

Health Law and Policy Update:

July 13, 2012

This week's updates

- [New report stresses the importance of health reform's Medicaid expansion](#)
- [COHBE Board approves framework for eligibility appeals](#)
- [COHBE Board delays final decision on employer/employee choice in small business exchange](#)
- [COHBE Board to vote on special enrollment periods and supplemental plan offerings](#)
- [Individual Experience Advisory Group discusses Navigators](#)

Advancing the Debate

New report stresses the importance of health reform's Medicaid expansion

The Center on Budget and Policy Priorities released an [issue brief](#) yesterday that explores the benefits of the Medicaid expansion under the Patient Protection and Affordable Care Act (PPACA). The report specifically explores the expected fiscal impact of the Medicaid expansion on states, noting that the federal government will bear nearly 93 percent of the costs of the Medicaid expansion over its first nine years (2014-2022). Additionally, the report observes that since the Medicaid expansion will cover approximately 17 million currently uninsured Americans, states will realize savings for providing cost-sharing to hospitals that provide uncompensated care.

Colorado Health Benefit Exchange (COHBE) Update

COHBE Board approves framework for eligibility appeals

On July 9, the COHBE Board approved a general [framework](#) for establishing processes to carry out eligibility appeals in the newly-created health insurance exchange. In 2014, individuals who apply for health coverage through the exchange will most likely be eligible either for premium assistance in the form of tax credits or Medicaid. The exchange will be responsible for "prescreening" applicants for which type of coverage they are most likely eligible for and then directing applicants to the proper enrollment system - be that Medicaid or tax subsidized commercial insurance through the exchange. Many determinations will be made throughout this process that require the establishment of appeals processes. For example, individuals must be able to appeal determinations of whether they are eligible for premium assistance in the form of tax credits and whether they are exempt from the individual mandate (due to financial hardship or for religious reasons). Small employers must be able to appeal determinations of whether their business is

eligible to participate in the small business exchange (SHOP).

The guiding principles that the COHBE Board approved establish a framework for creating these various appeals processes. These guiding principles include:

- COHBE will provide oversight and develop a process to handle appeals in the areas in which it has control.
- COHBE will try to direct people to the programs for which they are eligible as soon as possible.
- COHBE will build a technology solution that will facilitate a "no wrong door" approach to coverage options.
- COHBE will adopt best practices from public and private sectors to ensure the verification and appeals process is automated as much as possible.
- COHBE will have a defined process for individuals and employers to verify their information and appeal eligibility decisions.

It is crucial that meaningful and effective appeals processes are established since the various determinations that will be performed directly affect the substantive rights of applicants. Next steps will include key decisions, such as:

- Who will adjudicate appeals in the exchange and what training or certification requirements will be required?
- Defining a clear line between exchange appeals processes and appeals processes that the exchange will not directly carry out (such as Medicaid appeals or premium tax credit appeals through the IRS).
- Establishing a body of rules and procedures that will govern appeals, including timelines, methods of submitting evidence to support appeals, and how a customer may obtain assistance with the appeal.

COHBE Board delays final decision on employer/employee choice in small business exchange

Starting in 2014, small employers with fewer than 50 employees will be able to purchase health insurance through the Small Business Health Options Exchange, or SHOP. When employers purchase health insurance through the SHOP exchange they will be eligible for a tax credit of up to 50 percent of the premiums for employees' plans. Employers will be able to allow their employees to choose from an array of plans available in the SHOP exchange. However, employers will only need to write

one check to the SHOP exchange, which will in turn distribute the premiums to the appropriate health plans covering the employees. A key decision that the COHBE Board now faces is the extent to which employers and employees will have a choice of health plans and benefit designs within the SHOP exchange. This decision requires balancing employee choice, cost, and the stability of the marketplace.

