

Health Law and Policy Update:

May 11, 2012

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Headlines of the Week

Governor Hickenlooper signs Senate Bill 12-134

This Monday, Colorado Governor, John Hickenlooper, signed Senate Bill 12-134 into law, establishing the Hospital Payment Assistance Program. The bill, which was sponsored by Senator Irene Aguilar, D-Denver, and Representative Cindy Acree, R-Aurora, and heavily supported by CCLP, gives uninsured patients the opportunity to understand and responsibly pay their hospital bills, without the fear of being sent to collections or going into bankruptcy. Senator Aguilar and Representative Acree were successful in bringing together a wide group of stakeholders, including consumers and hospitals, and garnering broad based bipartisan support for the bill.

Senate Bill 12-134 represents a major advancement in protections for uninsured Coloradans and we hope will reduce the burden of hospital debt for low income individuals and families. Uninsured patients, who do not have the bargaining power of large insurance companies or public programs, are charged much higher prices for hospital care than those with insurance. Public programs and private insurers negotiate lower prices with hospitals. Uninsured patients are the only group that pays the full listed prices for hospital care. These higher prices are a significant hardship for working families that already struggle to afford medical care, forcing many patients to go into debt, or even declare bankruptcy.

Senate Bill 12-134 addresses these issues by:

- Requiring hospitals to make information about discount programs and charity care available in hospital waiting areas and on hospital websites. Patients will

also receive this information while they are in the hospital and it will be included with their hospital bills. The information must be communicated in a clear and understandable manner and in languages appropriate to the communities and patients the hospital serves.

- Requiring hospitals to offer to screen uninsured patients for the discount program established by the bill, as well as any other financial assistance or charity care programs offered by the hospital. This determination must take into account all federal, state, and local government requirements. The bill will also require hospitals to offer reasonable payment plans to uninsured patients and allow for thirty days to pass after a missed payment before initiating collection proceedings.
- Limiting the amount that low-income uninsured patients (250% of Federal Poverty Level or below) will be required to pay on a hospital bill to not more than the lowest negotiated rate paid to the hospital by a private insurer. 250% of the Federal Poverty Level represents an income of \$27,925 annually for an individual or \$57,625 for a family of four.

The CCLP health team was honored to join Senator Aguilar and Representative Acree at the bill signing ceremony. CCLP, along with the Colorado Consumer Health Initiative, worked with Senator Aguilar on the Hospital Payment Assistance Act since before the bill was introduced. This work included working with bill sponsors, researching hospital pricing practices and medical debt in Colorado and around the country, providing technical assistance in drafting the legislation, working with Colorado hospitals to build consensus around the bill, and lobbying and testifying in support of Senate Bill 12-134 in both chambers of the General Assembly. CCLP thanks Senator Aguilar and Representative Acree for all of their work to create this important set of consumer protections.

To learn more about how Senate Bill 12-134 will help uninsured Coloradans understand and responsibly pay their medical bills, please visit the [CCLP website](#).

[Coverage](#) of the signing can be found from the Denver Post.

Governor Convenes Special Session

Governor Hickenlooper called for a special session to begin on Monday. Thirty bills, many of them close to final passage were lost on Wednesday night as a result of an impasse in the House about the passage of SB2, authorizing civil unions. Legislators are directed to consider seven subjects during the special session: water projects, driving under the influence of drugs, civil unions, the unemployment insurance program, benefit corporations, special machinery fleets, and the repeal of obsolete

constitutional provisions.

CCLP supported one health related bill among the thirty lost. SB 12-108 would have offered dental coverage for pregnant women in Medicaid.

The Governor's press release announcing the special session is available on the state's [website](#).

Summary of 2012 Health Care Legislation

The Colorado Center on Law and Policy this week [released](#) its reviews of the legislative session by program, including for the health program. The Colorado Center on Law and Policy, while fundamentally disappointed in the political gamesmanship that closed the 2012 regular legislative session, still regards the session as one with more advances for policies supporting the health, economic security and wellbeing of low-income Coloradans than might have been expected in this election year.

