

MINUTES
of the
SENATE JOINT MEMORIAL 1 HEALTH CARE REFORM WORKING GROUP

June 3, 2010
Room 322, State Capitol
Santa Fe

The meeting was called to order on Thursday, June 3, 2010, at 9:21 a.m. by Debbie Armstrong, chair. After general welcoming remarks, members of the working group introduced themselves.

Present

Debbie Armstrong, Executive Director, New Mexico Medical Insurance Pool (NMMIP)
Craig Dunbar, Interim Superintendent, Division of Insurance, Public Regulation Commission
Sen. Dede Feldman
Rep. Keith J. Gardner
Sam Howarth, Director of Policy and Performance, Department of Health
Sen. Gay G. Kernan
Mike Nuñez, Executive Director, New Mexico Health Insurance Alliance (NMHIA)
Rep. Danice Picraux
Charissa Saavedra, Deputy Secretary, Human Services Department (HSD)

Absent

Sen. Sue Wilson Beffort
Rep. Ray Begaye
Katie Falls, Secretary, HSD
Rep. Joni Marie Gutierrez
Rep. Larry A. Larrañaga
Sen. Howie C. Morales
Sen. Mary Kay Papen

Advisory Members

Sen. Cisco McSorley

Rep. Donald E. Bratton
Sen. Clinton D. Harden, Jr.
Sen. Nancy Rodriguez

Guests

The guest list in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, June 3

A motion to approve the agenda was adopted unanimously. The minutes of the May 5, 2010 meeting were amended to correct information regarding the NMMIP by stating, "Additionally, the federal pool does not have a waiting period, while the NMMIP requires a

six-month waiting period for coverage of pre-existing conditions if the individual was uninsured for the previous six months." A motion to accept the minutes as amended was adopted unanimously. Ms. Armstrong thanked the various associations and advocacy groups in attendance for their continued willingness to participate in ongoing meetings.

Update on the High-Risk Pool

Ms. Armstrong indicated that an application to the federal Department of Health and Human Services (HHS) was submitted on June 1, 2010 for both the existing New Mexico high-risk pool and the new federally funded pool. The NMMIP is prepared to enroll new participants on July 1, 2010 with an effective date of August 1, 2010. Individuals who have a preexisting condition and who have not been enrolled in an insurance plan for more than six months qualify for the federal pool without a waiting period. Plans offered will include a \$500, \$1,000 and \$2,000 deductible. Approximately \$37 million will be provided to fund the new pool over the three-year period that begins on July 1, 2010. The NMMIP will be "media-alert" and provide web site updates for the general public regarding the opportunity to enroll. The HHS will launch a marketing plan once all questions regarding the discount program are answered. It is anticipated that the new federal pool will fund between 900 and 1,000 new participants. Currently, the New Mexico pool covers 8,150 members.

Overview: Health Insurance Exchanges

Anne Sperling, vice chair for professional development, National Association of Health Underwriters, reviewed the structure, duties and time line for the establishment of the American Health Benefit Exchange, for those purchasing individual health insurance coverage, and the Small Business Health Options Exchange (SHOP) insurance as required by the federal Patient Protection and Affordable Care Act (PPACA). She covered the consequences for not establishing these exchanges. The PPACA provides for navigators, which are individuals to help educate New Mexicans about how to access coverage through an exchange. Navigators cannot be paid by insurance carriers. Funding for navigators will be short-lived and not available for the long term. Risk pools and the possible combining of individual and small business groups were outlined. Medical loss ratios, actuarial cost parameters and uniform benefit designs, as well as state basic health plan design, were provided. Premiums charged for exchange plans must be the same inside and outside the exchange. Qualified health plan carrier requirements were outlined. Essential and required benefits were detailed. Catastrophic plans for participants under age 30 were reviewed. The individual mandate required by January 1, 2014 and related penalties for noncompliance were presented.

Ms. Sperling emphasized that communication will be key to the success of the exchanges' 24-hour hotlines to guide individuals, employees and employers.

