

policy impact

CSL Behring Public Policy Newsletter Summer 2011

Health Insurance Exchanges: Opportunity for Impact

A major aspect of the Patient Protection and Affordable Care Act ("ACA") is the required formation of health insurance exchanges in the states.

The idea behind these exchanges is to provide a level field for individuals and small employers as they navigate the insurance market, giving them additional bargaining power that was previously only enjoyed by larger employers. It is envisioned that the exchanges will represent one of three avenues to obtain health coverage—the other two being an expanded Medicaid program and employer-based insurance. This is sometimes referred to as a "three-legged stool" where beneficiaries may move between different coverage options depending on their unique circumstances. Starting on January 1, 2014, state exchanges will allow individuals and small businesses to compare health plans, get answers to questions, find out if they are eligible for tax credits for private insurance or health programs like the Children's Health Insurance Program (CHIP), and enroll in a health plan that meets their unique health care needs.

COVERAGE A

- ✓ Copay
- ✓ Prescription Drugs
- ✓ Deductibles
- ✓ Preventive Care
- ✓ Emergency Care

COVERAGE B

- ✓ Copay
- ✓ Prescription Drugs
- ✓ Deductibles
- ✓ Preventive Care
- ✓ Emergency Care

However, the role of the exchanges does not end with enrollment. One critical responsibility for the exchanges will be to provide review and oversight of its plans to make certain that they meet their requirements under federal and state law to provide comprehensive health insurance benefits. On the front end, an exchange must "certify" a health plan before it can be sold through the exchange as a "qualified health plan." Certification has two components. First, an exchange determines that the health plan meets the minimum standards outlined in federal statutes and regulations. The minimum standards encompass several different areas including marketing, network adequacy, and health plan service area, and are important to providing some assurances regarding coverage. In some cases, the exchange can choose how to implement these standards beyond the minimum outlined in federal law. In that sense, federal law will act as a "floor" but states can choose to have more stringent requirements, particularly in the area of consumer protection.

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CSL Behring Public Affairs

CSL Behring is committed to educating decision-makers and impacting public policies that affect patient access to care. The company has an active public affairs group in the United States including Dennis Jackman, Sr. Vice President for Public Affairs; Patrick Collins, Director, Public Affairs; Ryan Faden, Manager, State Government Affairs; and Karla White, Manager, Public Affairs. All four have extensive public policy backgrounds and work closely with affected stakeholders and political thought leaders to affect change. Please contact them with any questions you may have regarding public policy issues.

Health Insurance Exchanges: Opportunity for Impact *Continued from page 1*

The bottom line is that states will be key drivers on how specific exchanges are designed. The following states have passed legislation relating to the formation of exchanges thus far: California, Colorado, Connecticut, Hawaii, Maryland, Nevada, Oregon, Vermont, Washington and West Virginia.

The Centers for Medicare and Medicaid Services (“CMS”) has stated that exchanges must be approved by January 1, 2013 so that they can be fully functional for open enrollment to begin in October of 2013 for coverage effective January 1, 2014.

Impact on Users of Plasma Therapies

Under ACA, individuals will no longer be subject to pre-existing condition restrictions, which will dramatically increase their ability to obtain health insurance. For many such individuals today, they often have had few, if any choices. The exchanges are designed to allow small groups and individuals to do more “comparison shopping” with respect to premiums and benefit design.

One key milestone that the plasma community is awaiting is the determination at the federal level of the “essential benefits package” for exchange plans. The proposed regulations on “essential benefits” are expected later this year. Substantial advocacy opportunities will exist during this implementation process to positively impact the essential benefit design. For the states listed that have already passed legislation, public hearings and rulemaking will occur to implement the exchanges. In those states that have not passed legislation, they may either enact such legislation to set up exchanges over the next 18 months or alternatively the federal government will facilitate exchanges for those states. Some states in certain geographic regions may also combine their efforts to set up multi-state exchanges. In any case, this process that will unfold represents a once in a generation opportunity for the community to directly impact their health care choices moving forward.

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New State Budgets Further Medicaid Cuts

Financial pressures continued to weigh on states as governors and state legislatures finalized fiscal year 2012 budgets.

As states struggle with cost containment, given either static or only slightly increased state revenues, focus remains on one of the largest items driving state budgets—Medicaid.

Medicaid spending is typically the second largest item in most state budgets. States faced the added difficulty this year of the end of federal stimulus support for Medicaid, as temporary federal aid came to an end on June 30. States also found themselves restricted in some options to control costs due to “Maintenance of Effort” (MOE) requirements that were included in both the stimulus package and the Patient Protection and Affordable Care Act (ACA). MOE requires that states maintain their Medicaid eligibility and enrollment until health insurance exchanges are certified and operational (targeted for 2014). Penalties for violating the MOE include loss of the state’s federal match for Medicaid funding. States wishing to make eligibility and enrollment changes are able to apply for a federal waiver, subject to the approval of the Secretary of Health and Human Services.

