



## Health Reform Bulletin

Week of November 19, 2012

A new [Kaiser Health Tracking Poll](#) found that health care was a trailing issue rather than a leading one in the recent presidential election. The poll also suggests that support for outright repeal of the Affordable Care Act (ACA) appears to be declining – a steady 49 percent support keeping the law but only 33 percent now want it repealed, a new low-point for repeal supporters. Given that the Senate remains in Democrats' hands and President Obama remains in The White House, outright repeal is now highly unlikely. Republican governors, many of whom refused to implement the law in the past couple of years, adopted a new [pragmatic approach](#) to the law at a meeting of the Republican Governors Association in Las Vegas last week. In a letter to President Obama, the Republican governors are now asking for more time to decide how to handle the question of whether or not to operate state-based health insurance exchanges. A week earlier, Health and Human Services (HHS) announced that states could take a month longer to submit formal exchange plans but that HHS still wanted to receive word of the states' intentions by November 16.

Because of the Thanksgiving holiday and numerous legislative recesses, there will be no Health Reform Weekly next week. The next edition will appear during the week of December 3.

### Federal

A group of 12 business leaders, including Aetna Chairman and CEO Mark Bertolini, met with President Barack Obama at the White House last

week to urge that the President and Congress find a solution to the problem known as the “fiscal cliff.”

The fiscal cliff, which would be triggered on January 1, 2013 if political leaders are not able to reach an alternative agreement on reducing the national debt, is a combination of automatic and significant tax increases and spending cuts. Business leaders warned that failure to reach a deal could plunge the nation back into recession next year. The President told the group that he is serious about reaching a significant deal. **By week's end, President Obama met with House Speaker John Boehner and Senate Majority Leader Harry Reid to begin discussions on averting the fiscal cliff. The President and Congressional leaders struck a conciliatory tone and appeared to point the way to possible compromise as they met face to face for the first time in the negotiations.** Neither Speaker Boehner nor Senate Minority Leader Mitch McConnell got into specifics as they declared themselves open to raising new revenue after the meeting at the White House. The House and Senate will be in recess this week.

### States

**ALASKA: Governor Sean Parnell confirmed last week that Alaska would not create a state-run health insurance exchange.** He first announced the state's intentions earlier this year. In rejecting a state-run plan or a partnership with the federal government, the governor asserted that the federal government should pay 100 percent of the mandated program's costs. Democrats criticized the governor's decision.

**ARIZONA: Governor Janice Brewer has decided to delay a decision on what type of exchange Arizona will pursue until closer to the new December 14, 2012**



**deadline.** She cited the need to have as much information as possible before making such an important decision. Regardless, there will be significant challenges in moving needed any legislation needed to advance a state-based exchange in 2013 due to strong Republican opposition to the ACA.

**CALIFORNIA: The final RFP and bidder's application for participation in the state health exchange, Cover California, was released last week. The regulations confirm the use of 19 rating regions and address issues around the use of standardized benefit designs,** such as eliminating the use of mandatory reimbursement formulas for out-of-network benefits. Also, the exchange board elected not to use the Fair Health Database but instead will collect data from plans and providers to compare and analyze over the first year.

**CONNECTICUT: The state's budget director announced that the state's deficit for the current fiscal year has jumped to \$365 million and will likely require the governor to submit a deficit mitigation plan to the General Assembly before the end of the year.** A special session to address the deficit has been scheduled tentatively for the week of December 17. Over 70 percent of the deficit is attributed to increased utilization and case load in the Medicaid program. Furthermore, the state projects a deficit of \$1.18 billion in fiscal year 2014 and \$959 million in fiscal year 2015. The governor and General Assembly will have to enact a two-year budget covering fiscal years 2014 and 2015 in next year's legislative session. Meanwhile, the state's health insurance exchange is hosting a series of [town hall meetings](#) throughout the state so that the public can learn more about the exchange. Also, the Department of Insurance has issued a bulletin outlining the exchange product filing requirements for carriers.

**FLORIDA: Governor Rick Scott has requested a meeting with HHS Secretary Kathleen Sebelius but has remained steadfast in his position that Florida will not have a state-based exchange.** [Scott wrote](#), "I am hopeful it is possible for us to work together to lower costs and improve access and quality. Under the current regulatory requirements and the information we have been provided, however, Florida does not have evidence that a PPACA exchange can accomplish these goals.

