

Health Law and Policy Update:

May 3, 2013

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Legislative Update

Senate Bill 13-200, Medicaid Expansion passes both Houses

SB13-200 which strengthens opportunities for coverage in Colorado by expanding Medicaid eligibility to people with incomes under 133% of the Federal Poverty Level has passed both houses of the General Assembly. The Governor has supported the expansion and is expected to sign the bill. This is a significant victory for low income Coloradans and will bring as many as 200,000 people who have not had access to health insurance previously into coverage. CCLP strongly supported this bill.

For more information see:

Governor Hickenlooper's [announcement](#)

CCLP [fact sheet](#) on SB200

CCLP [update piece](#) on SB200

Exchange funding bill, House Bill 13-1245, moves forward

This week the Colorado Senate Health and Human Services (HHS) Committee approved HB13-1245, which would establish funding mechanisms for the Colorado Health Benefit Exchange (COHBE) between 2014-2016. The bill is well on its way to passing before the legislative session ends on May 8. The bill would transition existing health insurance carrier assessments to COHBE to support its operations, sustainability and ability to generate reserves. The assessment will generate approximately \$14.7 million per year in revenue. Moreover, HB1245 would transfer

a \$5 million premium tax credit, which is also part of the existing CoverColorado assessment structure, to the exchange, resulting in a total of nearly \$20 million in revenue for years 2014, 2015 and 2016. The revenue options proposed in HB1245 will provide essential support to COHBE during its first few years while it builds up enrollment and other revenue sources. CCLP strongly supports HB1245.

The Senate HHS Committee also approved an amendment granting authority to the Colorado Office of Administrative Courts to handle COHBE appeals. This amendment gives the COHBE board a meaningful option for conducting eligibility appeals in a manner that maximizes efficiencies while reducing frustrations for consumers. We plan to write much more about COHBE appeals in an upcoming update.

Stop loss insurance modernization, House Bill 13-1290, advances with bipartisan support

HB13-1290 proposes to protect Colorado's small group insurance marketplace by modernizing the regulations that allow very small businesses to self-insure.

CCLP testified in strong support of the bill, which passed out of the Senate HHS Committee Thursday. Various financial incentives to self-insure threaten to destabilize Colorado's small group, fully insured marketplace. When small businesses decide to self-insure, the employer takes on the risk of paying any and all of their employee's claims when they become sick. Most large employers self-insure as it is easier for them to build adequate reserves and absorb losses when an employee becomes sick. However, small employers often cannot take on this kind of risk, so they purchase a type of backup insurance, or "reinsurance," called stop-loss insurance. When a small employer purchases a stop-loss policy, the employer is responsible for an employee's claims up to a certain amount - called the "attachment point" - and the stop loss insurer pays anything over this level.

The bill increases the attachment point in Colorado from \$15,000 to \$20,000 per employee and eliminates the ability of stop loss issuers to vary attachment points from employee to employee. The bill also contains a data collection requirement, which will help to identify trends in the self-insured/stop loss market.

Self-insuring will likely be cheaper for employers starting in 2014 than buying a small group insurance policy because self-insurance is not subject to many of the important consumer protections required under the Affordable Care Act (ACA).

Given the potential financial incentive to self-insure, small employers with relatively young and healthy employees may decide to avoid these requirements in the small

group market by self-funding their health coverage. If small employers with healthier-than-average employees self-fund when times are good and then enter the fully insured small group market when times are bad - for example, if an employee is diagnosed with a chronic illness - then adverse selection will result in the fully insured small group market, thereby increasing premiums for employers purchasing small group plans through the exchange or non-exchange markets. A 2012 Urban Institute/Commonwealth Fund [report](#) estimates that insurance premiums in the fully insured market could increase by as much as 25 percent for individual policies and 19 percent for family policies if stop-loss insurance is not regulated.

Biosimilars medications bill dies in committee

On Thursday, the Senate Health and Human Services Committee voted down House Bill 13-1121, a bill that would have discouraged the use of safe, effective, and less expensive medications. As part of a broad coalition including AARP Colorado, health plans, pharmacists, and pharmaceutical companies, CCLP actively opposed this bill and urged committee members to vote against this legislation.

At the request of the Senate sponsor, the committee voted to postpone consideration of the bill until after the legislative session ends, effectively killing the bill for this year. Many committee members had expressed concerns about the legislation prior to yesterday's hearing.