States are now employing several tactics to hold down Medicaid costs including changes in the reimbursement rate for covered therapies such as those that New York included in its state budget, but reducing provider payments remains at the top of the list. As part of their FY2012 budgets, nearly a dozen states, according to Kaiser Health News, addressed cost containment in Medicaid by reducing provider payments to physicians, hospitals and other providers. This continued the trend from FY2011 when more than 30 states reduced or froze provider payments, according to a recent survey of the National Association of State Budget Officers (NASBO).

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New State Budgets Further Medicaid Cuts

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But with state Medicaid costs projected to rise in coming years, trends for containment will continue. According to NASBO, states are looking at a variety of ways to manage costs. Containment dominates the discussions, though some states in FY2011 looked to provide additional funding resources to Medicaid through assessment fees, increased taxes, inter-agency transfers and other measures.

Containment Strategies

Expansion of Managed Care

In fiscal year 2011, seven states expanded managed care in Medicaid populations, and the number of states proposing such an expansion in fiscal year 2012 more than doubled to 19. Illinois, Florida, New York, New Jersey and South Carolina are among states that are implementing expansions to Medicaid Managed Care.

In Florida, legislation passed that will require all Medicaid patients to access services through managed care. Blood clotting factors were exempted with language in the legislation that ensures patients will receive their therapies through the state's Hemophilia Disease Management Program. Florida's plan is pending federal approval.

Strategies to Decrease Utilization

These include new co-payments, limits on visits to doctors and prescription limits. Strategies for prescription drug limits have included greater emphasis on the use of generics and mail order pharmacies. One of the key concerns for users of plasma therapies remains expanded use of restrictive formularies such as prior authorization which can limit access to the appropriate brand of life-saving plasma therapy.

Program Integrity and Efficiencies

Nearly all states continue to step up efforts to detect fraud and waste in the Medicaid system, and to achieve greater efficiencies by implementing health information technologies and streamlining administrative functions.

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Medicaid Provider Cuts

(All cuts start in July unless noted)

Arizona—5% cut for hospitals and doctors in April and another 5% cut imposed in October.

Colorado—0.75% cut on doctors and hospitals.

Connecticut*—\$33 million cut in hospital payments.

Florida—12% cut for hospitals.

Nebraska—2.5% cut for hospitals and doctors.

New Hampshire*—\$126 million cut in hospital payments.

New York—2% cut for hospitals in April.

North Carolina—7.3% cut for hospitals.

Oregon—11% cut for hospitals and doctors. Primary care physicians are exempted.

Pennsylvania—4% cut for hospitals.

South Carolina—3% rate cut for hospitals and doctors in April. In July additional cuts implemented of 2% for primary care doctors with most specialists cut 5%; dentists cut 3% and most hospitals (except small rural) cut 4%.

South Dakota—11.5% cut for hospitals, 4.5% cut for primary care doctors and 5.1% cut for specialists.

Texas—8% cut for hospitals.

Virginia—4% cut for out-patient hospital payments.

Washington—10% cut for hospitals.

**Connecticut and New Hampshire did not enact across the board rate cuts but cut special funds that help hospitals treat Medicaid recipients.*

Source: Kaiser Health News, taken from State hospital and medical associations and state Medicaid agencies.

New State Budgets Further Medicaid Cuts*Continued from page 3***Health Care Reform and Medicaid**

Implementation of ACA will bring increases to some provider payments, on par with reimbursement rates under Medicare. The federal government is to pick up the cost of this increase for 2013 and 2014, with states expected to take over the cost after that. The expansion of Medicaid that is targeted for 2014—expected to bring nearly 16 million new patients into the Medicaid system by 2019—will come with increased federal support.

However, Medicaid continues to be among the largest of expenditures for state budgets, and with an economic recovery lagging, governors continue to seek greater flexibility from the federal government for more latitude in containing Medicaid costs. It is anticipated that these trends will continue in the coming years, and more will need to be done to protect patient access to their appropriate therapies.

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Hemophilia of North Carolina Receives LEAD Grant for Youth Mentoring Program

Deadline for next round of LEAD grant submissions is October 31, 2011

CSL Behring has provided a Local Empowerment for Advocacy Development (LEAD) grant to Hemophilia of North Carolina to develop *Youth Leaders for Change*. This will be a mentored program aimed to equip adolescents, ages 14 – 18, with the necessary skills, confidence and support to become effective advocates for the hemophilia community in North Carolina.



*Hemophilia of
North Carolina*

Over the next year, *Youth Leaders for Change* will match 10 youths with adult advocates. This training will educate the youths on the legislative process, issues relevant to the bleeding disorders community and effective advocacy skills such as how to communicate with elected officials.

Sue Cowell, Executive Director of Hemophilia of North Carolina states, “we are very excited about this proposal and anxious to get started since we have such a great group of teens to work with. We are so pleased to partner with CSL Behring again on another great program as their support for the community is unmatched.”

