

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

July 9, 2010
Room 307, State Capitol
Santa Fe

The meeting of the Senate Joint Memorial 1 Health Care Reform Working Group (HCRWG) was called to order on July 9, 2010 at 9:10 a.m. by Michelle Lujan Grisham, chair. After general welcoming remarks, members of the working group introduced themselves.

Present

Rep. Gail Chasey
Kathryn "Katie" Falls, Secretary of
Human Services
Sen. Dede Feldman
Sam Howarth, Director of Policy and
Performance, Department of Health
Michelle Lujan Grisham (for Debbie
Armstrong), Deputy Director, New
Mexico Medical Insurance Pool
(NMMIP)
Mike Nuñez, Executive Director,
New Mexico Health Insurance Alliance
Sen. Mary Kay Papen
Rep. Danice Picraux
Alan Seeley, Interim Superintendent
of Insurance, Public Regulation
Commission

Absent

Debbie Armstrong, Executive Director,
NMMIP
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Rep. Keith J. Gardner
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.

Friday, July 9

A motion was made to approve the minutes of the June 3, 2010 meeting with an amendment to clarify the state pool and federal pool requirements. Ms. Lujan Grisham will prepare a

handout with clarification on state and federal pools for the working group and general public on both requirements. The minutes were adopted unanimously.

Progress, Discussion and Recommendations

Ms. Lujan Grisham suggested that the working group take more time before making recommendations about health insurance exchanges, as discussed at the previous meeting. Senator Feldman indicated she had been contacted by small businesses that would like to be involved in the exchange advisory group. A recommendation was made to expand the advisory group to include small businesses and other interested parties. Mr. Nuñez indicated that he would work with Anne Sperling to accomplish this.

Ms. Lujan Grisham reported that the federal high-risk pool is up and running. The process was made possible through the work of Ms. Armstrong and Ruby Ann Esquibel of the Human Services Department (HSD).

Overview: The Patient Protection and Affordable Health Care Act (PPACA) and Medicaid — HSD

Secretary Falls explained the impact of the PPACA on the Medicaid program regarding expansion, benefit plans, procedures, data sharing and options for program improvements and funding. Under the PPACA, Medicaid eligibility will include everyone up to age 64 whose income is up to 133% of the federal poverty level (FPL). Approximately 200,000 New Mexicans will be eligible for Medicaid once expansion goes into effect in 2014. States will receive 100% federal medical assistance percentage for all newly eligible individuals enrolled in the program. It is uncertain at present whether New Mexicans enrolled in the State Coverage Insurance (SCI) program or on the waiting list for SCI will be considered newly eligible. Newly eligible adults will be covered by a benchmark benefit plan. The federal government will define what constitutes benchmark coverage. The PPACA changes the way income is calculated for the Medicaid program by basing eligibility on modified adjusted gross income with no asset or resources test. The PPACA requires maintenance of effort that prohibits states from changing current Medicaid eligibility levels, procedures and methodologies until January 2014 for adults and October 2019 for children. The PPACA requires simplified application and enrollment procedures. Screening for Medicaid eligibility and premium tax credits must occur seamlessly for the applicant and for determined eligibility for Medicaid and the amount of premium subsidies by using Internal Revenue Service data.

In order to accomplish this, the HSD's information technology (IT) eligibility system must be replaced. The HSD will need to coordinate with other state agencies and change the way of doing business to ensure simple procedures and educated consumers.

Overview: PPACA and Medicaid — Medicaid Advisory Group

Sireesha Manne, staff attorney, Center on Law and Poverty, and Ruth Hoffman, director, Lutheran Advocacy Ministry, provided a detailed report of the Medicaid Advisory Group. They discussed the impact of the PPACA on Medicaid and proposed nine recommendations:

- protect access to children and adults who currently meet program requirements; services reduction in Medicaid is not allowed due to maintenance of effort requirements;
- reduce Medicaid costs by taking advantage of federal grants;
- evaluate the managed care system; currently, managed care organizations negotiate rates with providers;
- develop IT capacity to permit seamless interface between Medicaid and health insurance plans offered through an exchange;
- gradually extend coverage to newly eligible adults who are under 133% of the FPL;
- consider developing a "basic health program" model for state coverage;
- simplify the eligibility process for children and other members of Native American tribes; and
- ensure a meaningful involvement of stakeholders through more consumer representation, as well as tribal governments and members of the executive, before any change is implemented.

A discussion followed with questions and comments regarding Medicaid and the PPACA. Federal funds are available for the upgrading of the Medicaid IT system. Currently, HSD's IT system is capable of screening but does not have electronic online application capability. The Medicaid management information system processes claims. The current income support system (ISD2) is 27 years old and needs to be replaced to meet the demands of the PPACA. Clarification was sought regarding the definition of basic benefit plans and benchmark plans. Newly eligible adults will be covered by a benchmark benefit plan. The federal government will define the benchmark plan. The federal Health and Human Services Department has issued some guidance as to what is a benchmark plan under the PPACA. Questions were asked regarding the basic health program; such a plan would provide coverage to those individuals between 133% and 200% FPL. The subsidy to the basic health program could be different as the New Mexico benchmark plan may differ from the one for the nation. The SCI program could be a benchmark program. SCI benefits would have to change, and the cap on coverage would need to be removed. This option is currently being analyzed while the HSD is waiting on further clarification of the specifics from the federal government. There is not yet a cost analysis of how this program will be sustained. More resources and expertise are needed to determine the fiscal impact of this program. The Workforce Advisory Committee may have recommendations and suggestions in its presentation during the next meeting of the HCRWG on August 5, 2010. Members of the executive have been meeting to analyze the PPACA, and a strategic implementation plan is being developed.

