

# Health Care Reform - Where are we?



# Health Care Reform: States' Reaction

# PPACA

- September 23<sup>rd</sup> reforms
  1. Prohibit individual and group health plans from using lifetime limits
  2. Prohibit rescissions except in the case of fraud
  3. 1<sup>st</sup> dollar coverages for preventative care
  4. Prohibit annual limits in plans (no limit after 2013)
  5. Increase dependent age to 26
  6. Enrollees to choose PCP
  7. Internal/External appeals processes
  8. No pre-existing conditions exclusions for children

# PPACA

- Individual mandate
- No pre-existing conditions exclusions for adults
- Waiting periods cannot exceed 90 days
- Limit deductibles in small group to \$2,000 for individual and \$4,000 for families (employer contributions may serve to offset deductible amounts above these deductibles)

# States and PPACA

## Continuing Challenges to PPACA

- Court cases on constitutionality
- Three cases in federal courts upheld its constitutionality
- Two deemed it unconstitutional
- Six other challenges were dismissed on grounds including insufficient standing
- Future Supreme Court review expected

# States and PPACA

- Legislative initiatives
  1. Resolutions
  2. Bills
- Health care compacts
  1. Arizona - vetoed
  2. Georgia - enacted
  3. Missouri - pending
  4. Montana - pending
  5. Oklahoma - pending

# States and PPACA

## Health Care Compact

- Seeks to return the power to regulate health care to the states in the states which enact the Compact
- Suggests greater efficiency and effectiveness
- Freedom from federal regulation
- Drafted to permit approximately the same level of federal funding as their non-compact state status
- Return to federalism roots
- Requires Congressional approval

# Dependent Eligibility

# Dependent Eligibility Expansion - Pre PPACA

- Connecticut (HB 5433)
  - Clarified health insurance coverage for stepchildren
- Illinois (Notice of May 14, 2009)
  - parents with insurance policies that cover dependents have right to elect coverage for qualifying dependents up to age 26 and up to age 30 for military veteran dependents
- Nebraska (LB 551)
  - Extended the limiting dependent age on sickness and accident policies to 30
- New Hampshire (HB 330)
  - Revised the definition of “dependent” to delete unmarried

# Dependent Eligibility Expansion - Pre PPACA

- New York (SB 6030)
  - Allowed unmarried children through age 29 to be covered under a parent's group health insurance policy
- Ohio (HB 1)
  - Allowed unmarried children until age 28 to be covered under a parent's health insurance policy
- Pennsylvania (SB 1089)
  - SB 1089 allowed uninsured single, adult children up to age 30 to be covered by their parents' health insurance plan; contingent on employers offering the benefit to employees with children
- Wisconsin (AB 118)
  - Allowed unmarried children until age 27 to be covered under a parent's health insurance policy

# PPACA

- Up to age 26
- States free to extend past PPACA mandate

# State Filings

# States and PPACA and SERFF

- Non-Grandfathered Immediate Market Reforms
- Grandfathered Immediate Market Reforms
- PPACA Uniform Compliance Summary
- PPACA-related rated filings must include Company Rate Information

# States and PPACA

- Form filings facilitations
- Expedited filings to meet September 23<sup>rd</sup> deadline

# States and PPACA

- Mandated benefits - enacted to include reference to PPACA

# Medical Loss Ratios

# Federal Regulation- Medical Loss Ratio

- HHS requires health insurers to spend 80% (individual and small group) to 85% (large group) of consumers' premiums on direct care for patients and efforts to improve care quality
- Goal to make the insurance marketplace more transparent and make it easier for consumers to purchase plans that provide better value for their money.

# States and MLR's

- The Indiana Department of Insurance is asking federal regulators to waive the new minimum MLR requirement for insurers in the state's individual health insurance market.
- Proposal for Indiana to set the minimum MLR level at 65% in 2011, 68.75% in 2012, 72.5% in 2013, 76.25% in 2014, and 80% in later years
- Goal is pricing stability for consumers

# States and MLR's

- Louisiana is the most recent state to seek a waiver from the medical loss ratio requirements
- If not, the insurer is required to reimburse the insured for the additional amount.
- Unexpected result = insurers dropping out of certain markets and lessening of incentives to hold down medical spending
- Fraud detection is considered overhead, while funds spend on fraudulent medical bills would be counted as medical care

# States and MLR's

- The other states that have requested waivers include Maine, where a waiver to a 65 percent level was issued;
- New Hampshire, which is in the public comments stage;
- Nevada, Kentucky, Florida, Georgia, North Dakota, and Iowa—all of which are under review by HHS, with public comments pending.

