ACA Implementation

OBAMA ADMINISTRATION DELAYS EMPLOYER MANDATE

In a surprise move, the Administration announced a one-year delay in the implementation of the ACA’s employer mandate. The employer mandate, originally scheduled to take effect in 2014, requires employers with 50 or more full-time employees to provide qualifying healthcare coverage or face a financial penalty.

A recent report by the Government Accountability Office suggests that the state-based insurance exchanges may not be ready for implementation by the scheduled start date of October 2013. The employer mandate delay follows a previous decision by the Administration to delay the Small Business Health Options exchange, a vehicle for small employers to shop for employee coverage.

CURRENT STATE OF EXCHANGES

CMS has been busily issuing rules in advance of the October deadline for the start of health insurance enrollment for 2014:

Feds announce 120 insurers in Federal Exchanges: The Obama Administration announced that 120 insurance companies have applied to offer health insurance in the 19 states where the federal government is operating the insurance exchanges. The White House notes that 80 percent of individuals will have access to at least five plans to choose from when the exchanges open for enrollment in October, and that the “average” state will have 15 plans available.

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California announces 13 plans to join exchange: Although 33 health insurers originally applied to be included in the offerings of the California state health insurance exchange, the state has negotiated agreements with 13 of these insurers and predicts that premiums for plans included in the exchanges will be reasonable.

New Hampshire and Mississippi to have a single insurer: Perhaps not what the architects of the Affordable Care Act had hoped for, the state of New Hampshire attracted only Anthem as a participant in its exchange. So, for Granite State residents, the shopping should be fairly simple. Mississippi will reportedly also have a single entrant into its exchange, but the sole applicant has not been identified.

HHS Announces Multi-lingual call center: Secretary Kathleen Sebelius has announced that HHS will establish a call center to answer questions about the Affordable Care Act. The call center will have the ability to respond to questions in 150 different languages.

Federal Funding for Exchange Setup Falls Short: The job of setting up the state insurance exchanges is expected to cost twice as much as originally projected, leaving the Obama Administration in a tight spot. Seeking an additional $2 billion from the Republican-controlled House is considered nearly impossible, so the Administration is left with the task of shuffling money around in its spending authorization to cover the increased cost.

Streamlined Insurance Application Released: Stung by criticism that the original 21-page application was too daunting, Administration officials have released modified model health insurance applications for both individuals and families for use when the exchanges begin accepting enrollments. CMS provides 3 applications; individual, family, and individual without financial assistance. They can be found in the forms section at www.cms.gov.

CMS Approves oversight role for 7 states: While Maine, South Dakota, Virginia, Kansas, Nebraska, Montana and Ohio chose not to implement their own insurance exchanges or to create a state-federal partnership exchange, these states all received assurance from the Center for Consumer Information and Insurance Oversight that they will have a role in reviewing health plans offered on the exchanges in their states.

Arkansas: The state announced that four insurance companies (Arkansas Blue Cross Blue Shield, National Blue Cross Blue Shield Multi-state Plan, Celtic Insurance Company/NovaSys Health and QCA Health Plan) have submitted letters of intent to offer insurance products on the state insurance exchange, which will also serve Medicaid expansion beneficiaries under the terms of the arrangement the state negotiated with HHS.

Rhode Island Insurance Commissioner Posts Rate Submissions: The Rhode Island Insurance Commissioner has posted the health insurer rate submissions for 2013. Insurers generally appear to be requesting rate increases from 10-18%, but the state has not finished negotiations and history suggests final approved rates to be lower.

Visit www.ohic.ri.gov/Insurers_RegulatoryActions.php and click on 2013 Rate Factor Review to view the proposals.

Administration Proposes DSH Cut Delay: In a proposed rule, the Administration signaled its intention to delay a provision of the ACA that would have reduced disproportionate share hospital payments beginning in 2014. For hospitals in states that are not intending to expand Medicaid, reducing DSH payments would have been a considerable hardship. The rule is expected to be finalized later this year.
MEDICAID EXPANSION

The Medicaid expansion picture continues to become clearer as state legislatures have their say. Recent developments in the states continue to change the map for Medicaid expansion next year. The notable updates:

- Participating (23+ DC)
- Leaning toward participating (1)
- Will not participate (19)
- Leaning toward not participating (7)

**Florida:** Despite Governor Rick Scott’s support for expanding Medicaid to 133% of the Federal Poverty Level, the Republican state legislature could not come to agreement on budget legislation to enact the expansion. The legislature has since adjourned and the governor has shown no interest in calling them back for a special session. So, barring unforeseen events, Florida will not expand the Medicaid program next year.

