

**MINUTES**  
**of the**  
**SJM 1HEALTH CARE REFORM WORKING GROUP**

**September 2, 2010**  
**Room 307, State Capitol**  
**Santa Fe**

The meeting of the SJM 1 Health Care Reform Working Group was called to order on September 2, 2010 at 9:00 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), Chair  
Sen. Sue Wilson Beffort  
Rep. Ray Begaye  
Rep. Gail Chasey  
Kathryn "Katie" Falls, Secretary, Human Services Department (HSD)  
Sen. Dede Feldman  
John Franchini, Superintendent, Insurance Division, Public Regulation Commission (PRC)  
Rep. Keith J. Gardner  
Sam Howarth, Director of Policy and Performance, Department of Health  
Rep. Patricia A. Lundstrom  
Mike Nuñez, Executive Director, New Mexico Health Insurance Alliance (NMHIA)  
Sen. Mary Kay Papen  
Rep. Danice Picraux

**Absent**

Rep. Joni Marie Gutierrez  
Sen. Gay G. Kernan  
Rep. Larry A. Larrañaga  
Sen. Howie C. Morales

**Advisory Members**

Rep. Donald E. Bratton  
Sen. Cisco McSorley  
Sen. Nancy Rodriguez

Sen. Clinton D. Harden, Jr.  
Rep. Edward C. Sandoval

**Guests**

The guest list in the meeting file.

**Handouts**

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

## **Thursday, September 2**

Ms. Armstrong announced that minutes from the August 5, 2010 meeting were under development and will be approved at the next scheduled meeting. She thanked the various association and advocacy groups in attendance for their continued willingness to participate in ongoing meetings.

### **Native American Issues and the Federal Patient Protection and Affordable Care Act (PPACA)**

Alvin Warren, secretary, Indian Affairs Department, indicated that Native American populations would be affected by the PPACA in five general areas: health insurance exchanges; Medicaid and the State Children's Health Insurance Program (SCHIP); the Indian Health Service (IHS); through the reauthorization of the Indian Health Care Improvement Act; and through grant opportunities for Native Americans, tribes and tribal organizations. He provided information about each of the five areas as follows.

- Health insurance exchanges: Native Americans will have more specialty enrollment periods and no cost-sharing for households below 300% of the federal poverty level and will be exempted from penalties for failure to carry minimum coverage.
- Medicaid and SCHIP: the PPACA establishes that through the IHS, an Indian tribe, tribal organization or urban Indian organization qualifies as an "express lane agency" that can determine whether a child satisfies one or more Medicaid or SCHIP eligibility factors. The PPACA also provides grants to the IHS and Indian tribes to facilitate program outreach.
- IHS: the PPACA defines the IHS, an Indian tribe, a tribal organization or an urban Indian organization health program as the payor of last resort. It eliminates a sunset provision for all Medicare Part B services. Absent the change, IHS facilities would be paid for only selected Part B services. The PPACA states that that out-of-pocket prescription drug costs are to be treated as incurred costs for the purposes of calculating the Medicare Part D out-of-pocket threshold.
- Indian Health Care Improvement Act: the PPACA makes the Indian Health Care Improvement Act permanent. This act within an act establishes comprehensive behavioral health prevention and treatment programs; authorizes hospice, assisted living and long-term and home and community-based care; and provides for tribally operated facilities to recover costs. It updates current law on the collection of Medicare, Medicaid and SCHIP reimbursements and allows tribes to purchase health coverage for IHS beneficiaries. It authorizes IHS arrangements with the federal Department of Veterans Affairs and the Department of Defense to share medical facilities and services; allows a tribe or tribal organization to purchase coverage for employees from the federal employees health benefits program; and authorizes community health representative programs. It authorizes a feasibility study regarding the creation of a Navajo tri-state (New Mexico, Utah and Arizona) Medicaid agency; expands and reauthorizes the community health aid program; allows for implementation of dental health aide therapists; and provides grants to facilitate

- Medicaid and SCHIP enrollment.
- Grant opportunities: state strategic actions to implement the PPACA include coordination of grant opportunities by encouraging state agencies to communicate, collaborate and consult with tribes regarding reform initiatives and policies that affect American Indians; monitoring state agency assessments and actions during the implementation of the PPACA; and establishing an Indian provision health care reform ad hoc work group.