“CSL Behring is pleased to recognize and support the development of a youth mentoring program in North Carolina. *Youth Leaders for Change* will play a significant role in identifying and mentoring the leaders of tomorrow in the state so the advocacy torch may be passed to the next generation. The LEAD grant will help Hemophilia of North Carolina launch this program to develop the leaders of tomorrow,” said Dennis Jackman, Senior Vice President, Public Affairs at CSL Behring.

For the last three and a half years the CSL Behring LEAD Program has provided in excess of \$500,000 over seven grant cycles to organizations advocating for patients reliant on plasma protein therapies.

LEAD Grant Application Deadline

LEAD grants are awarded semi-annually. CSL Behring considers grant proposals which relate to bleeding and platelet disorders, immune deficiencies, pulmonary disease, hereditary angioedema and critical care. The submission deadline for the next round of grants is October 31, 2011. Applications, specific criteria for applying and more information about the LEAD program are available at www.cslbehring.com/leadgrants

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Missouri Enacts Bleeding Disorders Standards of Care

Missouri Governor Jay Nixon recently signed into law a bill passed by the state legislature creating a bleeding disorders standard of care.

This legislation will require the Missouri Board of Pharmacy to establish rules governing the standard of care for pharmacies dispensing blood clotting therapies within the state. Highlights from the new law will require that the rules must include safeguards to ensure that a pharmacy:

- Has the ability to obtain and fill a prescription as written for all brands of blood clotting products approved by the federal Food and Drug Administration;
- Provides an established patient access to blood clotting products within 12 hours of a physician's notification of the patient's emergent need;
- Provides the necessary equipment and supplies for an established patient to administer blood clotting products;
- Has a pharmacist available, onsite or on call, to fill a prescription 24 hours a day, seven days a week, every day of the year;
- Provides containers and instructions for the proper collection, removal and disposal of hazardous waste.

Blood clotting product-related services added to the list of services which are to be paid under state sponsored insurance benefits include home delivery of products, equipment, and supplies, medically necessary ancillary infusion equipment and supplies, and assessments that are deemed necessary by the treating physician and that are conducted in the participant's home.



Missouri Governor Jay Nixon

The Midwest Hemophilia Association (MHA) drove this effort within the state legislature. A Local Empowerment for Advocacy Development (LEAD) grant from CSL Behring assisted MHA in its efforts to successfully advocate for this measure. Missouri is the second state in the U.S. to adopt a legislative bleeding disorder standard of care—New Jersey being the first. A similar bill is moving through the California state legislature with no major opposition currently expressed.

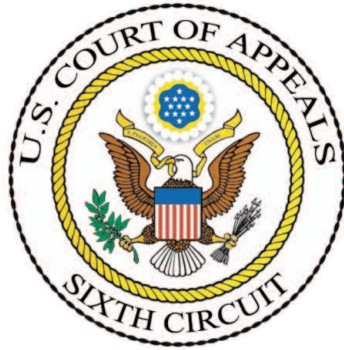
MHA Board Member Kristin Marema stated, "we are thrilled to have received this generous grant from CSL Behring. This grant will help us to pass standards of care for people with bleeding disorders in Missouri. Our ultimate goal is to make all of our members' better advocates for themselves."

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First Appeals Court Ruling on Legality of Health Care Legislation

In follow-up to an article in the Spring edition of *Policy Impact* highlighting the multiple court rulings regarding the legality of the health care reform legislation entitled the Patient Protection and Affordable Care Act (ACA) passed by Congress in March 2010, the first ruling by a United States Court of Appeals took place in late June.



The Obama administration prevailed as a three-judge panel from the United States Court of Appeals for the Sixth Circuit, based in Cincinnati, Ohio held that it was constitutional for Congress to require that Americans buy health insurance.

The ruling by the Sixth Circuit is the first of three opinions to be delivered by separate courts of appeal that heard arguments in the health care litigation in May and June of 2011. Opinions are expected from panels in the Fourth Circuit in Richmond, Va., and the 11th Circuit in Atlanta.

Starting in 2014, the ACA will require most Americans to buy health insurance or pay an income tax penalty. The administration argues that without the insurance mandate it is not reasonable to require insurers to cover all applicants regardless of their health status. The Sixth Circuit majority held that the mandate was "facially constitutional under the Commerce Clause."

Lawyers on both sides of the case expect the Supreme Court to take one or more of the cases, perhaps as soon as its coming term, which starts in October 2011.

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Did You Know?

The U.S. Constitution requires a census of the population take place every 10 years. Information is used from the census by state legislatures to draw federal and state legislative districts. This process is currently ongoing with data culled from the 2010 census.

In the process of setting electoral districts, gerrymandering is a practice that attempts to establish a political advantage for a particular party or group by manipulating geographic boundaries to create partisan, incumbent-protected districts.

Gerrymandering is named after former Governor of Massachusetts, Elbridge Gerry, who approved redrawn state legislative lines in 1812 which included a district that was said to resemble the shape of a salamander.



◀ Governor Elbridge Gerry of Massachusetts, who later became the fifth Vice President of the United States (1813-14).



▶ The "gerrymandered" state senate district in Massachusetts.