Probably our biggest pro-active victory was in health care. As [described above](#), we were instrumental in the passage of SB12-134, the Hospital Payment Assistance Program (Sen. Aguilar/Rep. Acree). We devoted much of our work this session to defense - successfully fending off efforts to reduce state revenues, to cut back current public health insurance programs and health reform efforts, or to burden those most needy Coloradans who participate in our state's already lean safety net programs or are otherwise struggling to achieve economic self-sufficiency. We did not win them all, but we stood our ground and we helped direct debate toward the notion that, for better or worse, we are all in this together.

The session's developments as seen by the Colorado Fiscal Policy Institute can be found [here](#).

Perspective on the 2012 regular session from the CCLP Health Program is [here](#).

The details of the session from the vantage of our Family Economic Security Program are [here](#).

Update on Medicaid expansion to adults without dependent children (AwDC)

The Department of Health Care Policy and Financing (HCPF) began accepting applications for the new AwDC expansion on April 1. While the program is only available to Coloradans without dependent children who make less than about \$90 per month, many in the health care and public benefits community expected a huge

influx of applications. However, with only a few days to go until the randomized member selection process, and enrollment numbers lower than expected, HCPF sent out the following explanation of the enrollment process:

May Process: If fewer than 10,000 individuals statewide are determined eligible by May 15, all individuals will be enrolled into coverage regardless of the allocated regional positions. This might result in one or more Regional Care Collaborative Organization (RCCO) regions having more enrollees than they have allocated to them. If more than 10,000 individuals statewide are determined eligible by May 15, HCPF will conduct the regional randomized member selection process and select clients based on the regional allocations. If all Accountable Care Collaborative (ACC) regions have more individuals on the waitlist than their regional allocation, HCPF will enroll 10,000 clients ensuring that each region maximizes their allocation. Individuals not selected for benefits will remain on the waitlist and be eligible for future statewide randomized member selection processes. If any ACC region has fewer individuals on the waitlist than their regional allocation, the empty positions from that ACC region will be carried over to the June statewide randomized member selection process. They will not be reallocated to those ACC regions that have more clients on the waitlist than their allocation. This means we will not enroll 10,000 clients in May, but aim to have the program at capacity in June.

June Process: On June 8th HCPF will enroll more clients if it did not enroll 10,000 in May. If there are fewer individuals on the waitlist than there are open positions, HCPF will enroll everyone on the waitlist. This might result in one or more RCCO regions having more enrollees than allocated to them. If there are more individuals on the waitlist than there are open positions, HCPF will run a statewide randomized member selection process (at this point, the department will no longer use the regional allocations). This might result in one or more RCCO regions having more enrollees than allocated to that region.

July Process: In July, HCPF will run a statewide randomized member selection process to fill any of the 10,000 positions that were never filled or were filled and had become available as people lost eligibility. This might result in one or more RCCOs

having more enrollees than they have allocated to them. This process is scheduled for July 13, 2012.

What's New

CCLP submits comments on interim final Medicaid and Exchange regulations

This week CCLP submitted comments to the Federal Centers for Medicare and Medicaid Services (CMS) related to two sets of recently released regulations. While the Medicaid and Exchange regulations were both released in final form, each set had several sections that remained open for comment. On the Medicaid regulations CCLP [commented](#) on provisions dealing with timely Medicaid eligibility determinations, Medicaid agency responsibilities, and coordination of functions between Medicaid and the Exchange. CCLP urged CMS to be much more specific in defining how timely processing would be measured. While many eligibility determinations for health care coverage, whether Medicaid or premium tax credits in the Exchange, are expected to occur in real time, there must be provisions in place that ensure accountability in the event an application cannot be processed in real time.