The working group posed questions regarding state government restructuring and the possible negative impact or dilution of efforts on Indian affairs and cultural affairs.

### **Consumer Protection and Consumer Education**

Kimberley Scott, Insurance Division, PRC, presented the consumer assistance grant proposal submitted by the Insurance Division. An application was submitted for \$200,000 for a 12-month period to provide statewide services. The purpose of the grant is to expand health care insurance consumer assistance services, including consumer assistance with the filing of complaints and appeals; enrollment into health insurance coverage; consumer education on rights and responsibilities with respect to group health plans and coverages; collection of data on consumer inquiries and complaints; and conducting an independent external review of consumer needs. If the grant is awarded, the Insurance Division will create an ombudsman position, establish a consumer hotline, provide interpreter services for Spanish and Navajo speakers and partner with community advocates and the Office of the Attorney General.

Ms. Janov, a consumer, presented her personal story regarding the denial of payment for health insurance claims. Ms. Janov researched treatment options and spent her own money to investigate options suggested through her physicians. She explained the administrative and personal difficulty of pursuing and fighting to receive approval for treatment after being denied through the appeals process.

Jane Wishner, executive director, Southwest Women's Law Center, presented a comprehensive list of consumer protection and education recommendations, including:

- establishment of a state consumer coordinating committee;
- incorporation of consumer protection planning into each element of health care reform implementation;
- greater use of stakeholders such as health care providers, insurance companies, brokers, employers, chambers of commerce and state, local and federal agencies in implementation of the PPACA;
- planning for the consumer protection, appeals and ombudsman programs through executive agencies, the Insurance Division and the Office of the Attorney General;
- legislative funding;
- establishment of an independent consumer health assistance program to utilize community-based agencies, community health workers, health care providers, social services providers and advocates; and
- measures to ensure public transparency.

The working group asked that these recommendations be made a part of the SJM 1 Health Care Reform Working Group legislative report.

Barbara K. Webber, executive director, Health Action New Mexico (HANM), described HANM's position regarding the statewide public education campaigns that are necessary to educate consumers on new benefits and protections afforded under the PPACA.

### **Women's Health Issues**

Giovanna Rossi Pressley, executive director, Office of the Governor's Council on Women's Health, presented an overview of the state of women's health in New Mexico. She contended that the PPACA's intentions are to bring costs down, cover more services and improve the quality of care. Under the PPACA, women will not pay more than men for the same insurance plan. Many uninsured women will receive insurance subsidies to pay for premiums and out-of-pocket costs on health insurance exchange-based plans. The PPACA will increase pregnancy-related services, preventive benefits and mental and substance abuse services, and lower-paid workers will get the same plan as higher-paid workers.

Joan LaMunyon-Sanford, director, New Mexico Religious Coalition for Reproductive Choice, spoke to the benefits of the PPACA for women. She identified that women live longer than men not only due to biological reasons, but because women are frequently the caretakers of parents and spouses as they age. She recommended that the state should adopt presumptive eligibility for family planning services under Medicaid immediately; increase the number of free-standing birth centers and equitably reimburse certified nurse midwives and certified professional midwives; apply for funding available under the PPACA for the personal responsibility educational program; and advocate for contraceptive equity action under the definition of essential benefits plan. Regarding children, Ms. LaMunyon-Sanford suggested that the state should consider gradually increasing the age of consent from age 21 to age 26; educate the public on the adoption tax credit; and protect the safety and confidentiality of youths who are applying for family planning or pregnancy care by allowing for the use of alternative mailing addresses when applying for Medicaid. Regarding PPACA provisions for elder care, the state should enhance coverage for home and community-based elder services and create a public education campaign about the federal Community Living Assistance Service and Support Act.

