

Federal Health Care Reform Legislation Establishes Consumer Protections, Health Insurance Exchanges

Wayne Goodwin

As we all know, health insurance has been the focus of many national, state, and local policy discussions. With the passage of the Patient Protection and Affordable Care Act (PPACA) and the subsequent reconciliation bill last month, it's an interesting time to be involved with the health insurance field.

There are still a lot of unknowns when it comes to the health care reform bill and its requirements. The North Carolina Department of Insurance is currently working to identify the most immediate changes that will go into effect. We also recognize that implementing the federal guidelines at the state level will involve other agencies beyond the Department of Insurance.

Several of the more consumer-friendly pieces of the reform are slated for implementation within six months of enactment. Among the most immediate points that need to be addressed by insurance carriers are the removal of annual and lifetime limits, the elimination of rescissions, and the complete elimination of pre-existing conditions for all plans. Undoubtedly, the elimination of pre-existing conditions has gotten the most attention. For children under the age of 19, this change will go into effect on September 23, 2010. For adults, the law provides the establishment of high risk pools within 90 days to provide coverage for adults until the state insurance exchanges are established. In North Carolina, we already have Inclusive Health, which serves as a high risk pool. Inclusive Health has been selected to contract with the Department of Health and Human Services (DHSS) and administer the federal high risk pool.

Another immediate change is the extension of adult dependent coverage. This is also slated to go into effect on September 23, 2010. There is still some guidance needed from the federal government on who exactly qualifies as a dependent. As soon as we know more, we will, of course, pass that information along to the public.

The reform package also requires insurance companies to provide plain-language explanations and access to data

and information about claims practices, enrollment data, rating practices, and more. We will look to DHHS to provide guidelines and clarification. The assumption is that there will be a uniform template for companies to use when reporting their data.

Several of these new requirements will cause some adjustments to the way insurance carriers report data and submit filings to the Department of Insurance. We are working to identify how insurers should amend their filings to the North Carolina Department of Insurance to address

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these changes. Again, as soon as we have finalized this, we will be in touch with the industry.

While there are many provisions that will be implemented this year, several are not required to be implemented until 2014. One such provision is the establishment of health insurance exchanges. According to the National Association of Insurance Commissioners (NAIC) and PPACA, exchanges are the central mechanisms created to help individuals and small businesses purchase health insurance coverage.

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What Does the Temporary National High Risk Pool Mean for North Carolina?

Michael Keough

The Patient Protection and Affordable Care Act (PPACA) was enacted March 23rd, 2010. US Department of Health and Human Services (DHHS) Secretary Kathleen Sebelius is charged with establishing a temporary high risk health insurance program within 90 days after enactment. This national risk pool is intended to serve as a transitional coverage vehicle for individuals with pre-existing conditions who are not otherwise able to find affordable health insurance until full implementation of health reform on January 1, 2014. It is designed to expand on the work of the 35 state high risk pools that currently serve just over 200,000 individuals nationwide.

The North Carolina General Assembly, with the support of the medical, hospital, and insurance broker communities, established the North Carolina Health Insurance Risk Pool in August 2007. The program, also known as Inclusive Health, was the last state high risk pool established prior to enactment of the PPACA. The program started covering eligible state residents on January 1, 2009 and as of June 1st had 3,663 enrollees with pre-existing conditions. They are enrolled in one of four benefit plans, which consist of three PPOs and a High Deductible Health Plan with deductibles ranging from \$1,000 to \$5,000.

Members pay a monthly premium that is capped at 150% of the standard risk rate or the average individual market rate in North Carolina for a person without pre-existing conditions. The State of North Carolina contributes a portion of the increase in insurer premium taxes each year to help subsidize these rates along with an annual payment from the State Health Plan. Thanks to the willingness of almost 25,000 physicians and other health care providers and over 100 hospitals statewide to provide services at Medicare reimbursement rates, Inclusive Health is able to spread these funds even further to enroll and assist this target population.

Following the enactment of health reform, Secretary Sebelius issued a letter to state governors and independent

insurance commissioners, including Governor Perdue and Commissioner Goodwin, asking for an expression of their intent to work with the DHHS on the national pool. She laid out a handful of options for administering the national pool in our state, including running it side by side with the existing state high risk pool. States were asked to submit a Letter of Intent summarizing their response to Secretary Sebelius' letter. The DHHS will directly administer the temporary high risk pool in states that opt not to do it themselves.

