



Health Reform Bulletin

Week of October 8, 2012

In the first of three scheduled [debates](#), President Barack Obama and Republican challenger Mitt Romney last week sparred over health care costs in general and the Affordable Care Act (ACA) in particular. The two candidates largely covered familiar ground, and new polling data shows that health care reform may not have much impact ultimately on voter decisions this year. Kaiser Family Foundation's [tracking poll for September](#) suggests that most voters are more concerned about Medicare than the ACA. Medicare trails only the economy and the federal budget deficit as key priorities for voters. For seniors, Medicare pulls nearly even with the economy as an issue.

In other news, the legal wrangling over the ACA may not be over despite a U.S. Supreme Court ruling in June that upheld the bulk of the law. Liberty University is asking the Supreme Court to order the federal 4th Circuit Court of Appeals to hear the issues it has [raised in a lawsuit](#). Liberty contends the health reform law's employer requirements are unconstitutional and that the individual mandate violates their right to freedom of religion. The Supreme Court last week asked the federal government to weigh in on whether to grant the request, a move that some are reading as a sign of potential interest in the issue on the part of some justices.

States

Nineteen states made the October 1 deadline for states to inform Health and Human Services (HHS) of their essential health benefit (EHB) benchmark plan. The states in compliance included Arkansas, Arizona, California, Colorado, Connecticut, Hawaii, Illinois, Kentucky, Maryland, Michigan, North Dakota, New Hampshire, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont and Washington. Most of these states chose a small group product supplemented by their state CHIP pediatric dental benefits and

the pediatric vision benefits of the federal employee plan (FEDVIP). However, Arizona and Maryland both chose their state employee plan. Connecticut chose the largest statewide HMO while California and Washington chose their EHB benchmark through legislation. Almost all of these states also indicated that habilitative benefits must be offered on parity with rehabilitative services. Several other states and the District of Columbia have made preliminary decisions including Delaware, Mississippi, and Virginia.

The remaining states have either indicated to HHS that they did not have sufficient information to make a decision, or they simply did not make a decision. **HHS has indicated that the default EHB benchmark plan for states that do not make a decision will be the largest small group plan by membership in the state.** HHS will post each state's EHB benchmark for a 30-day public comment period before finalizing. It is unclear whether HHS will wait longer for states to make a selection or if they will automatically defer to the default benchmark.

ARIZONA: Governor Jan Brewer has notified HHS that the United Healthcare EPO state employee plan will be the essential health benefits benchmark for Arizona, supplemented by the FED-VIP plan for vision and pediatric dental coverage. In her letter, the governor reiterated her lack of support for the ACA even as she makes decisions to comply with its requirements. Also last week, the Governor's Regulatory Review Council held a hearing on the Department of Insurance's (DOI) proposed rule establishing a rate review scheme for individual products that would be deemed "effective" by HHS. More than 1,000 public comments were submitted in a process that spanned more than a year. The Council approved the rule by a unanimous vote. The final step will be to submit the rate review plan to HHS for "effective rate review" designation.

CALIFORNIA: Governor Jerry Brown vetoed several health care bills last week, wrapping up the 2012 legislative session. Two bills would have aligned California law with the ACA individual market reforms, but they did not include a "tie back" to the ACA's provisions for certain reforms, including the individual mandate, prohibition against health status underwriting, and elimination of pre-existing condition exclusions. The health insurance industry had submitted a letter outlining the



importance of the reforms being tied together. Governor Brown cited those same concerns in his veto message. In addition, Governor Brown vetoed a bill that would have placed limits on step therapy for pain medications and a bill that would have required parity in copayments for oral and intravenous chemotherapy drugs.

ILLINOIS: The Health Care Reform Implementation Council voted last week to submit the Blue Cross Blue Shield Advantage Small Group Plan, supplemented with pediatric vision from the federal vision plan and pediatric dental from the state's All Kids plan, to the federal government as the state's EHB benchmark for 2014 and 2015. The priority was to include all state mandates, so they selected the third leanest plan in terms of premium cost. At this time, the governor's office and the House Democratic caucus are discussing an exchange bill for the fall veto session, but the prospects for passage are not good. The state also has announced that qualified health plan certification standards will be at the ACA level and that SHOP eligibility on the exchange initially will be 50 employees or less.

MICHIGAN: The Office of Financial and Insurance Regulation (OFIR) has selected Priority Health HMO as the benchmark plan for the state's health insurance exchange, calling it the plan that achieves the best balance between comprehensiveness and cost-effectiveness. In addition, OFIR recommends that the federal pediatric vision plan and the MICHild dental plan supplement the benchmark plan. Insurers and health plans will be required to submit their plans to OFIR by May 1, 2013. The state plans to apply for a state-federal partnership for the exchange, since the House decided not to take up the administration's exchange bill after it passed the Senate earlier this year.

NEVADA: Insurance Commissioner Scott Kipper is holding off on making a selection from the three board recommendations for an essential health benefits benchmark plan. Citing strong concerns about transparency in the process and in the absence of specific written guidance from HHS, his letter states that no decision will be made until he receives a satisfactory response.

NEW JERSEY: The legislature revived debate around the creation of a state-based health insurance exchange when it took up legislation in the Senate last week to do just that. The Senate Commerce Committee passed a bill and sent it to the floor just two days later. It passed the full Senate primarily along party lines. Earlier this year the Democratic-controlled legislature passed an exchange bill that was

ultimately vetoed by Governor Chris Christie, who deemed it premature to enact a state law while the constitutionality of the ACA was pending before the U.S. Supreme Court. Similar to its predecessor, the most recent Senate bill is opposed by health plans and the business community due to provisions that, among other things, would create duplicative regulatory authority; permit selective contracting; and require carriers to contract with all essential health providers at a "generally applicable payment rate." Companion legislation will likely be considered in a General Assembly Health Committee meeting scheduled for next week.

NEW YORK: The state has announced that the Oxford Small Group EPO product has been chosen as its benchmark plan for essential health benefits. Two-thirds of the state's small group market is concentrated in the downstate region, which includes New York City, Long Island and the lower Hudson Valley. In this region, 53 percent of small employers purchase EPO products. The benchmark plan will be supplemented with pediatric dental and vision benefits currently offered as part of the state's Child Health Plus program. The state continues exchange implementation on an aggressive path and will be convening technical workgroups in mid-October on the eligibility and enrollment procedures they anticipate incorporating into the exchange web portal.

OKLAHOMA: Governor Mary Fallin informed HHS last week that it is not undertaking a detailed analysis and choosing an essential health benefits benchmark plan due to "the absence of required documentation from HHS." In her letter, the governor characterizes a 2011 Essential Health Benefits (EHB) Bulletin and other material as "informal documents, lacking in sufficient detail." She asked HHS to provide a detailed response regarding additional EHB guidance or formal rules and a timeframe for state compliance.

Courtesy of Aetna Health Reform Weekly