### **Health Insurance Exchange Planning Grant Application and Planning Process**

Ruby Ann Esquibel, health policy coordinator, HSD, presented a summary of the PPACA and events and stakeholders in New Mexico that have been involved in the health insurance exchange planning process. Once the PPACA was signed, the governor issued an executive order to create the Executive Health Care Reform Leadership Team, which was charged with developing a strategic plan for PPACA implementation. The strategic plan includes a recommendation for the development of a strong health insurance exchange. Goals for the exchange were presented along with the resources available through the HSD, NMHIA, NMMIP and the Insurance Division. An exchange will serve individuals and small businesses. One of the major challenges facing the state will be the communication effort required to inform New

Mexicans of the programs and benefits of an exchange. Time lines were presented whereby New Mexico must make decisions to create one or two exchanges and where the exchange should be housed. The HSD has submitted a grant application for \$1 million for planning for the establishment of a state health insurance exchange. The grant proposal will fund efforts to find background information on the state, maximize stakeholder involvement and provide consultant assistance in information technology. The grant proposal will study all exchange options and analyze the pros and cons of quasi-governmental or state-run governance structures. The grant funding will be used to identify provisions that are needed to develop proposed legislation, amendments to the New Mexico Insurance Code, Medicaid changes and other changes as needed. The budget for the study is distributed as follows:

Financial modeling tool and report	\$275,000
Oversight by technical experts	\$225,000
Information technology assessment	\$200,000
Stakeholder involvement and input	<u>\$300,000</u>
Total	\$1,000,000

**Health Insurance Exchange Recommendations, Including Small Business Input**

Anne Sperling, Health Insurance Exchange Advisory Committee, identified the advisory committee recommendations for elements of an exchange as identified by each of the advisory committee participants. Participants included the NMHIA, NMMIP, the Association of Commerce and Industry, brokers, the National Association of Health Underwriters, New Mexico health plans, the Association of Health Insurance Providers and the Office of Health Reform within the HSD. Areas discussed included stakeholder involvement, program integration, state resources and capabilities, governance, financing and information technology infrastructure. Both the NMHIA and the NMMIP expressed an interest in housing the exchange and identified the strengths and weaknesses that each would bring to it. The handout identifying all the perspectives of the advisory committee members is part of the permanent record.

**Public Comment**

Sharon House, representing Christian Science, requested the state to find ways to accommodate spiritual, nonmedical care as a treatment option.

**Discussion and Legislative Recommendations Regarding a Health Insurance Exchange**

Ms. Armstrong polled working group members to determine if they were ready to make recommendations. She suggested areas in which the working group will consider action on the establishment of an exchange, including whether the state should establish an exchange or have the federal government do it; whether the exchange should be state-run or offered through a quasi-governmental or other nonprofit entity; and whether the state should have one exchange or two.

Michael Hely of the Legislative Council Service was asked to review previously introduced bills to create an exchange for legislative changes that would be needed to comply with the PPACA. A suggestion was made to present the requirements of the PPACA that will

affect New Mexico to the New Mexico Legislative Council. A consensus was expressed that a federally run exchange should not be pursued. Recommendations regarding the state high-risk pool were discussed.

Five exchange possibilities were reviewed by the working group: an exchange operated by the federal government; an exchange operated by a nonprofit entity; an exchange operated within a state agency; joining a regional exchange with other states; and creating more than one exchange in New Mexico. Working group members requested that a description of the pros and cons of each option be provided for their review and debate. Members suggested the working group next meet on October 4 to come up with an exchange recommendation to be presented to the Legislative Health and Human Services Committee (LHHS). The members requested that the dates of the LHHS meeting be changed to October 5 through 7 in order to receive the recommendations of the working group. The timing of these meetings is critical as the Government Restructuring Task Force will meet soon thereafter to consider money and consolidation issues. It was agreed that the next meeting will be held on October 4, 2010.

The meeting adjourned at 5:30 p.m.