



## Insurance, Gender Rating and Sex Discrimination

We all know the old adage “what’s good for the goose is good for the gander.” It simply means that men and women should be treated equally and there should be no double standards.

Unfortunately, that isn’t happening when it comes to insurance rates. In Ohio, as in many other states, insurance companies engage in what’s called “gender rating”, meaning that they charge higher health care premiums for women than they do for men. The result is that women pay significantly higher rates simply because they are women. Indeed, in Ohio, 100% of the best-selling insurance plans are subject to gender rating<sup>1</sup>.

These unfair and discriminatory premium mark-ups have real world consequences. Obviously, women purchasing health insurance in the individual market are penalized. But so are women who buy insurance through small group plans. Small business owners whose workforces are predominately female also suffer. As do women who are self-employed. All pay higher insurance premiums than do similarly situated men or companies whose workforces are predominately male.

The good news is that this blatant discrimination won’t last much longer. Thanks to the Affordable Care Act (ACA) which recognized this inequity, gender rating will be prohibited in all states as of January 1, 2014. Under the Act, insurers will no longer be able to discriminate based on gender alone.

The bad news is that 2014 is a year and a half away. In the meantime, insurance companies can continue to exploit and take advantage of women.

The better news is that there is no reason Ohio can’t join many other states and end the discrimination NOW. Nothing prevents Ohio’s elected officials from changing Ohio law. Nothing prevents insurance companies from voluntarily agreeing to end their discrimination. And there is no reason Ohio women should have to wait until 2014 for simple justice.

### **Impact of Gender Rating on Women and Businesses in Ohio**

While many women receive insurance through their employers, this number has declined in recent years. This leaves Ohio women with two unsavory choices: either purchase insurance on their own or go uninsured. Statewide the percent of Ohioans receiving insurance from their employers has dropped from

66.3% of working adults in 2003/2004 to 57.4% of working adults in 2010<sup>ii</sup>. As this has occurred, the number of uninsured Ohioans (and uninsured women) has increased. In 2010, 17.3% of Ohio women (18 to 64 years) were uninsured<sup>iii</sup>, while 6.5% of Ohio women 18-64, approximately 235,000 women, purchase insurance on the individual market<sup>iv</sup>.

Based on an analysis conducted in partnership with the National Women's Law Center, Innovation Ohio has determined that the practice of gender rating costs Ohio women who purchase their insurance on the individual market an estimated \$46.5 million a year<sup>v</sup>. While we could not calculate an exact figure for the cost of gender rating in the group market, the cost to women and small businesses that predominantly employ women would obviously push the "gender penalty" even higher.

The IO/National Women's Law Center analysis also revealed that insurers which offer plans in Ohio charge a 40 year old woman anywhere from 20 to 50% more than a 40 year old male<sup>vi</sup>. One reason insurance companies often give for charging women higher rates is that they, unlike men, often need maternity care. But tellingly, the higher rates and premium variations between the genders in Ohio occur with or without maternity coverage.

If a further illustration of the extent of this discrimination is needed, the data also revealed that 60% of Ohio plans charge non-smoking women higher premiums than male smokers<sup>vii</sup>.

As indicated above, specific data on the premium rates of private insurance markets is difficult to obtain, thus making it difficult to precisely analyze the effect of gender rating in the group market. The ACA, however, will remedy this problem by enhancing insurance company reporting requirements, as well as increasing the amount of data the companies will be required to release publicly. These provisions will immensely improve the transparency of what insurers are charging individuals for their health care.

What we *do* know is that insurers in the private group market use the practice of gender rating when determining what to charge a group for its health insurance policy. Women in Ohio who work in small firms (2 to 50 employees) are subject to gender rating, and the effects are felt most acutely among the smaller of these businesses.

The bottom line is that gender rating drives up insurance costs for many small businesses, particularly for those employing large numbers of women. This not only increases the individual premiums that employees have to pay, but also the cost of insurance and its bottom line impact for these small businesses. Among the industries that typically have a higher numbers of women workers are home health care; child care; persons employed by hospitals, physician's offices and dentist offices; pharmacies and drug stores; community service organizations and the nonprofit world<sup>viii</sup>.

Certainly, these increased costs can have an untoward impact on female entrepreneurs and "job creators." A recent report by American Express on the state of women owned businesses in the United States found that while women-owned businesses have been leaders in job creation and growth across the country, Ohio ranked dead last among all the states in the growth of women- led firms<sup>ix</sup>. Though there may be multiple reasons for this, it can be said with certainty that gender ratings which push up the cost of insurance for women-owned start-ups aren't helping the situation.

If the General Assembly were to outlaw gender rating, insurance costs would drop not only for Ohio women, but for Ohio small business owners and their employees, as well as for businesses with a predominately female workforce<sup>x</sup>.

As Ohio emerges from the recession, we must do everything possible to prime our state for success. And especially at a time when the number of uninsured women is increasing, the number of businesses dropping insurance coverage is rising, and Ohio is bringing up the rear in women-owned business growth, it makes no sense to maintain the additional barrier of gender rating.

