

Health Law and Policy Update:

August 10, 2012

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What's New

Hospital Payment Assistance Program takes effect this week

The Hospital Payment Assistance Program, which was created by SB12-134 will took effect on August 8. The program 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. The Colorado Consumer Health Initiative and the Colorado Center on Law and Policy released a new [summary](#) of the Hospital Payment Assistance Program as well as an [information sheet](#) for consumers in English, y en [Espanol](#).

The Hospital Payment Assistance Program:

- Requires 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.
- Requires 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.

- Limits 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 Hospital Payment Assistance Program 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.

Federal insurance exchange development moves forward

While significant work is being done here in Colorado to implement the Colorado Health Benefit Exchange (COHBE), a recent New York Times [article](#) highlights the status of federal efforts to open and operate health insurance exchanges for those states that have not expressed an intent to proceed with their own state exchanges. The Affordable Care Act mandates state creation of health insurance exchanges or participation in federally governed exchanges that enable consumers to compare different plans based on pricing and coverage. When the ACA passed, it was expected each state would set up an exchange. Currently, only thirteen states, including Colorado, have committed to doing so, leaving the task up to the federal government for an expected twenty-five states. While federal officials are working hard to get the federal exchange up and running in anticipation of the October 2013 deadline for open enrollment, many details remain elusive for those states who will be required to use the federal exchange. As some states ponder the future image and functionality of federally facilitated state exchanges, Colorado established exchange autonomy through passage of SB11-200, which created the Colorado Health Benefit Exchange. As October 2013 draws closer, the hard work of COHBE members, stakeholders, and legislators ensures a Colorado-specific exchange that fits the diverse needs of our state.

Colorado Health Benefit Exchange (COHBE) update

Legislative oversight committee approves Exchange Establishment Grant

On August 9, the Colorado Legislative Health Benefit Exchange Implementation Review Committee gave approval for the Exchange to submit a second Level One Establishment Grant to HHS. This grant request is part of the federal funding mechanism to assist states in establishing their own state-based health insurance exchanges. The Patient Protection and Affordable Care Act (PPACA) requires health insurance exchanges in every state, which will serve as new, organized marketplaces where individuals can shop for health coverage and make an apples to apples comparison of available insurance products. The current grant request from COHBE seeks funding to develop and acquire the necessary technology platform for the exchange, establish a customer service center, and perform a multitude of other development activities. COHBE plans to submit the grant request to the federal government before its August 15 deadline.

COHBE Board meeting preview

At its upcoming meeting on August 13, the COHBE Board of Directors will vote on enrollment application requirements and complaint management processes. These decisions are part of the COHBE Board's ongoing policy decision-making process, which began early this year. The policy issues that will be in front of the COHBE Board at its next meeting include:

Streamlined enrollment application: Central to PPACA is the requirement that states operate a "no wrong door" enrollment system for individuals seeking health care coverage. What this means in practice is that an individual must be directed to the health coverage program they are eligible for regardless of where they initially submit an application (various health programs include private insurance with potential tax credits, Medicaid, and CHP+). To facilitate this "no wrong door" approach, PPACA requires states to use a single streamlined application. The federal government is currently developing a model application form that states may either adopt or add to if necessary. The question that the COHBE Board will take action on is what, if any, additional information must be collected on Colorado's application form in order to facilitate enrollment.

Complaint management: The COHBE Board will vote to adopt a set of guiding principles to develop a formal process that will accept, review and take action on grievances regarding exchange functions. These principles include a requirement that the exchange review and address all formal complaints in a timely manner. Another guiding principle states that the exchange will record all complaints and conduct analytics to identify and address trends.

At its next board meeting, the COHBE Board will also begin discussions (although not vote) on two major policy issues:

Insurance agent/broker compensation: The COHBE Board will begin to discuss a structure for compensating insurance agents and brokers in the exchange with an expected vote to come at a future board meeting. PPACA does not require states to allow insurance agents and brokers to enroll consumers in exchanges. However, states may choose to allow agents and brokers to work in the exchanges and help consumers apply for tax credits and cost-sharing reductions available only in the exchange. CCLP acknowledges that insurance agents and brokers have historically played an important role with helping small employers and individuals choose commercial insurance products that meet their needs. In fact, insurance agents and brokers will be crucial to attracting small businesses to purchase coverage in the small employer (SHOP) exchange. However, it is essential that the compensation structure for agents and brokers does not encourage sales tactics that favor driving consumers to the non-exchange insurance market versus the exchange. As such, we recommend a compensation structure inside the exchange that mirrors the non-exchange marketplace. If commissions are the same for products inside and outside of the exchange, agents and brokers will not have an incentive to drive consumers to products with higher commission rates. We will continue to cover issues related to insurance agent and broker requirements (including training and certification requirements) in future Health Law and Policy Updates.

Navigators: On Monday the COHBE board will discuss initial recommendations from the Individual Experience Advisory Group on the creation of the Navigator program that will serve to help facilitate the application, plan selection and enrollment

process for exchange customers in Colorado. The Advisory Group's discussion and forthcoming recommendations focus on precisely defining Navigators and Navigator entities, the types of organizations in Colorado that could host Navigators, the types of functions Navigators will be expected to perform, the various needs of potential customers, oversight, training, certification and funding. Navigators will play a critical role in helping to realize the "no wrong door" imperative for accessing affordable health coverage and will be an especially important connection to health coverage for low-income Coloradans, vulnerable populations, and those who have little or no previous connection to health insurance.

CCLP observes that in order to begin to structure the Navigator program a more comprehensive understanding is needed around issues like the number of entities in Colorado currently performing Navigator-type services, their willingness and capacity to participate as exchange Navigators, the number of exchange customers Navigator entities might expect to serve, the costs of serving exchange customers, and the anticipated costs of the Navigator program overall. CCLP is partnering with the Colorado Consumer Health Initiative and the Colorado Public Interest Research Group to study how other states are approaching the design and development of their Navigator programs, to survey community based organizations in Colorado about their current navigator services and willingness and capacity for serving as exchange Navigators, and to speak to Colorado consumers about their anticipated needs and expectations from Navigators. While we anticipate that the results from these activities will lead to the formulation of important recommendations, we nevertheless support a more comprehensive analysis.

If you are interested in attending the upcoming COHBE Board meeting, the meeting information is:

Monday, August 13, 2012, 8:30am to 11:30am

COPIC, Mile High Room

7351 E. Lowry Blvd., Denver, CO 80237

Call-in: 319-279-1000, PIN: 8559663#

Meeting materials and the agenda are available on the [COHBE Website](#).

