



Health Reform Bulletin

Week of November 12, 2012

The re-election of President Barack Obama last week erased many of the remaining doubts about the future of the Affordable Care Act (ACA). With the threat of repeal virtually gone, implementation is now expected to move forward steadily. But that does not mean it will be smooth sailing for each and every provision of the law. Public attention has shifted quickly to the problem of the national debt and heading off a possible plunge over the fast-approaching “fiscal cliff.” By the end of the week, the Congressional Budget Office [released a report](#) that outlines various options for achieving deficit reduction that, if adopted, would impact certain provisions of the health reform law as well as Medicare and Medicaid. Emphasizing that it is not necessarily recommending these options, the CBO identified potential savings that included: repealing the expansion of health care coverage under the ACA, \$150 billion; repealing the ACA’s individual mandate, \$40 billion; increasing Medicare Part B premium to 35 percent of the program’s costs, \$40 billion; raising the Medicare eligibility age to 67, \$30 billion; converting the federal share of Medicaid payments for long-term care services to a block grant, \$50 billion.

In other news, the Department of Health and Human Services (HHS) announced late last week that it was giving states a [one-month extension](#) of the November 16 deadline for indicating to HHS whether they intend to operate a state-based or state/federal health insurance exchange.

Federal

A lame duck session of Congress begins this week just one week after national elections resulted in the continuation of a Republican-controlled House and a Democrat-controlled Senate. This same balance of power has complicated major legislative action for the past two years. Congress this week will focus on new member orientation and leadership elections, but they also face the much larger goal of developing legislation to address the imminent “fiscal cliff.” In the absence of an alternative debt-reduction deal, the fiscal cliff is a combination of expiring tax rates, tax increases, deep federal spending cuts, and a scheduled cut for Medicare physician payment rates that will take effect on January 1, 2013.

House Speaker John Boehner is on record as noting that there is not enough time for the lame duck session to hammer out a grand bargain on deficit reduction.

Consequently, federal policymakers are considering “bridge” legislation -- a short-term compromise on taxes and sequestration that would allow time to develop a long-term measure next year). Creating more pressure is a group of Senators who have been working on a comprehensive deficit reduction plan, or grand bargain, and may not accept a delay in the grand bargain. Negotiations will continue right through December as policymakers try to reach an agreement of some kind before the year-end deadline.



States

ARIZONA: The Republicans lost their super-majority in both the Senate and House as Democrats made gains in last week's elections. The 2013 Senate will be made up of 17 Republicans and 13 Democrats while the House will include 36 Republicans and 24 Democrats. The Republicans met on November 7 to elect their leadership for the coming session. Early on current Senate President Steve Pierce appeared to have the votes to retain his position. However, in a surprise 9-8 vote, he was replaced by the more conservative Andy Biggs. Two controversial propositions, one replacing the current primary election system with a "top two" process and the other extending the current one cent temporary tax increase beyond its July 1, 2014 expiration date, lost by significant margins.

CALIFORNIA: Following last week's elections, Consumer Watchdog began promoting a 2014 ballot initiative that would change the way California regulates health insurance premiums. The measure would give the state insurance commissioner the authority to approve or reject health insurance rate changes for all individual and small group health insurance products, including HMO plans that are regulated by an entirely different regulatory agency. Consumer Watchdog tried to qualify the measure for the 2012 ballot, but the group failed to acquire enough valid signatures in time. Following a full count of all signatures in August, the measure qualified for the November 2014 ballot.

ILLINOIS: With a tail wind from President Obama, a native son, and a recent redistricting drawn up by Democrats, both houses of the General Assembly gained veto-proof Democratic majorities in last week's elections. The composition of the House will be 71-47, while the Senate will be 40-19. The results mean that the \$82 billion structural deficit due to pension

obligations may be addressed during upcoming lame duck veto session, which was extended last week through the beginning of January 2013. It could also mean that exchange legislation may break loose from its "log jam" in the veto session or the first part of the spring session scheduled to begin in mid-January. The Illinois Health Benefits Exchange Legislative Commission, which has not met in almost six months, is now scheduled to meet on November 27th to get an update from the administration on the state-federal partnership plan scheduled to be submitted to the federal government by November 16. The goal continues to be a state-based exchange in 2015. The State recently gathered information from carriers with respect to how many products each plan intends to market on the exchange and will soon select an IT firm to set up some of the exchange operations.

KANSAS: Governor Sam Brownback announced late last week that he won't support Insurance Commissioner Sandy Praeger's application for a state-federal partnership exchange. In rejecting the state's participation in the program, Brownback said he decided not to partner with the federal government because he does not believe Kansas will benefit from implementation of the costly program. He indicated that any elected official who supports implementation of a federal-state partnership exchange should pursue legislation in the 2013 legislative session to permit debate and a vote on the proposal. The legislature will begin its next session on January 14, 2013.

MICHIGAN: In the wake of last week's national elections, the legislature will continue to be dominated by conservative Republicans. The House remains under Republican control, 59-51, despite a net loss of five seats. State Senators were not up for re-election, so the Republicans' super-majority in the Senate continues 26-12. With Republican Governor Snyder at the helm, Michigan will continue to move



forward with ACA implementation using the state-federal partnership model for the exchange. Medicaid expansion is not likely.

NEW HAMPSHIRE: The Granite State will likely opt for Medicaid expansion under the ACA, given the newly elected governor's vocal support for the ACA-incented expansion during the campaign. Governor-elect Maggie Hassan will have additional support for advancing ACA reforms since Democrats reclaimed control of the House and made significant gains in the Senate. The governor's spokesman was quoted by the media as saying New Hampshire should accept the more than \$1 billion in available federal funding to help working families afford health insurance.

NEW YORK: The state continues to be on track with its implementation of a state-based exchange, submitting its completed blueprint to HHS on October 26 – 20 days prior to the original November 16 due date. Additionally, the state intends to submit a Level Two funding grant in the near term. While many policy decisions on plan design are not detailed, the blueprint indicates that the state will require that broker compensation be at the same level both inside and outside the exchange for non-HMO products, and that it will not be determining what that level is for commercial products. State law currently sets a broker compensation cap for HMO products in the small group market.

OKLAHOMA: Gov. Mary Fallin is not rushing into making a decision about whether to accept federal funding for a state Medicaid expansion under the ACA, though her own deadline for that decision has now come and gone. However, Fallin's administration may be opening the door to the possibility of a state-based health insurance exchange. Fallin put off a formal decision until after the presidential election. Her spokesman now indicates that the governor is conferring with other lawmakers, her

cabinet, and health care experts as to the best course of action. Hospital and business leaders are pushing her to accept the funding, arguing that otherwise Oklahoma taxpayers would be paying for medical treatment of other states' poor people while its own indigent residents go unfunded.

VERMONT: The Department of Vermont Health Access has issued its request for proposals (RFP) from health insurance issuers to offer certified qualified health plans and stand-alone dental plans for sale through the state's health benefits exchange, Vermont Health Connect. This RFP is open to all health insurance organizations licensed in Vermont interested in providing coverage to individuals and small businesses through Vermont Health Connect. Intents to bid are due November 13, and full proposals are due January 8, 2013.

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