Overview: PPACA

Frederick Isasi, senior legislative counsel for healthcare for United States Senator Jeff Bingaman, presented insights on the development of the PPACA by Congress, including the following priorities:

- preventive and wellness issues were always to be included;

- expanding coverage to the uninsured was a priority;
- intent was to cover employer groups with 50 or more employees; therefore, impact to New Mexico employers was minimized;
- the Health Insurance Exchange (HIE) would have robust oversight over the communication of plans and rate review and justification responsibilities;
- the HIE must be self-sustaining by 2015;
- the Internal Revenue Service would be responsible for applicable penalties;
- marketing would include online service, walk-ins and advertising;
- navigators would be utilized to communicate the role and intent of the exchange and educate the public;
- grants would be available in 2014 to 2015;
- the HIE would establish guidelines and review all marketing materials;
- undocumented workers would not be covered under the HIE;
- increased payroll taxes would impact less than 2% of New Mexicans;
- fraud and waste would be identified and minimized;
- New Mexico is ahead of curve for implementation with established pools and medical loss ratio legislation;
- immediate changes regarding coverage up to age 26, annual lifetime maximums and removal of dollar limits on benefits are expected by October 1, 2010. Many carriers are implementing reform earlier than required;
- tracking life event changes and qualified events will be difficult;
- technology will be the state's biggest challenge; and
- as New Mexico moves toward implementation, keeping the system simple will be very important.

Mr. Isasi committed the resources of Senator Bingaman's office to assist the working group and suggested monitoring the office's web site for additional information.

HIE — Report from the Advisory Group

Ms. Sperling reviewed the presentation entitled "Health Care Reform Working Group". Ms. Sperling gave the history of Senate Joint Memorial 1 and the enactment of the PPACA. The advisory group was formed during the May Health Care Reform Working Group meeting with the proposed strategy to identify provisions of law relating to interest groups. The advisory group met two times in May looking at the law, plan of operations and reporting of two current agencies: the NMHIA and the NMMIP.

The advisory group recommendations are:

- to continue the advisory group for a longer period of time;
- to have the advisory group report to the Office of Consumer Health Services or the New Mexico Health Policy Commission; and
- that the legislative session should identify the need for the strategic planning entity and identify a solution to meet that need.

HIE — Utah Model

John Sweeney, vice president of exchange solutions, Health Equity, presented the

structure and history of the Utah Health Exchange. Utah began its exchange in 2009 with a pilot target of 150 employers with a group size of two to 50 employees. A universal application was developed in October 2009. Health Equity is the Utah HIE banking partner responsible for premium billing, collection and aggregation. Health Equity is responsible for the calculation of risk adjustment payments between carriers. A total of 67 unique plans are offered under the exchange. Employers contribute a defined contribution and allow employees to utilize funds to purchase coverage under the exchange.

Factors that affect participation include:

- broker education and communication;
- a lengthy approval process;
- different pricing in parallel markets; and
- usability issues with the exchange interface.

The Utah HIE has not yet completed its first cycle of renewals. Cost reduction studies have not yet been conducted. Of the current enrollment, 40% of enrollees are under a health savings account (HSA) plan design. Oversight was placed under economic development rather than the health department. A defined contribution approach was adopted to give employers predictability. Medicaid is not offered.

HIE — Massachusetts Model and Consumer Perspective

Dick Mason, Health Action New Mexico, presented information on the Massachusetts model that included how the exchange began and its structure, functions and results. Massachusetts was one of the most expensive health care cost areas in the nation. Focus groups indicated that residents did not want a lot of choices in health care.

Mr. Mason discussed representing consumer/purchasing interest in the Health Benefits Exchange (HBE), with a focus on how the HBE can best represent consumer and purchaser interests, which include the following:

- through negotiation of the best deal and the highest quality;
- providing clear and comparable choices;
- assuring that insurers comply with standards;
- coordinating with public programs and developing streamlined applications;
- overseeing risk adjustments and reinsurance;
- outreach and recruitment and setting of broker fees;
- governing without conflicts of interest; and
- being relatively free of political swings and being flexible enough to deal with changing conditions.