# Health Insurance Exchanges

# State Health Exchanges

- Florida is one state that has decided not to implement a state health insurance exchange. The state is opposed to the installation of any aspect of PPACA into the state's allotted resources
- Other states, such as Maryland, California, and Colorado are taking an active stance in legislative sessions to pass bills in response to the upcoming federal standards mandated by PPACA

# State Health Exchanges

- Massachusetts exchange is considered an “active purchaser” model, has a large organization and a sizeable budget. The state’s model does not allow all licensed insurers to participate in the exchange. Currently, the Massachusetts state exchange has major cost overruns
- Utah model: “all-comer” model allowing any licensed health insurer to participate

# States and Discretionary Clauses - DC

Post-claims underwriting and prior approvals for rescission, cancellation, or limitation

- An insurer shall not rescind an enrollee's plan or coverage once the enrollee is covered under the plan or coverage involved; provided, that this section shall not apply to a covered individual who has performed an act or practice that constitutes fraud or makes an intentional misrepresentation of material fact as prohibited by the terms of the plan or coverage.
- A health carrier shall provide at least 30 days advance written notice to each plan enrollee, or for individual health insurance coverage, primary subscriber
- The notice shall explain the reason for the rescission, procedures of appealing, and how to contact the Health Care Ombudsman and the Department of Insurance, Securities, and Banking for further information.

# Federal Action

# PPACA “Reform”

- First federal rollback of last year's healthcare law
- Bipartisan repeal of the 1099 burdensome tax-reporting requirement
- Required reporting information to the IRS on payments for goods of \$600 or more annually to other businesses
- Increases the amount of overpayment subject to repayment of premium assistance tax credits for health insurance coverage purchases through the Exchanges established under the Affordable Care Act

# Pending

# House Bills

- HB 4 - Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011
- HB 21 - Reclaiming Individual Liberty Act to repeal the mandate that individuals purchase health insurance
- HR 191 - To amend the PPACA to establish a public health insurance option
- HR 1213 - a bill that would repeal federal health insurance exchange funding requirements

# House Bills

## HR 5

“Help Efficient, Accessible, Low-cost, Timely Healthcare of 2011”

- Unlimited amount of damages for actual economic losses in health care lawsuits
- Limitations on additional noneconomic damages - set at \$250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury

# Senate Bills

- SB 16: Patient Choice Restoration Act (repeal the Patient Protection and Affordable Care Act. )
- SB 19: American Liberty Restoration Act (repeal the federal mandate to purchase insurance)
- SB 20: American Job Protection Act (striking the job-killing Federal employer mandate)

# Senate Bills

- SB 73: State Leadership in Health Care Act (provides for earlier starts for state health care coverage innovation waivers under PPACA)
- SB 137: Health Insurance Rate Review Act (protections for consumers against excessive, unjustified, or unfairly discriminatory increases in health insurance premium rates )

# Senate Bills

- S 150: Health Care and Training for Older Workers Act (includes COBRA)
- S 159: Confidence in Long-Term Care Insurance Act of 2011
- S 174: Healthy Lifestyles and Prevention America Act
- S 192: Repealing the Job-Killing Health Care Law Act

# Senate Bills

- S 193: USA PATRIOT Act Sunset Extension Act of 2011
- S 197: Medical Care Access Protection Act of 2011 or the “MCAP Act”
- S 218: Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011
- S 244: State Health Care Choice Act

# Senate Bills

- S 248: Empowering States to Innovate Act
- S 281: Save Our States Act

# Rulemaking

# Federal Agency Rulemaking - Pending

HHS - Student Health Insurance (45 CFR Parts 144, 147)

- Proposed rule to define "student health insurance coverage" as a type of individual health insurance coverage
- Proposes that coverage could not condition enrollment on any health status-related factor of a student or dependent
- Term includes health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability, and disability.
- Incorporation of this non-discrimination requirement is modeled on the definition of bona fide association coverage in 45 CFR 144.103

# Federal Agency Rulemaking - Adopted

- This final rule makes revisions to the Medicare Advantage (MA) program (Part C) and Prescription Drug Benefit Program (Part D) to implement provisions specified in the PPACA
  1. Includes increasing CMS' ability to identify strong applicants for Part C and Part D program participation and remove consistently poor performers
  2. Makes changes to implement the provisions of the Affordable Care Act regarding cost sharing for specified services at original Medicare levels and simplification of beneficiary election periods
  3. Agent training

*Questions?*