

# 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 June 15, 2009**

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*There has never been a more important time to be involved. Congress and the Administration are focused on reforming our nation's broken health care system this year. Many state legislatures right now are wrestling with individual and small business market reforms. With state budgets in turmoil, new taxes on business and new health care mandates threaten the market's ability to continue offering access to high quality, affordable care. There is a clear need for workable solutions, but much is at stake if the wrong approach is followed.*

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**Federal**

**The quickening pace of health care reform has surfaced three key issues that will have to be resolved before the final vote is tallied: 1) a public plan; 2) an employer mandate; and 3) taxing employees on some level of the**

**employer's premium contribution.** The HELP Committee will likely include 1 and 2 in some form; the Senate Finance Committee will likely include 2 and some form of 3, and possibly a variation on 1. The House version is sure to include all three. These three key issues will be resolved tentatively with the expected passage of health care reform by the August 7 break. But the real resolution will have to come over the break and when Congress returns in the Fall. Aetna believes the public plan option can't meet its avowed goal of dramatically lowering costs of coverage if the playing field is truly level. Regarding the employer mandate, there is no real need if an enforceable individual coverage requirement is passed. Also, Aetna believes that changes in the Tax Code should be pursued less as a money raiser and more to direct good policy, such as choosing lower cost coverage.

**The debate over a public plan took a right turn twist when Senator Kent Conrad (D-ND) offered an alternative: a non-profit, non-governmental "Consumer Cooperative" to "compete" (within the Exchange only) with private insurers on a truly level playing field basis (same insurance, rating, payment, tax, etc.).** Our read is that this is an idea that deserves to be explored. Also, the AMA weighed on the public plan idea last week twice. First, it issued a statement against a public plan because it would threaten to restrict patient choice by driving out private carriers (translation: a public plan doesn't "work" without paying sub-par rates to hospitals and doctors). Then, the AMA backed off a bit with a quote from its President on its openness to looking at variations on the public plan theme. Translation: With President Obama speaking to the AMA this week, the physicians' group wanted to keep the lines of communication open.

## **States**

**CALIFORNIA: The Department of Insurance has issued proposed regulations designed to curb rescissions of individual policies when insureds misrepresent their health status or history during the application process.** Proposed requirements include: Substantiation that all applicable underwriting was met before the decision to rescind coverage was made; basing underwriting decisions on applicants' personal health records, if available, rather than health questionnaires; and use of commercially available claims data, claims history and pharmaceutical information. Legislation requiring health insurers to maintain at least an 85 percent medical cost ratio was defeated by a bi-partisan vote in the Senate. The bill was nearly identical to one vetoed by Governor Schwarzenegger in 2008.

**KENTUCKY: Faced with the largest deficit in modern Kentucky history, Governor Steve Beshear has proposed a budget that would not raise taxes on working families and businesses** while preserving basic funding for education, health care programs (Medicaid and mental health) and key areas of public safety. A special session convened on June 15 to address a projected \$1 billion shortfall. While no additional legislation will be considered during the special session, the Banking and Insurance Committee is expected to meet with stakeholders to continue discussing concerns around autism legislation.

**MAINE: On the last day of regular legislative session, the Senate and the House passed an amended "Consumer Bill of Rights" that has been stripped of problematic sections** that would have increased the small group medical loss ratio to 88 percent and given the Superintendent of Insurance prior approval of all rate adjustments. The bill of rights does add some consumer protections for small business employees, such as a requirement that health plans post an 800 number for members to call if they receive a notice of cancellation due to nonpayment of premiums and have questions. The bill now goes to Governor Baldacci, who is expected to sign. **Also, both houses of the legislature passed a bill that requires chain restaurants, with 20 or more restaurants in the nation and at least one in Maine, to post nutrition information for consumers.** Aetna supported this bill and placed an [op-ed in the Bangor Daily News](#) urging legislators to make nutrition information accessible to consumers so that they can make better, more informed food choices. This law will require that calorie information be placed on menus and menu boards. The legislation will go into effect on February 1, 2011, giving restaurants extra time to comply. The legislation makes certain exceptions, such as for salad bars and buffets.

**MICHIGAN: The legislative process is in high gear with activity in both chambers on health care reform proposals.** The House workgroup process continues with twice weekly workgroup sessions. The House plans to begin discussion this week on a small group market bill included in the health care reform package that would strengthen consumer rescission protections and prohibit consideration of experience at renewal. The Senate Health Policy Committee heard testimony from Professor Dean Smith of the University of Michigan, School of Public Health, who testified that the 1.8 percent paid claims assessment intended to fund access for the uninsured will lead to more than 12,000 people dropping coverage because of the premium increase. He also noted the health care reform proposals may cover uninsurables at the expense of the regular

individual market. Also, the Senate Fiscal Agency released its assessment of the Senate reform package finding that insurer, hospital and Blue Cross assessments for an access fund would generate at least \$600 million, not including potential federal match dollars. Both chambers have indicated they plan to pass legislation before the July 4 break.

**NEW JERSEY: The legislature and Administration appear to have reached an agreement on the state budget, clearing the way for passage well in advance of the July 1 deadline.**

In the budget proposal, the state has abandoned its earlier proposal of a 1 percent HMO tax increase, as well as a .25 percent increase on other lines. However, given an expected multi-billion dollar revenue shortfall in the coming fiscal year, the state is opting for a 1.25 percent premium tax increase on group accident & health and service corporations. This increase would raise the current 1.05 percent tax to 2.3 percent. Also, a tax increase is being proposed for dental service organizations. The state anticipates these tax changes will generate approximately \$110 million in much needed revenue. The legislative budget committees have scheduled public hearings for this week, with the goal of passing the budget on June 18. In other business, the General Assembly took up legislation concerning Horizon Blue Cross Blue Shield's effort to convert to a for-profit entity. This legislation calls for additional public hearings and allows third party interveners to request information from the applicant seeking conversion.

**NEW YORK: The State Senate was thrown into chaos last week when two Senate Democrats moved to join Senate Republicans and form a "coalition government."** All action on legislative business in the Senate came to a complete stand still as a result. As of early this week, the question of which party actually holds control of the Senate Chamber was still open. The Assembly Insurance Committee last week heard from insurers, businesses, hospital representatives, consumers and others who weighed in on **the question of regulatory approval of health insurance premium rates.** During a lengthy hearing, much opposition was voiced to proposed legislation that would give the state Insurance Department prior approval of health insurers' rates. Speaking in favor of the bill, the DOI claimed the current "file and use" system has resulted in "excessive" rate increases.

**OHIO: The Senate honored its pledge of removing all of the health care-related provisions included in the budget bill by the House.** Those provisions include increasing the open enrollment program in the individual market, reporting the components of administrative expenses, coverage for dependents

to age 29 and an autism mandate. As expected, the House took a vote of non-concurrence, setting the stage for a conference committee to resolve their differences.

**TENNESSEE: The "Silent PPO" bill that includes amendments advocated by health insurers passed both chambers of the legislature last week.** A similar proposal affecting Workers' Compensation was reviewed by the Workers Compensation Advisory Council, which reported negatively on the bill and asked for more study. Despite the sponsor's efforts, this bill has not been heard to date. Under the applicable rules, the sponsor must request both the House and Senate to reopen their committees, which have been closed for the year. **In other business, the Senate passed a bill increasing the premium tax by 2.5 percent last week.** The House will take up the bill this week.

### **Resources**

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