Governor Perdue and Commissioner Goodwin have determined that the best of the options proposed by Secretary Sebelius is to ask Inclusive Health to run the national pool in order to build on the successful work of the past 17 months in the state high risk pool. In May, Inclusive Health responded to a solicitation from DHHS that includes the details of how the national pool will be run in North Carolina. Proposals submitted to DHHS by the end of May are eligible for approval with funding by July 1st.

So what does this temporary national high risk pool mean for North Carolina? It should be good news for those who qualify by virtue of having been uninsured for the previous six months. The national risk pool will offer less restrictive coverage at a significantly better price than the state high risk pool currently offers. Monthly premium rates under the national pool will be set at 100% of the standard risk rate, or the average for the North Carolina individual health insurance market, compared to 150% for the state risk pool. National pool applicants will face no pre-existing condition waiting periods.

The six-month uninsured eligibility requirement means that North Carolinians who have maintained coverage are not immediately eligible for the new and improved pool. This crowd-out provision eliminates covered individuals from seeking this insurance option, including HIPAA eligible individuals who have exhausted COBRA coverage as well as the state risk pool's own enrollees. Waiting six months to qualify for the national pool is a risky option for high-risk

Beginning in 2014, an exchange will be established in each state to help consumers make valid comparisons between plans that are certified to have met benchmarks for quality and affordability. The exchanges will also administer the new health insurance subsidies and facilitate enrollment in private health insurance, Medicaid, and the Children's Health Insurance Program (CHIP). Nobody will be required to purchase health insurance through the exchange, though subsidies will only be available for plans sold through the exchange. If you would rather buy your insurance through an insurance agent or broker, you will be free to do so. If not, you will be able to purchase insurance in a matter of minutes on the exchange's website.

Each state will also establish a Small Business Health Options Program (referred to as a "SHOP Exchange") to assist qualified employers in facilitating the enrollment of employees in small group qualified health benefits plans. States may choose to establish a single exchange that performs both individual coverage and SHOP Exchange functions. States may also jointly form regional exchanges or may form multiple subsidiary exchanges if each one serves a distinct geographic area. Exchanges may contract with entities with demonstrated experience in the individual and small group markets and in benefits coverage if the entity is not an insurer, controlled by an insurer, or with the state Medicaid agency.

individuals who have average annual health care costs of \$10,000 or more.

The new pool is genuinely good news for uninsured North Carolinians with pre-existing medical conditions, who have not flocked to the state pool in as large numbers as originally hoped. Historically, only 20% of Inclusive Health state pool members are uninsured at the time they apply to the pool, perhaps owing to the pool's price point that, until May 1st, was 175% of the standard risk rate. Though this is 50% or more below what these members would be paying in the individual commercial market for similar coverage, the average monthly premium of about \$600 for a 50-year-old enrollee is still significant for an uninsured individual.

What the national pool means for North Carolina will come down to how its uninsured target population responds to its availability. Opinions vary on how strong the enrollment uptake will be, with the chief actuary from the Centers for Medicare and Medicaid Services predicting that the \$5 billion in federal funding will be exhausted during 2011. If experience from other states and recent Congressional Budget Office study data hold true, however, there may not be a stampede to enroll. The targeted uninsured population may prove to be a challenging audience to reach and entice

into purchasing coverage, even with these reduced eligibility and price barriers. Inclusive Health expects to undertake a full-scale outreach and marketing effort in collaboration with the medical, hospital, broker, and advocacy community to ensure that no eligible North Carolinian is unaware of this new coverage opportunity.

Whatever the success of this outreach effort, North Carolina will have a \$145 million allocation to work with out of the \$5 billion nationwide budget. This amount is based on a formula patterned after the Children's Health Insurance Program (CHIP). Unused amounts are expected to be reallocated after two years so that states that are successful in exhausting their allocation, as North Carolina did under CHIP, can access other states' unused funds. Preliminary estimates show that North Carolina may be able to afford to enroll about 8,000 individuals.

Inclusive Health looks forward to embarking on this important step in improving the lives and health insurance coverage of North Carolinians with pre-existing conditions who have difficulty finding affordable coverage in the commercial health insurance market.

