


Health Reform Weekly



A weekly compilation from Aetna of health care-related developments in Washington, D.C. and state legislatures across the country

Week of May 25, 2009

After last week, the Senate Finance Committee has now issued its policy options on all three aspects of the health care reform debate - [transforming the health care delivery system](#); [expanding health care coverage](#); and [financing comprehensive health care reform](#). While considerable discussion has already taken place around these issues through the corresponding Senate Finance Committee roundtables and "walkthroughs," it will take several weeks before legislation is ready for debate on the Floor of the Senate. The Senate HELP (Health, Education, Labor and Pensions) Committee likely will announce its recommendations and policy options in the first week after the Memorial Day recess.

Federal

Early in the week, the Senate Finance Committee released its health care reform financing options paper and two days later held a Senators-only "walkthrough" of the paper. As with the prior two walkthroughs - one on the delivery system and the other on expanding coverage - no conclusions were reached. The paper addressed choices for the Committee to consider in the areas of Medicare payment reform (e.g., reducing geographic variations); changing the taxation of HSAs and HRAs (e.g., limiting the HSA deduction); increasing Medicare premiums for wealthier seniors; and increasing taxes on alcohol and sugar. **However, the option receiving the most attention is whether to tax employees on the value of their employer's health plan contribution (which currently goes untaxed).** Since this item represents potentially more than \$100 billion in savings to the government, it will remain on the table for the duration of the health care reform debate. This issue will be among the top issues that will have to be decided before any

legislation is finalized. The Committee will have another meeting June 4 to determine its next step. The HELP Committee is trying to keep pace with Finance, but it was unable to produce any official "paper" prior to the recess. The two Committees will likely attempt to marry their two bills into one prior to going to the Senate Floor, which is still scheduled for July but could slip to September.

States

ARIZONA: Republican legislators are pushing state Resolution 2014, known as the Health Care Freedom Act. It would prohibit any law or regulation that compels a person or employer to participate in a health care system and would also prohibit fines or penalties against anyone that purchases health care services directly from a private entity. The resolution is similar to a ballot measure that was narrowly defeated last November. It appears to be aimed at preventing the adoption of a state or federal single-payer system. However, it would also prohibit the implementation of both an individual coverage requirement and an employer mandate. This resolution could also impact publicly funded managed care programs and other public/private partnerships.

CALIFORNIA: Californians overwhelmingly rejected a series of ballot initiatives last week to assist the state's massive budget shortfall. The primary proposal, which would cap state spending and include a rainy-day fund while extending a tax increase for two additional years, lost 65 percent to 35 percent. About 60 percent of voters who turned out opposed four other propositions that would have, among other things, allowed the state to borrow \$5 billion against future lottery revenue and to shift revenue earmarked for mental health and children's programs to the general fund. Only one proposition - a measure that bans pay increases by elected state officials during budget deficits -- was overwhelmingly approved. With the failure of these measures, the state's budget deficit has jumped to \$21.5 billion (or more) in the fiscal year beginning July 1, from its previous projection of \$15 billion. A special two-house conference committee began meeting May 21 to piece together a revised budget designed to erase a revenue/spending gap. In addition to deeper cuts and state employee layoffs, legislative leaders are suggesting that large industry-specific fee increases, rather than general tax increases, would need to be approved. In some cases an increase in fees, such as surcharges and regulator assessments, can be achieved with a majority vote. A general tax increases require a two-thirds vote.

MISSOURI: Before the General Assembly adjourned on May

15, the following health care-related bills passed and are awaiting the Governor's signature: a prosthetic device mandate; a bill allowing associations to provide group health insurance policies to sole proprietors and self-employed individuals; bills requiring the state to establish programs to work with individuals with autism and their families, regional parent advisory councils, and a new Missouri Parent Advisory Committee on Autism (an autism mandate was defeated); and a bill changing eligibility for the Missouri Health Insurance Pool so that a person covered by an individual insurance policy and experiencing a premium rate increase of 300 percent or more is no longer eligible to obtain coverage. Bills that failed to pass included expansion of the CHIP program; an income tax deduction for small businesses paying employees' health insurance premiums; small employer Medicaid buy-in; a premium subsidy program for low-income workers; minimum medical loss ratio requirements; assignment of benefit laws; and transparency legislation.

NEBRASKA: Lawmakers have passed a bill that extends dependent coverage on sickness and accident policies to 23 for married dependents and 29 for unmarried dependents. They also passed a bill that establishes a task force to develop a medical homes pilot program for the state's Medicaid program. Several bills are still pending, but are far enough along in the process that they will likely pass this session. They include a bill amending the Autism Treatment Program Act to clarify funding and administrative responsibilities for this Medicaid-waiver program; a bill amending the high-risk pool statute to set the reimbursement rate for providers at 125 percent of the Medicare rate, while also prohibiting providers from attempting to collect any monies from an individual covered under the pool (aside from copayments, coinsurance or deductibles specified in the pool); and a bill requiring health care facilities and providers to provide itemized billing statements upon the patient's request.

NEW JERSEY: Last week the State Treasurer proposed approximately \$400 million in new taxes to address the state's dwindling revenue projections for the coming fiscal year. Included in the list of proposed taxes is a 1 percent increase in the state's HMO assessment, which would increase it from 2 percent to 3 percent. Separately, a 0.25 percent premium tax increase was proposed on other lines of insurance. The Treasurer's proposal was presented with minimum detail, leaving it to the Legislature to determine how an increase may be implemented. Aetna has initiated a dialogue with legislative leadership voicing opposition to the proposed increase. The Legislature is constitutionally obligated to pass a balanced budget by July 1. **In other legislative news, the General Assembly**

overwhelmingly passed an autism coverage mandate (74-1). The bill requires insurance coverage for persons less than 21 years of age and caps their benefit at \$36,000. Given the tremendous momentum in support of the measure, Aetna (along with other health plans in the state) worked extensively with the bill sponsors to set reasonable limitations in the legislation. In addition to a benefit cap, the legislation requires certification from a behavioral analyst. The state Senate is expected to take action in the coming weeks.

TENNESSEE: The legislative session will likely be extended to the end of June because of problems finalizing the budget. This means the bill increasing a tax on HMO plans by 3.5 percent as well as the bill restricting workers' compensation rental networks are still viable and will likely be debated further. With the additional time, there is a greater likelihood that each bill will pass.

TEXAS: This week the Texas Senate considered a bill aimed at regulating "silent PPO" or rental networks. This bill is intended to prohibit the unauthorized taking of a discount from providers where no contract is in place and is based on national model legislation drafted by the National Conference of Insurance Legislators (NCOIL). The NCOIL model act contained a drafting note directing each state to make its own decision about whether to apply the bill to self-funded plans, and the Texas bill author chose to do so. After months of stakeholder negotiations and many revisions to the bill, it reached the Senate floor as the last step in its process to passage. The bill author laid the bill out with the understanding that she had the necessary 21 votes to sustain the Senate's normal rules and consider the bill. During that process, another Senator read aloud a letter drafted by the Texas Business Association and several major insurance plans (including Aetna) encouraging grassroots opposition to the bill because of its attempt to pierce the ERISA veil through its application to self-funded plans. The Senate then voted 16-14 against suspension of the rules, prohibiting further debate on the bill.

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