



Health Reform Bulletin

Week of March 25, 2013

Implementation of the most significant provisions of the Affordable Care Act (ACA) is less than a year away, but Americans remain a bit puzzled by it all. A new Kaiser Family Foundation [tracking poll](#) shows that two-thirds of the uninsured and a majority of the general public are struggling to understand how the law will impact them. In fact, awareness of the law's key elements has declined somewhat since passage of the law in 2010, when media attention was at its height. The survey also found that the public is not really tuned in to the biggest ACA implementation issues going on right now, such as state decisions on whether to implement state-based exchanges and whether to expand Medicaid coverage. In general, the country remains divided on the merits of the law, with 40 percent having an unfavorable view and 37 percent holding a favorable one.

Federal

The Senate and House last week passed a Continuing Resolution to fund the government for the remainder of the fiscal year through September 30, 2013. The package includes appropriations bills for Defense; military construction and Veterans Affairs; Agriculture; Commerce, Justice and Science; and Homeland Security that reallocate funds for select programs to mitigate the impact of the sequester cuts. The bill does not include the \$949 billion in increased funding to implement the ACA that the Obama Administration had requested. Nonetheless, President Obama is expected to sign the legislation when he returns from the Middle East.

The House passed its budget resolution last week, and the Senate passed its own budget resolution later in the week. **Notably, the Senate voted 79-20 to approve a non-binding amendment calling for the repeal of the medical device excise tax included in the ACA.** Numerous other amendments, including amendments to create deficit neutral reserve funds to repeal the ACA and to repeal certain tax

increases on individuals under the ACA, were less successful. Subsequently, the House and the Senate began a two-week recess.

States

ARIZONA: Though no bill has yet been introduced, the House Appropriations Committee held an informational hearing last week on the issue of expanding Medicaid. The four-hour hearing included a presentation by the Joint Legislative Budget Committee followed by public comment. The most significant takeaway was the renewed level of partisanship and rancor that this issue has generated both among legislators and the general public.

CALIFORNIA: A scope of practice fight is looming in Sacramento over the need for more primary care providers. Non-physician providers, such as nurse practitioners, physician assistants and optometrists, are pushing for legislation that would expand their scope of practice or eliminate requirements that they practice only under the supervision of physicians. Other states are less restrictive than California in this regard. Some in the medical community opined that retail health clinics – staffed by nurse practitioners – would be harmful to consumers through poor outcomes. But these clinics are now proliferating, which has led to better access and lower costs without the dire quality issues that some predicted.

MICHIGAN: Governor Rick Snyder signed the Blue Cross Blue Shield of Michigan reforms into law, enabling the company to begin transitioning to a nonprofit mutual insurer operating model. In exchange, BCBSM will contribute \$1.56 billion over 18 years to a new nonprofit foundation established by law. Under the law, BCBSM will no longer serve as the state's "insurer of last resort" and will no longer operate under a separate statute with dual oversight



by the Attorney General and Office of Financial and Insurance Regulation (OFIR). Aetna worked to ensure that the new law includes a prohibition on the use of “most-favored nation” clauses in contracts between a state’s dominant carrier and providers. As a result, a prohibition on the clauses is now in force. In other news, the state Senate adjourned last week without voting on a House bill that would have allowed the state to appropriate the use of federal funds received for a state-federal partnership exchange. Governor Rick Snyder said this was the last chance for the legislature to act, which means the federal government will have sole control over operation of the exchange.

MINNESOTA: The Senate approved a health insurance exchange bill last week on a party-line vote of 39-28. The bill has been sent to Gov. Mark Dayton, who has vowed to sign it. The administration has been working for months to set up the venture and hire employees. The state-based exchange will be a new state agency with about 86 employees, 26 of whom have already been hired. They include the exchange's executive director, April Todd-Malmlov, an economist who previously worked for the state Department of Health before working at UnitedHealth Group. Governor Dayton has until April 30 to appoint a seven-member board that will govern the exchange. According to initial projections, about 1.3 million Minnesota residents will get insurance through the exchange by 2016.

NEW JERSEY: The legislature last week took up several ACA-related matters regarding the implementation of health insurance exchanges and mandated coverage requirements. In both houses, a concurrent resolution to establish a joint legislative exchange task force was considered and ultimately passed by the Senate. This resolution calls for the legislature to appoint a 12-member task force to oversee exchange implementation efforts in accordance with federal law. Currently, New Jersey is slated to have a federally facilitated exchange. The Assembly passed a measure that would eliminate the state’s requirement that full-time county college students maintain health insurance. New Jersey law now requires all full-time students at institutions of higher education to present evidence of health insurance coverage.

TEXAS: Texas has become one of four states to notify the Centers for Consumer Information and Insurance Oversight (CCIIO) that it does not have the authority to enforce, nor will it, the ACA’s market reforms. Since August of last year, the CCIIO’s Office of Insurance Oversight has been reaching out to states to identify the areas of oversight where state enforcement of the ACA was sought. State regulators were reminded of the standard in the Public Health Service Act (PHSA) that provides for pre-emption of state oversight if a state is unable to perform those duties. To this end, the Texas Department of Insurance has posted on its website information on how it will approach form and rate review in anticipation of changes to federal law that go into effect on January 1, 2014.

WASHINGTON: The Office of the Insurance Commissioner has filed rules on two topics of interest: geographic rating areas and essential health benefits. An emergency rule has been filed to establish five Washington geographic rating areas for non-grandfathered individual and small group plans effective January 1, 2014. Another proposed rule establishes the essential health benefits as well as scope and limitation requirements with which all individual and small group plans must comply.

Courtesy of Aetna Health Reform Weekly