**Oklahoma:** Governor Mary Fallin (R) commissioned a study of the controversial issue. The study recommended that the state pursue the Arkansas proposal of using Medicaid expansion funds to enroll eligible populations in the state insurance exchange. The governor remains interested in the concept but believes there is insufficient time to implement this proposal prior to 2014. Therefore, count Oklahoma among those states that won’t expand Medicaid next year.

**Missouri:** The Republican State Legislature refused to pass a state budget including Medicaid expansion, so the issue is at least temporarily dead until next year’s session. This puts Missouri in the column of states that won’t expand Medicaid in 2014. The Democratic Governor, Jay Nixon, supported expansion but couldn’t persuade the legislature to go along.

**Michigan:** Like his fellow governor in Florida, Michigan Governor Rick Snyder pushed for expansion of Medicaid next year. However, as in Florida, the Republican legislature has not yet gone along. Unless something changes, Michigan will be on the list of states not expanding Medicaid in 2014.

**West Virginia:** Democratic Governor Earl Ray Tomlin waited until the legislature had adjourned for the year before making the announcement. West Virginia is the last state with a Democratic governor to agree to expansion of the Medicaid program.

**Arizona:** Governor Jan Brewer confronted the state legislature and demanded approval of Medicaid expansion before she would sign any legislation sent for her approval. The governor won the standoff and Arizona will be added to the list of states that will expand Medicaid.
OTHER NEWS

Virginia enacts biosimilars legislation: Governor Bob McDonnell signed legislation prohibiting pharmacists from dispensing a biosimilar product if the prescriber indicated substitution was not allowed or if the patient insisted on receiving the branded product. The legislation sunsets in 2015.

AHRQ on ACOs: The Agency for Healthcare Research and Quality released its May 8 issue of Health Innovation Exchange, which includes extensive analysis of Accountable Care Organizations. For more information, visit www.innovations.ahrq.gov/issue.aspx?id=153.

Towers Watson Report Examines Employer Action on Specialty Drugs: In its 2013 Employer Survey on Purchasing Value in Health Care, Towers Watson reports that employers are becoming more active in managing specialty drug costs under employee benefit plans. Among the most popular strategies:

- Limit quantities or dose based on clinical evidence
- Implement step therapy requirements
- Prior Authorization
- Formulary exclusions

For more details, view the full survey at www.towerswatson.com.

Fast Facts

The Society of Actuaries released a report predicting that implementation of the ACA would increase the cost of individual health insurance coverage by 32 percent. The full report can be found at www.soa.org/NewlyInsured

NY Attorney General Wants Retail Specialty Pharmacy: NY Attorney General Eric Schneiderman sent a letter to major insurers requesting that they allow their enrollees access to specialty drugs through local retail pharmacies. He specifically suggested that insurers establish “specialty prescription drug fulfillment hardship exception criteria” that would allow patients to bypass specialty pharmacies and obtain their drugs through local outlets.

Insurance Company Rebates are Lower: Kaiser Family Foundation reports that the medical loss ratio (MLR) requirements of the ACA appear to be having their intended effect. By devoting at least 80 percent of their premium revenue to healthcare services, companies can avoid paying rebates to policyholders. This seems to be the case this year, as rebates to consumers have dropped by about 50 percent.

Democrats ramp up outreach: Recent surveys suggest most Americans have very little understanding of the changes in insurance availability that will arrive next year. Congressional Democrats have teamed up with the Administration to get the word out in advance of the October opening of the state insurance exchanges. Administration officials have worked with legislative office to create “toolboxes” to help staffers answer constituent questions and to respond to GOP “myths” about the new reforms.

CMS Websites for ACA Implementation: As a reminder, CMS has created two websites to help both consumers and healthcare providers understand how the program will work.

Consumer Site: www.healthcare.gov
Provider Site: www.marketplace.cms.gov