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Table 1.
Comparison of Risk Pool Characteristics

Feature	Federal PPACA Risk Pool	NC Inclusive Health
Eligibility	Must have been uninsured for six months	- Uninsurable - HIPAA (those exhausting 18 months of COBRA coverage) - Those impacted by trade
Benefits	- No pre-existing conditions - No annual maximums	12-month pre-existing condition waiting period for uninsured (persons without coverage within the last 63 days) - Lifetime maximum of \$1 million - Annual specialty-drug maximum of \$100,000
Rates	100% of the standard risk rate	150% of the standard risk rate

The specifics of each state's exchange are still unknown at the present, but the PPACA does require several provisions that must be included in the state exchanges. First and foremost, the legislation establishes and defines a qualified health plan as being certified by the exchange through which it is offered. A plan must provide the essential benefits package and must be offered by an issuer that is in good standing in the state. The exchange will offer at least one silver and one gold plan (see the list of levels below) and charge the same premium whether the plan is sold by the exchange or outside of the exchange. Qualified health plans also may be called a co-op plan or a multi-state plan and their premiums may vary by rating area.

According to PPACA's provisions, the essential benefits package must cover the following general groups of services:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance abuse disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

Further, the PPACA defines the levels of coverage as follows:

- **Bronze level:** Must provide coverage that provides benefits that are actuarially equivalent to 60% of the full actuarial value of benefits under the plan.
- **Silver level:** Must provide coverage that provides benefits that are actuarially equivalent to 70% of the full actuarial value of benefits under the plan.
- **Gold level:** Must provide coverage that provides benefits that are actuarially equivalent to 80% of the full actuarial value of benefits under the plan.
- **Platinum level:** Must provide coverage that provides benefits that are actuarially equivalent to 90% of the full actuarial value of benefits under the plan.

We have heard in our discussions with the NAIC that exchanges must consult with relevant stakeholders, including consumers, those with experience facilitating coverage in qualified health plans, representatives of small businesses, state Medicaid offices, and advocates for enrolling hard-to-reach populations. They also must publish online an accounting of their administrative costs, including funds lost to waste, fraud, and abuse.

Of course there are other provisions required of the exchanges, but many are still unknown at this time. Ultimately, it will be up to the North Carolina General Assembly to decide our state's level of participation in the

exchange. But it will be up to all of us—the North Carolina Department of Insurance as regulator, the health insurance industry, health care providers, and others—to come together and make the transition run as smoothly as possible. Legislation determining North Carolina's participation will need to occur during the 2011 long session of the General Assembly; the Department of Insurance is already working on recommendations for 2011.

Whatever the General Assembly deems appropriate for North Carolina's participation, I believe the Department of Insurance should have the lead role in administering the exchange. Our current regulatory oversight and role as a consumer watchdog will continue to provide the best possible consumer protection for North Carolinians.

I know that you are probably receiving questions from your patients, friends, family members, and others—we are too. If you find yourself taking the same questions repeatedly and are having a hard time coming up with specific answers, please let my staff at the Department of Insurance know. We are in constant contact with the National Association of Insurance Commissioners, and we are collaborating on identifying frequently asked questions. This reform is too big of a shift for any one of us to feel that we are on our own when answering questions and moving forward. I encourage you to send your patients and others with questions to our Consumer Helpline, 800.546.5664, as well as our website at <http://www.ncdoi.com/healthcarereform>. It's imperative that we continue to work together. **NCMJ**



Unfortunately, its motor is inside playing video games.

Kids spend several hours a day playing video games and less than 15 minutes in P.E. Most can't do two push-ups. Many are obese, and nearly half exhibit risk factors of heart disease. The American Council on Exercise and major medical organizations consider this situation a national health risk. Continuing budget cutbacks have forced many schools to drop P.E.—in fact, 49 states no longer even require it daily.

You can help. Dust off that bike. Get out the skates. Swim with your kids. Play catch. Show them exercise is fun and promotes a long, healthy life. And call ACE. Find out more on how you can get these young engines fired up. Then maybe the video games will get dusty.

A Public Service Message brought to you by the American Council on Exercise, a not-for-profit organization committed to the promotion of safe and effective exercise



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