**GEORGIA: Citing high costs and a lack of regulatory guidance, [Governor Nathan Deal](#) has announced that Georgia will not have a state-based exchange.** The governor stated that he feels that the federal regulations in place are too restrictive to allow Georgia to pursue a state-based exchange that is best tailored to fit the needs of its population.

**INDIANA: Governor-elect Mike Pence posted a letter on his website restating his opposition to establishing either a state-based or a federal-partnership health insurance exchange.** In a letter addressed to outgoing Governor Mitch Daniels, Pence says that without knowing more about the cost and nature of state-based exchanges he is concerned the state could find itself serving as the administrator of a new federal health care bureaucracy over which it has little control. While Governor-elect Pence was previously reported to be open to a partnership exchange, he has clarified that he is opposed to both a state and partnership exchange.

**MICHIGAN: Senate Appropriations Committee Chairman Roger Kahn has introduced legislation to amend the method used to calculate the state's health insurance claims assessment or the "claims tax."** Current law imposes a 1 percent assessment on carriers and third-party administrators. The new proposal would eliminate the consistent 1 percent assessment and permit the state to collect an assessment that fluctuates based on



funding needs and medical inflation rates. In the original claims tax, the state was expecting to collect \$400 million over the course of a year and came up \$140 million short, creating budgeting issues for the state. Aetna is opposed to the proposal and working to educate legislators about the problems with the new proposal.

**NEBRASKA: Gov. Dave Heineman has announced that the state will not operate its own health insurance exchange because it is too expensive.**

Instead, the Republican governor is opting for a federally run program, even though some lawmakers and health care advocates have recommended a state-based exchange as the best option. Heineman said creating a state exchange would have cost Nebraska taxpayers \$470 million more than defaulting to a federal exchange.

**OHIO Governor John Kasich informed HHS that Ohio will not operate a state-based health insurance exchange due to the lack of final federal guidance and the negative impact he believes the law will have on the state.**

The governor indicated he will leave the operation of an exchange to the federal government. However, Ohio will retain its right to regulate the state's health insurance industry and retain authority over Medicaid benefits. Governor Kasich has indicated that the Department of Insurance will be the liaison with HHS to finalize the blueprint and work on implementation issues. Finally, the governor's letter indicates that Ohio reserves its right to amend its intentions based on any new information, rules or interpretation of the law.

**OKLAHOMA: A Democratic state lawmaker is seeking a special legislative session for lawmakers to take action on whether Oklahoma should create a state-run health insurance exchange under the federal health care law.** Rep. Joe Dorman announced he plans to seek signatures from the two-thirds of the House and Senate members needed to convene a special

session. Dorman faces an uphill battle securing enough signatures in the Republican-controlled House and Senate. Gov. Mary Fallin has not yet announced a final decision on an exchange.

**TEXAS: The Department of Insurance (TDI) held a public hearing last week on a new proposal amending the regulation of preferred provider benefit plans and adding new regulations concerning exclusive provider benefit plans.**

Some of the key provisions generating concerns include: requiring burdensome applications for waivers from network adequacy rules; new annual network adequacy reports; requiring commissioner approval prior to offering, delivering or issuing an exclusive provider benefit plan; a "hold harmless" provision on payment of certain out-of-network claims for any amounts beyond the copayment, deductible and coinsurance percentage due for services from a preferred provider; requiring payment based on "usual and customary" charges when services are rendered by a non-preferred provider when no preferred provider is reasonably available; and new restrictions around the mediation process previously established for payment of out-of-network claims. None of those who testified supported the proposed rules. Insurance industry representatives pointed out a clear lack of statutory authority for several of the provisions. The Texas Medical Association asked for a complete withdrawal of the rules. Aetna plans to submit written comments by the early December deadline.

**Also last week, Gov. Rick Perry reiterated in a letter to federal regulators his decision not to implement a state insurance exchange as part of the ACA.**

Governor Perry's letter stated that it would not be fiscally responsible to put Texans on the "financial hook for an unknown amount of money to operate a system under rules that have not even been written."

*Courtesy of Aetna Health Reform Weekly*