Overview: PPACA and Long-Term Care — Aging and Long-Term Services Department (ALTSD)

Michael Spanier, secretary, ALTSD, and Emily Kaltenbach, director, policy and planning, ALTSD, discussed long-term care provisions in the PPACA. Secretary Spanier testified that over the past 10 years, New Mexico has been active in transforming its long-term care system to address rapidly changing demographics, increased demand for services, limited resources and the growing preference for home and community-based services (HCBS). Options

for reform within

Medicaid emphasize HCBS. There are several options available to New Mexico. The first option is called the Community First Choice Option (Section 2401), in which the state would offer community-based attendant services. Services must be offered statewide. A second option is called Money Follows the Person (Section 2403). Federal support for this existing initiative has been extended to 2016, and the minimum residency requirement has been reduced from six months to 90 days. There is growing interest to rebalance the system of long-term care services from an institutional setting to an HCBS setting. The third option, the State Balancing Incentive Payments Program (Section 10202), is only available to states spending less than 50% of total Medicaid long-term services dollars on HCBS. Based on the state's experience, this is not an option to New Mexico. The fourth option involves improvements to the Medicaid state plan (Section 2402). This option provides personal care services to individuals who qualify for HCBS as a state plan benefit. Finally, the temporary expansion of spousal impoverishment protection (Section 2404) is a mandated rule. Committee discussion focused on the expanded access and additional benefits funded by federal programs in the short term and ultimately funded by the state over the long term.

Ms. Kaltenbach identified Medicare reforms in the PPACA. Prescription drug coverage (Sections 3301 and 3315) provides that in 2010, once an individual enters the coverage gap or "donut hole", the individual will receive a \$250 rebate. Beginning in 2011, when a person enters the donut hole, the person will get a discount of 50% on brand-name drugs and 7% on generic drugs. Over the next 10 years, beneficiaries will gradually receive more discounts for generic drugs as well as brands until the donut hole closes in 2020. Preventive care and improved health outcomes (Sections 2713 and 3024) reforms begin in 2011, when Medicare participants will be able to get an annual physical and many preventive services without co-payments. All co-insurance and deductibles for preventive services will be eliminated. Beginning in 2011, people with higher incomes will pay higher premiums for prescription drug coverage under Medicare, Part D. Assistance will be provided to low-income individuals by reducing premiums, deductibles and co-insurance. Higher federal payments to Medicare Advantage plans (Section 3201) will be phased out and replaced with a payment system that rewards plans that meet certain quality standards for care and customer service. Starting in 2014, plans must spend at least 85% of the money that they take in from premiums on medical care. The PPACA includes elder justice and protection reform with the Elder Justice Act (Sections 6701-6703), which provides federal grants to support adult protective services. The Nursing Home Transparency Act (Sections 6101-6114) provides consumer information regarding nursing homes via a web site. The CLASS Act (Sections 8001-8002) creates a voluntary public long-term care insurance program. Sections 2405 and 3306 expand aging and disability resources centers such as the one operated by the ALTSD. Grants support outreach and assistance to Medicare beneficiaries to facilitate navigation through the long-term care system. The Healthy Aging, Living Well Grant (Section 4202) will fund states or tribes to carry out five-year pilot projects that include public health community interventions, screening and clinical referral activities for persons ages 55 to 64. Workforce development grants (Sections 5305 and 3210) will fund training opportunities for direct care workers who are employed in long-term care settings.

Overview: PPACA and Long-Term Care — Long-Term Care Advisory Group

Jim Jackson, executive director, Disability Rights New Mexico, Ellen Pinnes, health policy consultant, and Lisa Schatz Vance, executive director, Senior Citizen Law Office, provided information and recommendations of the Long-Term Care Advisory Group. Long-term care serves 10 million Americans annually and is expected to serve 15 million by 2020. Approximately 14% of all New Mexicans need help with at least one of the activities of daily living (ADL), and 10% under age 65 need help with at least one ADL. By 2030, the percent of New Mexico's population age 65 and older is expected to double. Under the PPACA, there is recognition that seniors and people with disabilities who need long-term services and support prefer to receive them in homes/communities. The law does not eliminate bias toward facility-based care but does recommend that Congress address long-term services in a comprehensive manner that guarantees seniors and people with disabilities the care they need.

Information was provided about the Community Living Assistance Services and Support (CLASS) Act contained in the PPACA. CLASS is a national voluntary long-term care insurance program that is federally administered but not taxpayer-funded. Coverage is offered through employers on an opt-out basis. Enrollment begins January 1, 2011, with the first benefits available in 2016. Recommendations of the Long-Term Care Advisory Committee are summarized as follows:

- CLASS — encourage individual and employer participation;
- adopt a community First Choice option;
- convene a stakeholder group to review the state Medicaid plan for HCBS and develop the broadest affordable program;
- submit a proposal for new Money Follows the Person grants (the deadline is November 2010); and
- apply for a planning grant and add medical home services to the state Medicaid plan.

A discussion ensued, and questions were asked regarding long-term care. There was clarification regarding the statement that New Mexico is not the state with the fourth-highest population of people over the age of 65 in the country but rather has the fourth-highest percentage of population over the age of 65 in the country. There was also clarification that the HSD is the only department that can apply for Money Follows the Person funding.

PPACA and Retirees — Retiree Health Care Authority (RHCA)

Wayne Propst, director, RHCA, indicated that the federal government has made available a \$5 billion grant to fund early retiree excess claims. The RHCA has made an early application for this federal grant to cover excess claims of more than \$15,000 and less than \$90,000 per each non-Medicare retiree. Federal funds are available on a first-come, first served basis. New Mexico has applied for approximately \$23 million. The RHCA board of directors also approved an 8% increase in retiree contributions effective January 1, 2011.

There being no public comment, the meeting adjourned at 5:30 p.m.