### Other States Are Banning Gender Rating

Nor would Ohio be alone in banning gender rating. Other states have passed laws banning the practice, and have suffered no disruption in the insurance market. Fourteen (14) states have banned or limited gender rating in the individual market and seventeen (17) states have banned or limited gender rating in the group market. Our neighbor to the north, Michigan, has limited gender rating in the group market. Equally important, insurance companies have continued to offer insurance in both the individual and the group markets in states where gender rating is prohibited or limited.

Public opinion polls show overwhelming support for banning gender ratings. A recent national poll by Kaiser, for example, found that 61% were supportive of the ban<sup>xi</sup>. Perhaps unsurprisingly, this figure rises to 69% among women.

**Figure 1: States with Bans or Limits on Gender Rating**

States That Have Banned or Limited Gender Rating in the Individual Market	States That Have Banned or Limited Gender Rating in the Group Market <sup>xii</sup>
California	California
Colorado	Colorado
Maine	Delaware
Massachusetts	Iowa
Minnesota	Maine
Montana	Maryland
New Hampshire	Massachusetts
New Mexico	Michigan
New Jersey	Minnesota
New York	Montana
North Dakota	New Hampshire
Oregon	New Jersey
Vermont	New Mexico
Washington	New York
	Oregon
	Vermont
	Washington

### Insurance Companies Have No Good Excuse

Insurance companies have routinely justified gender rating discrimination by saying that women tend to use more preventative care (like regular check ups and screenings), tend to use more prescription drugs, and uniquely need obstetric and gynecological care.

But if preventive care catches diseases early (before more costly treatment is required), it is not at all clear why women should have to pay a penalty for saving insurance companies money in the long run.

Moreover, the industry’s actuarial justifications are called into question by the wide disparities in premiums that are charged by different insurance companies for similar policies and coverage. Figure 2 below shows that these disparities, without including maternity coverage, can range from 58% to 23%. If gender rated premiums actually reflected insurance company costs, one would expect to see little or no difference between the premiums different companies charge to cover women who live in the same state.

**Figure 2: Gender Disparities<sup>xiii</sup>**

Age of Person to be Insured	Insurance Company	Gender Disparity
25	Medical Mutual	43%
25	United Health One	28%
40	Medical Mutual	49%
40	United Health One	22%
55	Medical Mutual	21%
55	United Health One	-3%

### **Ohio Women Can’t Wait**

While the ACA will end gender discrimination in insurance in 2014, there is no reason why Ohio has to wait.

That is why Innovation Ohio is urging Governor Kasich and the Ohio General Assembly to pass legislation to prohibit gender discrimination. If state legislatures in over a dozen other states can stop gender discrimination, there is no reason why Ohio should not join them in banning this practice.

In the meantime, Innovation Ohio calls on insurance companies to do the right thing and voluntarily end this discriminatory practice before the law requires it. If you can do it in other states, you can do it here. If you will have to do it by 2014, you can do it now. Ohio women are waiting. And Ohio women are watching.

## **Endnotes**

<sup>i</sup> *Turning to Fairness*. (2012, March). Retrieved from The National Women's Law Center website: [http://www.nwlc.org/sites/default/files/pdfs/nwlc\\_2012\\_turningtofairness\\_report.pdf](http://www.nwlc.org/sites/default/files/pdfs/nwlc_2012_turningtofairness_report.pdf)

<sup>ii</sup> *Preliminary Findings from the 2010 Ohio Family Health Survey*. (2011, March). Retrieved from The Ohio Family Health Survey website: <https://ckm.osu.edu/sitetool/sites/ofhspublic/documents/2010OFHSMarch8Final.pdf>

<sup>iii</sup> Ibid

<sup>iv</sup> National Women's Law Center analysis of 2010 health insurance data from the U.S. Census Bureau Current Population Survey's (CPS) 2011 Annual Social and Economic (ASEC) Supplements, available at [http://www.census.gov/hhes/www/cpstc/cps\\_table\\_creator.html](http://www.census.gov/hhes/www/cpstc/cps_table_creator.html).

<sup>v</sup> This number was calculated in partnership with the National Women's Law Center and utilized the same methodology as their recent March 2012 report, "Turning to Fairness."

<sup>vi</sup> *Turning to Fairness*. Op cid

<sup>vii</sup> Ibid

<sup>viii</sup> U.S. Bureau of Labor Statistics: *Women in the Labor Force: A Data Book, 2011 Edition* (2011). Retrieved from <http://www.bls.gov/cps/wlf-databook-2011.pdf>

<sup>ix</sup> *The State of Women Owned Businesses Report*, Conducted by American Express. (2012, March). Retrieved from: [http://media.nucleus.naprojects.com/pdf/State\\_of\\_Women-Owned\\_Businesses-Report\\_FINAL.pdf](http://media.nucleus.naprojects.com/pdf/State_of_Women-Owned_Businesses-Report_FINAL.pdf)

<sup>x</sup> Ibid

<sup>xi</sup> Kaiser April Health Tracking Poll. Retrieved from: <http://healthreform.kff.org/scan/2012/may/public-opinion-on-gender-rating.aspx>

<sup>xii</sup> *Turning to Fairness*. Op cid

<sup>xiii</sup> These disparities were calculated in partnership with the National Women's Law Center. Two plans at random from different carriers that had 0% coinsurance, a 20% deductible, Rx coverage, and no maternity coverage. We looked at prices for 25, 40 and 55 year olds and the gender gaps for each age group were calculated.