In our Exchange [comments](#), CCLP commented on our concerns about the bifurcation of eligibility functions. CCLP expressed concern that allowing state exchanges to relinquish responsibility for conducting Medicaid and CHIP eligibility determinations to Medicaid and CHIP agencies is inconsistent with the streamlined "no wrong door" system described in the Patient Protection and Affordable Care Act (PPACA) and would result in the fragmentation of eligibility systems. CCLP urged HHS to strengthen these provisions by requiring states to demonstrate their operational readiness to carry out these functions. Additionally, CCLP made recommendations concerning the role of agents and brokers in the exchange to ensure they remain unbiased and provide useful and consistent assistance to customers.

Proposed rule released to increase payments to primary care physicians

This week, Secretary of Health and Human Services, Kathleen Sebelius announced a proposed rule that would increase payments to primary care doctors that see Medicaid patients. The rule would implement a provision of the Affordable Care Act, which requires that Medicaid reimburse primary care providers at Medicare levels. The increases will occur in 2013 and 2014 and are part of the larger effort under PPACA to bolster the primary care delivery system. The rule would also provide states with over \$11 billion to improve their Medicaid primary care delivery systems. States will receive a 100 percent match from the federal government for the difference between the Medicaid and Medicare rates for designated primary care services.

The [proposed rule](#) and a [fact sheet](#) on the rule are available from the Centers for Medicare and Medicaid Services.

Advancing the Debate

Study explains high spending on health care driven by price

The United States spends far more on health care than any other industrialized nation, both in terms of its total expenditures and the percent of its gross domestic product (GDP). Such an expensive health care system places substantial burdens on families and businesses. A new [study](#) by the Commonwealth Fund suggests that the primary reasons for higher health care spending in the U.S. are high prices for health care services, increased access to technology, and greater rates of obesity. Contrary to popular belief, the study suggests that high health care spending in the U.S. is not attributable to higher income, an aging population, or greater supply or utilization of hospitals and doctors than other industrialized nations.

According to the study, the U.S. spends between one-third and two-thirds more on health care than all other industrialized nations. Specifically, physician services, including hospital stays, are significantly more expensive in the U.S. than other countries. Despite costing significantly more, the study indicates that the quality of health care in the U.S. is not noticeably superior to other countries (based on outcome measures of treating cancer and other chronic diseases).

The findings in this study highlight the importance of transparency and accountability in determining costs and charges in the health care industry. Colorado made significant progress this year by passing the Hospital Payment Assistance Act, which is discussed in this week's Health Law and Policy Update. However, the Commonwealth Study confirms that there is still a need for reforms to ensure that health care costs are reasonable and affordable for working and low-income families.

What's Next

Colorado Health Benefit Exchange recommends nominees for new advisory groups

The Colorado Health Benefit Exchange (COHBE) announced its [recommendations](#) for members of four new advisory groups. The groups are: the SHOP (small business exchange) Advisory Group, the Individual Experience Advisory Group, the Health Plan Advisory Group, and the Communications and Outreach Advisory Group. Four staff members from CCLP are among COHBE's recommendations: Elisabeth Arenales (health plan group), Adela Flores-Brennan (individual experience group),

George Lyford (SHOP group), and Tracey Stewart (communications group).

COHBE staff recommended approximately 22-23 members for each group and the COHBE board will approve nominations at its upcoming meeting on May 14, 2012. Also at the May 14 meeting, the COHBE board will introduce four new policy issues that will be up for decision at upcoming board meetings. These policy issues include: supplemental plan types and additional benefit types, open enrollment and special enrollment periods, financial reporting, and audit requirements.

COHBE staff released [a spreadsheet](#) outlining all of the policy decisions it expects to take up through September 2012, including specific timelines with target decision dates.

The COHBE Board meeting is Monday, May 14, from 8:30 am to 12:00 pm at:
COPIC, Mile High Room
7351 East Lowry Blvd.
Denver CO