Health Reform Implementation: Regulatory & Timeline Challenges

Joshua Goldberg
Health Policy & Legislative Advisor
National Association of Insurance Commissioners

August 8, 2011
### Implementation Timeline

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Temporary High Risk Pool Program</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Temporary Reinsurance Program For Early Retirees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Immediate Reforms:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• No Lifetime Limits</td>
<td>• Extended Dependent Coverage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Restricted Annual Limits</td>
<td>• Internal/External Review</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Restrictions on Rescission</td>
<td>• No Pre-Existing Conditions for Children</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• First Dollar Coverage of Preventive Services</td>
<td>• Disclosure of Justifications for Premium Increases</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Medical Loss Ratios with Rebates</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Market Reforms</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Guaranteed Issue</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• No Pre-Existing Condition Exclusions for Adults</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Rating Rules</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Essential Benefits Plans</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• No Annual Limits for Essential Benefits</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Exchanges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Subsidies</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Individual/Employer Mandates</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Co-Op Plans &amp; Multistate Plans</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Risk Adjustment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Individual Market Reinsurance Program &amp; Risk Corridors</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Early Challenges

- **Child-Only Coverage**
  - Some or all carriers in most states have halted new sales of child-only policies.
    - States have enacted laws and regulations in response:
      - Establishing open enrollment periods
      - Requiring sales to children
    - No problems in guaranteed-issue states

- **Medical Loss Ratios**
  - 14 states have applied for adjustments, 5 approved to date, 1 rejected
  - Insurers have been reducing producer commissions in response to MLR requirements
    - Congress is discussing potential revisions to MLR formula in response

- **Annual Limits**
  - This could force limited benefits plans out of the marketplace or lead to large premium increases for these plans.
  - HHS is issuing waivers to limited benefits plans to allow them to remain in the market.
  - 4 states have received waivers for laws or programs that require or encourage insurers to offer limited plans.
### Implementation Timeline

<table>
<thead>
<tr>
<th>Year</th>
<th>Temporary High Risk Pool Program</th>
<th>Temporary Reinsurance Program For Early Retirees</th>
<th>Immediate Reforms:</th>
<th>Medical Loss Ratios with Rebates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>✔</td>
<td>✔</td>
<td>• No Lifetime Limits</td>
<td>• Extended Dependent Coverage</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Restricted Annual Limits</td>
<td>• Internal/External Review</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Restrictions on Rescission</td>
<td>• No Pre-Existing Conditions for Children</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• First Dollar Coverage of Preventive Services</td>
<td>• Disclosure of Justifications for Premium Increases</td>
</tr>
</tbody>
</table>

### Market Reforms
- Guaranteed Issue
- No Pre-Existing Condition Exclusions for Adults
- Rating Rules
- Essential Benefits Plans
- No Annual Limits for Essential Benefits

### Exchanges

### Subsidies

### Individual/Employer Mandates

### Co-Op Plans & Multistate Plans

### Risk Adjustment

### Individual Market Reinsurance Program & Risk Corridors
2014 Challenges: Market Reforms

• Adverse selection
  – Guaranteed Issue/Modified Community Rating
  – No Preexisting Condition Exclusions
  – Single Risk Pool

• Will the Mandate be effective?
  – $295 / 2.5% of income penalty
  – $4200 annual premium

• How effective will reinsurance, risk adjustment and risk corridors be?
Small Group Premium Variation

*Note: Michigan HMOs and Blue Cross/Blue Shield are restricted to 3.12:1 maximum variation. All others may use 3.96 maximum variation.
Individual Market Rating

Rating Bands

Hybrid
Michigan Blue Cross/Blue Shield must use community rating.
There is no rating structure for other carriers.
2014 Challenges: Fuzzy Market Boundaries

PPACA and Regulations change and blur the boundaries between market segments

– Small group market expands from 2-50 to 1-100
  • Counting rules will change
  • Different counting rules may apply for different provisions

– Employer may remain in small group market when it grows beyond upper limit
2014 Challenges: Exchanges

- Time
- Money
- Regulatory Issues
Exchanges: Time

- Coverage through Exchanges must be effective January 1, 2014
- Exchanges must be up and running for initial open enrollment October 15, 2013
- HHS must certify that the State will be able to meet this timeframe by January 1, 2013
Exchange Implementation Timeline

- 2010: Planning & Establishment Grants
- 2010: Federal Policymaking
- 2010: IT Systems Architecture
- 2011: State Legislation and Regulations
- 2011: Federal Rulemaking
- 2011: Federal & State IT Buildouts
- 2012: Exchange Certification
- 2012: QHP Certification
- 2013: Outreach & Education
- 2013: Enrollment
- 2014: Coverage Effective
Exchanges: Money

- Federal grants will fund establishment of Exchanges through 2014.
- How will they be funded after 2015?
- How will Navigators be funded in 2013 and 2014?
Exchange Regulatory Issues

- Preemption
- Employee Choice
- Multi-State Plans
Exchanges: Preemption

- If states do not establish Exchanges, the Federal government will.
- Federal government would conduct Medicaid and CHIP eligibility determinations, impacting state budgets
- Could cause some regulatory challenges:
  - Coordination between state and federal government
  - Federal government intervening in state insurance markets
Exchanges: Employee Choice

- Employer selects tier of coverage
- Employee selects QHP within that tier

- States may allow employers to select other methods of plan selection:
  - Traditional composite employer plan
  - Employee selects plan from any tier of coverage
Multi-State Plans (MSPs)

- US OPM will contract for plans to be sold nationwide through Exchanges
  - Must be licensed in each state and follow all state laws not inconsistent with MSP provision
- BUT...
  - MSPs will be deemed qualified for Exchanges
  - Contracting process will be similar to FEHBP
  - All other plans are exempted from any state or federal requirement that MSPs are not subject to
MSP Concerns

• Preemption
• Solvency
• Pooling of Risk
• Consumer Assistance
NAIC Work

• Models
  – Early reforms
  – Exchanges
  – 2014 market reforms

• Exchange white papers
  – Governance
  – Financing
  – Adverse Selection
  – Role of Producers and Navigators

• SERFF support for states
LATEST NEWS: NAIC APPROVES FORM FOR MLR FINANCIAL REPORTING REQUIREMENTS.
The National Association of Insurance Commissioners (NAIC) Executive Committee/Plenary adopted final implementation of a Blanks Proposal reflecting changes required to implement the Patient Protection and Affordable Care Act (PPACA). [Read the full release.]


Health Care Reform (PPACA) Issues - Master Issue Resolution Document (IRD) [PDF] [updated 8/10/10] For more recent updates to individual issues see the Advance Call and Meeting Material section of the Accident and Health (LHATF) Working Group page.

For all conference calls and meetings, including those on health care reform implementation go to:

Media Inquiries: Communications Division
(816) 783-8909
news@naic.org
Questions?

Brian Webb
Manager
Health Policy and Legislation
bwebb@naic.org
202-471-3978

Jolie Matthews
Senior Health & Life Counsel
jmatthew@naic.org
202-471-3982

Josh Goldberg
Health Policy and Legislative Advisor
jgoldberg@naic.org
202-471-3984