Biologic medications, which are made of larger, more complex molecules than traditional drugs, have become the standard of care for many chronic and life threatening illnesses. Unfortunately, these drugs are exceedingly expensive, costing patients tens of thousands of dollars per year.

Biosimilars are the generic-equivalents of these biologic medications and, like generic drugs, have the potential to dramatically reduce costs for Medicaid and consumers. With the FDA currently developing a process for approving biosimilars, it would have been premature to pass HB1121. But more than just being premature, this bill would have discouraged the use of safe and effective biosimilars, driving up costs without protecting patients.

Proponents argued that onerous record keeping and physician notification requirements were necessary to protect patient safety, but this bill would not have made patients safer. The bill presumed that all biosimilars are inherently unsafe, even though federal law requires any approved biosimilars be as safe as the branded biologics on which they are based.

The bill's recordkeeping and notification requirements were roadblocks that would have discouraged biosimilar substitutions, increasing costs for patients and the state's Medicaid program.

Making safe, effective medications available and affordable is vital to helping control health care costs. CCLP will continue to work to ensure that all Coloradans have access to affordable, safe, and effective medications.

Read CCLP's [fact sheet](#) on this legislation on CCLP's website.

Dental bill update

Senate Bill 13-242, Adult Dental Benefit Medicaid, passed out of House Appropriations this morning and is now on to the House floor. The bill requires HCPF to implement a limited adult dental benefit for Colorado Medicaid clients and will use a stakeholder process to design the benefit. CCLP strongly supports SB242.

Advancing the Debate

ACA at 3

The Colorado Center on Law and Policy is marking the third anniversary of health care reform by exploring the various benefits and aspects of the law in a series of reports: [The Affordable Care Act at 3](#). When fully implemented, the law will fundamentally transform the American health care system, providing affordable, quality health insurance to 30 million otherwise uninsured Americans.

Wednesday, CCLP released the fourth report in the series, [Affordable Care Act at 3: Federal investments in coverage, consumer protection and prevention](#). Part Four of the series highlights the investments in health care at the state and local level that Congress included as part of the ACA. In total, Colorado has received nearly \$400 million in federal grants made available by the ACA. These investments are helping to expand coverage, protect consumers and promote prevention throughout Colorado.

Countdown to Reform

New and much improved version of Single Streamlined Application released

This week, the Department of Health and Human Services (HHS) released new versions of the single streamlined application for health insurance. These applications will be used by states whose exchanges are operated by the federal government. There are now three different applications, one for one for single adults seeking financial assistance, one for families and all others seeking financial assistance, and one for those not seeking financial assistance. The press release is available [here](#). The applications are available [here](#).

HHS had been heavily criticized after the release of the initial version of the applications. The 21 page paper application for families was too long, too complicated and failed to honor the basic goal of the ACA that entry into coverage should be as streamlined as possible. The new version of the application is considerably shorter. For example, the application for single adults is now three pages long. It is easier to navigate and it revised certain questions that should make it easier for people to fill out the form, for example it clarifies definitions for people with disabilities.

Advocates across the country, including CCLP commented on the initial version of the application asking HHS for significant revisions. While there is still room for improvement, we are very pleased to see that HHS was responsive to comments.

Colorado has opted to create its own exchange, known as Connect for Health Colorado. The question now is whether Colorado too will modify its applications. Colorado has been developing its application based on the original federal model. We hope that our state will be able to modify our applications in line with the federal improvements.

Click [here](#) to access the CMS Bulletin on the Model Application
Click [here](#) for Georgetown University's Health Policy Institute's blog on the application.

Countdown to coverage

Colorado's new marketplace for purchasing health insurance, opens its doors in 150 days, on October 1. Click [here](#) if you want more information about Connect for Health Colorado.

New health CO-OP receives license from Division of Insurance

A new state-wide nonprofit health insurance cooperative will start selling individual and small group health coverage beginning on October 1st, according to the [Denver Post](#). The Colorado HealthOp, the new health insurance cooperative, can now officially operate in Colorado thanks to recent licensing by the Colorado Division of Insurance. The cooperative seeks to "pay for quality medical care as efficiently as possible for members, support individual health, improve the health of populations and decrease health care costs," according to its [website](#). The CO-OP was awarded a \$69 million loan from the Department of Health and Human Services as a part of the Affordable Care Act. The CO-OP will have a member-run board, making it different from any other health plan in the state.