Mr. Mason next discussed the type of structure for the HBE, which includes:

- a focus on representing the interests of consumers and purchasers;
- that the HBE is an existing New Mexico entity and must conform to the items listed above;
- creation of a separate authority; and

- that Health Action New Mexico will continue to study and provide a future recommendation.

Mr. Mason suggested inviting Jon Kingsdale, the outgoing executive director of the Commonwealth Health Insurance Connector Authority, to come to New Mexico and testify before the working group.

Considerations Regarding a State-Run HIE

Mary Feldblum, executive director, Health Security for New Mexico Campaign, stated that establishing a state exchange may not be the best approach, and she recommended encouraging freedom of choice. Ms. Feldblum stated the following:

- passage of the health care reform legislation is a major achievement;
- there are two options to meet the goals of the legislation;
- an exchange should be created or waivers should be sought;
- should New Mexico opt for an exchange, costs should be considered;
- costs to set up and operate should be determined;
- the costs of those who are uninsured and the impact on those currently insured;
- the overall impact of the exchange on overall health care costs;
- the exchange must be self-sufficient by 2015;
- there are no built-in premium controls, and the complex private system is maintained;
- the legislation is built on the Massachusetts model, which has not solved the cost problem; and
- it is critical to determine the cost to New Mexico before investing in an insurance exchange.

PPACA — Business Implications

Gary Oppendahl, chair, Health Committee, Association of Commerce and Industry (ACI), gave a presentation focused on the 2011 ACI interim legislative positions. He stated that:

- the ACI would like to be a voice for business and employers in implementing federal health care reform;
- the ACI favors maximizing the use of federal funds, including grant opportunities for innovation and cost reduction;
- the ACI would favor the use of federal funds to educate, train, recruit and retain more health care professionals and other providers; and
- the ACI supports incentives to Medicaid providers to expand, especially in underserved areas.

Mr. Oppendahl cited the difficulty in providing health coverage by Medicaid employers due to costs and reimbursement obstacles. With fixed reimbursement, it is difficult to afford health care for employees. Employers are paying \$9.00 per hour currently; implementing health care would move the cost to \$12.00 per hour.

PPACA — Tax Implications

Mr. Nuñez provided a year-by-year summary of tax provisions that impact business,

including:

- 2010: small business tax credits, hospital tax penalties and taxes on indoor tanning services;
- 2011: exclusion of over-the-counter drugs not prescribed, increased taxes on HSAs and Archer medical savings accounts that are not used for qualified medical expenses, pharmaceutical company-imposed annual fees and changes to Medicare and Medicare Advantage benefit reimbursements;
- 2013: limiting flexible spending account contributions, increasing the adjusted gross income threshold for unreimbursed medical expenses, eliminating Medicare Part D employer subsidies, increasing Medicare payroll taxes, increasing Medicare hospital insurance taxes and imposing annual fees on health insurance providers; and
- 2014: imposing a health coverage mandate and penalties for noncompliance and an excise tax on high-cost "Cadillac" plans.

Public comment was offered by the following individuals*:

- William Pratt;
- Lee Einer;
- Liz Copeland, teacher;
- Dana Middletin, Women's Chapter in Santa Fe;
- Dana Millen;
- Maury Castro, retiree and resident of Las Cruces;
- Susan Rodriguez, 22-year resident of New Mexico;
- Terry Riley;
- Doris Vician, retired emergency nurse from Albuquerque;
- Lindsey Tapper, acupuncture therapist; and
- Sister Marlene Perratte, practicing immigration law attorney.

* All expressed support for the Health Security for New Mexico Campaign.

Committee Discussion and Legislative Recommendations

Ms. Armstrong recognized the need for more experts to set the criteria for a good exchange. The use of focus groups was suggested to get a broader perspective. Consumers need to be recognized on the governance board of the exchange.

The next meeting of the working group will be on July 9, 2010 in Room 321 of the State Capitol.

The meeting adjourned at 3:09 p.m.