States Implement Health Reform

January 2011

Consumer Assistance Programs: Federal and State

Overview

Private market health insurance can be straightforward for some people, but for others it can be complex and intimidating. This is especially true for those seeking first-time coverage, those with a changing family structure or jobs, or those facing a new medical diagnosis. Some states have provided consumer assistance offices internally or with an independent "ombudsman" that can provide legal advice or challenge another agency's interpretation. The 2010 health reform law provides federal authorization, funding and sets basic requirements; it does not preempt states from using existing structures or offering additional services. Another federal law establishes a state-based independent patient appeals process for those already enrolled.

Key Federal Provisions

The 2010 Affordable Care Act (ACA, in section 1002) requires that, effective immediately in 2010, the secretary of Health and Human Services will award grants to states to enable them to establish, expand or provide support for a state-based office of health insurance consumer assistance or health insurance ombudsman.[1] Beginning in 2014 the state-based health benefit exchanges will assume this function.

The ACA appropriated $30 million in federal funds for the first fiscal year of the program and authorized for "such sums as necessary" in subsequent fiscal years. To receive a grant, a state must designate an independent consumer assistance or ombudsman office that will directly, or in coordination with state health insurance regulators and consumer assistance organizations, receive and respond to inquiries and complaints concerning health insurance coverage. The state-sponsored offices will:

- Help file complaints and appeals;
- Help consumers with enrollment in a group health plan or health insurance coverage;
- Resolve problems related to obtaining premium tax credits; and
- Collect, track and quantify problems and inquires annually.[2]

State executive agencies took the lead to submit 2010 grant applications and in proposing creation or expansion of consumer offices.

State and Legislature Roles

The federal government invited all states and territories to apply for grants, which were awarded October 19, 2010, to 35 states and five territories that submitted applications. HHS's announcement stated that these new grants "will allow states, who are in some cases partnering with local nonprofits, to help strengthen and enhance ongoing efforts in the states and local communities to protect consumers."

A state legislature could choose to authorize a new consumer office by statute. The state budget could earmark state funds or appropriate available federal funds. The legislature could specify which agency will administer the state-run program (for example, a department of insurance, an independent ombudsman or advocate office, the attorney general or state auditor) and specify the number of workers assigned to the program. A legislature also could decline or restrict state involvement in the federally specified program.

Funding Issues

So far 35 states have federal funding to develop consumer assistance programs. Existing state programs and federally funded programs can be flexible in their size, scope and costs. Costs for services such as hotlines, consumer brochures, or advertisements and personnel likely can be shared among federal and other budgeted funds. Nonprofit organizations can be under contract to provide direct services, which could include volunteers or donated services. Each participating state needs a formal agreement with HHS specifying the extent of such services.

State Experience and Actions

For the past decade, at least 15 states have operated individual health insurance ombudsman or consumer assistance programs. Examples of initiating states are noted by year in the following table.[3]

State-by-State Roles in Consumer Assistance

State/Year	=Applied	2010 grant	State/Year	=Applied	2010 grant
AR -	☑	$297k	NC '01	☑	$850k
CA '00	☑	$3,400k	OH -	☑	$1,100k
			OK -	☑	$415
CT '99	☑	$397k	OR -	☑	$400
DE -	☑	$142k	PA -	☑	$1,100k
FL '96			RI '99	☑	$150k
GA '99	☑	$822k	SC -	☑	$441k
IL '99	☑	$1,454k	TN -	☑	$580k
IA -	☑	$314k	TX '99	☑	$2,792k
KS -	☑	$270k	UT '99		
KY '08*	☑	$215k	VT '98	☑	$135k
ME '98	☑	$135k	VA '99	☑	$830k
MD '99	☑	$599k	WA -	☑	$648k
MA '00	☑	$743k	WV -	☑	$205k
MI -	☑	$900k	WI -	☑	$637k
MN '98*			-----		
MS -	☑	$266k	**District and Territories**		
MO -	☑	$672k	American Samoa	☑	$120k
MT -	☑	$150k	District of Columbia	☑	$150k
NV '99	☑	$240k	Guam	☑	$150k
NH -	☑	$150k	Puerto Rico	☑	$397k
NJ '00	☑	$888k	Virgin Islands	☑	$140k
NM -	☑	$266k			
NY -	☑	$1,760k	*(* = limited use prior to 2010)*		

Key

Year = State program enacted prior to 2010

= State applied for and granted federal start-up funds

2010 grant = funds approved for year one program on Oct. 19, 2010.

An operational example: Connecticut

In 1999, Connecticut established an Independent Office of the Healthcare Advocate.[4] The office describes its function as focusing "on assisting consumers to make informed decisions when selecting a health plan; assisting consumers to resolve problems with their health insurance plans; and identifying issues, trends and problems that may require executive, regulatory or legislative intervention." Before it received federal funds, the program provided a detailed Q & A about consumer rights within federal reforms and had its own state-initiated guidance about prescription drug benefits and managed care. In 2009, the state office reported helping 2,300 consumers, resulting in $6.7 million "back into the pockets of healthcare consumers." For 2010-2011, Connecticut will earmark new federal funds for three new case managers, including a nurse consultant, an insurance examiner and a clinical social worker, hire an outreach coordinator and schedule meetings around the state.

HHS reported that in 2009 another state recovered more than $20 million for aggrieved consumers. A third state used mediation to help overturn or modify 69 percent of insurer medical necessity denials and secure payments of more than $1.4 million."[5]

Resources

U.S. DHHS has a summary of how each state or territory will use the new resources; http://www.healthcare.gov/news/factsheets/capgrants_states.html

NCSL Web-based report, "Managed Care Ombudsman, Report Cards and Profiles," http://www.ncsl.org/default.aspx?tabid=14337

Connecticut's Office of the Healthcare Advocate website, http://www.ct.gov/oha/site/default.asp

Description of the federal grant awards and process, #CA-CAP-10-002, http://www.grants.gov/search/

Notes

1. Section 1002 of the Patient Protection and Affordable Care Act (PPACA), Pub. L. 111–148 adds Section 2793 to the Public Health Service Act. The law states, "effective on enactment."

2. Congressional Research Service, *Private Health Insurance Provisions in PPACA*, CRS-7-5700 (Washington, D.C.: CRS, May 2010).

3. Congressional Research Service, Private Health Insurance Provisions in PPACA, CRS-7-5700 (Washington, D.C.: CRS, May 2010); *How States Are Using New Resource to Give Consumers Greater Control of their Health Care*. (Washington, D.C.: HHS, Oct. 16, 2010) http://www.healthcare.gov/news/factsheets/capgrants_states.html.

4. Conn. Gen. Stat. §38a-1041; HB7032, 1999.

5. HHS Office of Consumer Information and Insurance Regulation, *Consumer Assistance Program Grants: Helping States Give Consumers Greater Control of their Health Care* (Washington, D.C.: HHS, Oct. 16, 2010); http://www.healthcare.gov/news/factsheets/cap_grants.html.

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