Federal law specifies that the SHOP exchange may allow employers to make a full range of health plans available to their employees (known as "full employee choice"), only one plan from one carrier available to their employees (known as "full employer choice"), or somewhere in between. Federal law does require that the SHOP exchange at least make available the option for employers to choose a cost-sharing level of plans within the SHOP exchange and then allow the employee to choose any plan within that level. The [discussion](#) that the COHBE staff and board have focused on is what additional options (that provide both more and less choice) should be available to employers.

The various stakeholders engaged in this conversation have divergent views regarding whether and to what extent the SHOP exchange should limit choice to employers and employees. The health plans have been [vocal](#) in their opposition to full employee choice, citing concerns of adverse selection. Specifically, the carriers are concerned that if employees could choose any plan they want, sicker individuals would flock to plans with richer benefits and healthier individuals would flock to cheaper plans that cover less. In this scenario, the health plans argue that prices would increase for plans with more comprehensive coverage, making them unaffordable and ultimately resulting with the health plans not offering those types of plans. Alternatively, a number of individuals from the business community that have been engaged in this conversation generally support increased employer/employee choice. In this scenario, increased choice will attract more employers to the SHOP exchange and will relieve employers of administrative responsibility of choosing coverage for employees.

At the July 9 COHBE Board meeting, Steve ErkenBrack, board member, suggested that the COHBE Board hold off on making a final decision regarding what benefit options the exchange should make available to employers until further analysis can

be conducted. Specifically, ErkenBrack is concerned with what impact this decision would have on the premium costs for obtaining coverage due to adverse selection. The COHBE Board is expected to take a final vote on this issue at its next board meeting on July 23.

This decision will fundamentally define how the small group insurance market functions in Colorado and may significantly impact the cost of coverage. CCLP stresses the need to balance meaningful choice to employees with ensuring that coverage is affordable. If the choices available to employers are greatly restricted, then employees may be forced to obtain inadequate coverage that does not meet their needs. On the other hand, too much choice may result in an unstable marketplace where the products could be less affordable.

COHBE Board to vote on special enrollment periods and supplemental plan offerings

At its July 9 meeting, the COHBE Board introduced two new policy topics that it will vote on at its next board meeting on July 23. First, the COHBE Board will address whether the exchange should include additional [open or special enrollment periods](#) beyond what is required in federal law. The Patient Protection and Affordable Care Act (PPACA) outlines an initial open enrollment period for Qualified Health Plans that runs from October 1, 2013 through March 31, 2014 and then from October 15 to December 7 in subsequent years. Furthermore, PPACA outlines special enrollment periods for certain qualifying events, such as losing coverage, change in family status (marriage, birth, adoption, etc.), obtaining citizenship, and others. The COHBE Board will examine whether to expand these open enrollment and special enrollment requirements.

The [second issue](#) that the COHBE Board will address is whether and how vision and dental plans should be sold in the exchange. Starting in 2014, all insurance products must provide a minimum level of coverage, known as the Essential Health Benefits package (EHB). Federal law requires that the EHB include coverage of pediatric dental services. However, the exchange has the option to allow additional supplemental coverage in the exchange, such as vision and adult/family dental

coverage. The COHBE Board will decide how these plans are packaged and sold. In other words, will the exchange allow these plans to be sold as stand-alone plans, bundled with major medical plans or some combination of the two?

Individual Experience Advisory Group discusses Navigators

This week, the Individual Experience Advisory Group began its discussions about the Navigator program. The Patient Protection and Affordable Care Act (PPACA) provides for the creation of a Navigator program that will assist individuals with eligibility, plan selection, and enrollment in Exchange plans. While the law establishes parameters around duties of a Navigator who cannot serve as a Navigator, a great deal of flexibility is left to the states to determine the scope, structure, funding and compensation. The Advisory Group began developing a list of duties or responsibilities for Navigators in Colorado and discussed recommending to the COHBE board that a needs assessment be commissioned that would help assess how many customers the Navigator program may need to serve and at what cost.