The Affordable Care Act: Deadlines and Options for States

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Temporary High Risk Pool Program

Immediate Reforms:
- No Lifetime Limits
- Extended Dependent Coverage
- No Pre-Existing Conditions for Children
- Disclosure of Justifications for Premium Increases

Immediate Reinsurance Program for Early Retirees

Temporary Reinsurance Program:
- No Lifetime Limits
- Restricted Annual Limits
- Restrictions on Rescission
- First Dollar Coverage of Preventive Services

Medical Loss Ratios with Rebates

Medical Loss Ratio Rebates

Market Reforms:
- Guaranteed Issue
- Extended Dependent Coverage
- No Pre-Existing Condition Exclusions for Children
- Disclosure of Justifications for Premium Increases

Exchanges

Subsidies

Individual/Employer Mandates

Co-Op Plans & Multistate Plans

Risk Adjustment

Individual Market Reinsurance Program & Risk Corridors

Implementation Timeline

**Healthcare Reform – So Far**

- September 23, 2010 Immediate reforms:
  - lifetime and annual limits
  - internal and external review
  - no pre-ex for children under age 19
  - child coverage up to age 26
  - coverage of preventive benefits
- Temporary High-Risk Pools
- Rate Review Standards
- Medical Loss Ratios with Rebates
- Summary of Benefits and Coverage

**Upcoming Deadlines of Note**

- Essential Health Benefits – Actuarial Value
  - EHB Choices Published November 26, 2012
  - States Have Until December 26, 2102 to Comment
- Exchanges
  - Application for State-Based Exchange: Dec 14, 2012
  - Secretary decision by January 1, 2013
  - Application/MOU for Partnership: Feb 15, 2013
  - Carriers begin submitting applications: March 28, 2013
  - State recommendations: July 31, 2013
  - Exchange sales begin October 1, 2013
Comment Deadlines of Note

- Comments on Market Reform Regs due December 26, 2012
- Comments on EHB/AV/Accreditation Regs due December 26, 2012
- Comments on Payment Parameters due December 31, 2012
- Comments on Multi-State Reg due January 4, 2013

What We Are Waiting For

- Federal Exchange Details
  - Standard Operating Procedures
  - Partnership Guidance – Memorandum of Understanding Template
- “The Hub” – link to federal agencies
- Medicaid Guidance
Key Decisions for States

- Essential Health Benefits Benchmark
- Temporary Reinsurance Program
- Exchanges
- Enforcement of 2014 Market Reforms
- Other Market Reforms
- Medicaid
- Innovation Waivers

Essential Health Benefits Options

- A State may review the EHB Benchmark published in the Federal Register on November 26, 2012, and suggest modifications by December 26, 2012.
- A State may choose the benchmark from the following options:
  - Three largest small group plans (1Q 2012)
  - Three largest FEHBP plans
  - Three largest State Employee plans
  - Largest non-Medicaid HMO
- A State may suggest changes to the Federal choice
- State mandates adopted before 2012 are part of the Benchmark, as applied to the market in State law
### Temporary Reinsurance Options

- State may choose to operate the temporary (3-year) reinsurance program
  - Each state will receive an allotted amount from the national pot ($10 billion in 2014) which will be collected from all markets
  - A state may choose a reinsurance entity and the parameters for payments to individual market

- State may allow Feds to set parameters and make payments

### Exchange Options

- Federally Facilitated Exchange
  - Feds set standards and operate the Exchange
  - Will state assist? Will state determine Medicaid eligibility?

- Partnership
  - Feds operate Exchange, but state makes many key decisions and may do plan management and/or some consumer assistance

- State Exchange
  - State operates Exchange
  - Determining eligibility for subsidies may be optional
**Enforcement Options: 2014 Market Reforms**

- Guaranteed Issue
- No Pre-Existing Condition Exclusions for Adults
- Rating Rules
  - No health status
  - 3:1 max variation for age
  - 1.5:1 maximum variation for tobacco use
  - Geographic adjustment
  - Family size
- Single Risk Pool Requirement

**2014 Market Reforms: Benefit Design & Cost-Sharing**

- Individual and small group plans must include EHBs. Large group and self-insured plans may not have annual or lifetime limits on EHBs.
- Discrimination in benefit design prohibited
- Cost-sharing level:
  - Bronze = 60% actuarial value
  - Silver = 70% actuarial value
  - Gold = 80% actuarial value
  - Platinum = 90% actuarial value
  - Catastrophic Plan
Preemption

Provisions of PPACA will potentially preempt state laws.

Similar to HIPAA:

Nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.

PPACA §1321(d)

Exceptions:

- Grandfathered plans: States may not require grandfathered plans to be pooled with post-reform plans.

Preemption Analysis

Does plan cover mental health?

Yes, per state law  
No

Plan violates state law. Federal law does not apply  
Plan is in compliance with state and federal law  

State law preempted. HHS ENFORCES

Does plan apply same terms and conditions?

Yes  
No, plan caps benefits, per state law  
Plan violates Federal law
Other Market Reform Options

- States may consider other reforms to meet overall goals, such as:
  - Open enrollment period in outside market
  - Certification of navigators
  - Education of agents and brokers
  - Stop loss reforms
  - Limited benefit plan reforms
  - Additional requirements

Innovation Options

- States may apply for state innovation waivers to implement alternative means for achieving the same policy goals as the ACA
- This includes waivers for the individual and employer mandates, health insurance exchanges, premium subsidies, and cost-sharing reductions.
- These waivers would go into effect in 2017, though legislation has been introduced and endorsed by the administration that would move the effective date of the state innovation waivers up to 2014.
Medicaid Options

- Who determines eligibility?
- Supreme Court decision broadened options
  - Expand under ACA?
  - Not Expand under ACA?
  - Expand under Old Program?
  - Other Options?
- Guidance needed from CMS

NAIC Activities

- Upgrade the SERFF System
- White Papers on Plan Management
- Market Conduct Updates
- Model Laws and Regulations
Questions???

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