



Highlights of [GAO-03-1133](#), a report to the Ranking Minority Member, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Governmental Affairs, U.S. Senate

## Why GAO Did This Study

Most employees in the U.S. have health coverage through employers. Small businesses with fewer than 50 employees, however, are less likely to offer coverage than larger businesses. Many say they cannot afford it. When they do provide coverage, small businesses typically purchase insurance policies, while larger businesses are more likely to use their own funds to pay for some of their employees' health care, a practice known as self-funding.

One proposal to make health coverage more affordable for small businesses would establish Association Health Plans (AHP), which could offer coverage to small businesses subject to different federal and state requirements than currently exist. In light of this proposal, GAO was asked to summarize current federal and state requirements for health coverage offered by small businesses, including mandated benefits, premium-setting requirements, and requirements regarding availability of coverage.

To identify these requirements, GAO reviewed federal and selected states' laws and literature from the Department of Labor (DOL), National Association of Insurance Commissioners (NAIC), and other sources. For further detail on some states' insurance requirements, GAO reviewed 8 states with a range in the number of mandated benefits and 4 states with different types of premium-setting requirements.

[www.gao.gov/cgi-bin/getrpt?GAO-03-1133](http://www.gao.gov/cgi-bin/getrpt?GAO-03-1133).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Kathryn G. Allen at (202) 512-7118.

## PRIVATE HEALTH INSURANCE

# Federal and State Requirements Affecting Coverage Offered by Small Businesses

## What GAO Found

Federal law does not require private employers of any size to offer health coverage, nor does it require those that do offer coverage to include specific benefits. However, employers choosing to offer mental health, mastectomy, and maternity benefits generally must meet certain federal requirements. States, which have primary responsibility for regulating insurers, require health insurance policies offered by businesses of any size to include certain benefits, but the number, type, and scope of these requirements vary substantially among states. For example, 7 states each had 30 or more benefit mandates, while 5 states each had fewer than 10 benefit mandates.

Federal requirements for premiums prohibit variation among similarly situated individuals in an employer group for businesses of any size based on health status, and these requirements apply whether the employer purchases health insurance or self-funds the health coverage. State requirements that limit premium variation among small businesses apply only to insurers, therefore affecting only employers that purchase health coverage from insurers. State requirements varied widely in the extent to which they restricted the amount that premiums may vary among small businesses and in the characteristics of the groups that may be used to set premiums. Differences among states in whether and how factors such as age, gender, and health status are considered can affect the extent to which small businesses with employees having higher risk factors pay more for coverage. For example, a small business with older, higher-risk employees and dependents in Texas could have been charged nearly four times as much as a small business of the same size with younger, healthier employees and dependents. In New York, the two small businesses would have been charged the same premium. Most states also had restrictions on how premiums may be adjusted at renewal.

Federal laws require insurers selling coverage to small businesses to make all policies available and require that employers offer continuation of health coverage for a period of time for certain individuals who otherwise would lose group coverage. All but one state had laws that conformed with federal requirements for small businesses, and some states' requirements exceeded the federal minimums. For example, 39 states extended the federal continuation of coverage requirements to policies covering groups with fewer than 20 employees.

The DOL, NAIC, and 10 states provided technical comments on a draft of this report, which were incorporated as appropriate. NAIC also provided written comments emphasizing, among other things, the importance of states' consumer protections.