

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HEALTH CARE REFORM REVIEW COMMITTEE

Tuesday, July 9, 2013
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative George J. Keiser, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives George J. Keiser, Alan Fehr, Robert Frantsvog, Kathy Hogan, Nancy Johnson, Jim Kasper, Alex Looyesen, Karen M. Rohr; Senators Tyler Axness, Spencer Berry, Oley Larsen, Tim Mathern, Dave Oehlke

Members absent: Representatives Rick Becker, Eliot Glassheim

Others present: Representative Marvin E. Nelson, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

Chairman Keiser welcomed committee members and encouraged committee members to actively participate in designing the meeting agendas for the interim. He said the committee study charges focus on two primary issues--the impact and future development of the federal Affordable Care Act (ACA) and the consideration of what may be the best health care delivery model for North Dakota. He called on Committee Counsel to review the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

BLUE CROSS BLUE SHIELD OF NORTH DAKOTA

Chairman Keiser called on Ms. Megan Houn Smith, Director of Government Relations, Blue Cross Blue Shield of North Dakota (BCBSND), to introduce Mr. Luther Stueland, Director of Health Policy and Exchanges, Blue Cross Blue Shield of North Dakota. Mr. Stueland gave a computer presentation ([Appendix B](#)) of some of the key provisions of the ACA.

In response to a question from Representative Hogan, Mr. Stueland said approximately 75 percent of BCBSND's group plans have grandfathered status under the ACA.

In response to a question from Senator Larsen, Mr. Stueland said he is not certain what to expect for future premium increases for the grandfathered plans; however, the nongrandfathered plans have experienced slightly higher premium increases due to the addition of preventative care services. He said he does not know how the market will react in the future, although he expects the impact of the risk pools will play a role in the market.

In response to a question from Senator Oehlke, Mr. Stueland said insurers are not required to but are allowed to use tobacco use as a rating factor. He said if an insured were dishonest in reporting tobacco usage, he does not think the insurer would be allowed to deny coverage for a smoking-related condition; however, the insurer may be able to collect the higher premium for that entire contract year.

In response to a question from Representative Frantsvog, Mr. Stueland said under the ACA, an employer will be able to choose its contribution strategy; however, if that employer has a grandfathered plan, changes in contribution strategy may jeopardize that grandfather status.

In response to a question from Senator Larsen, Mr. Stueland said BCBSND does not have data regarding employers' contribution strategy, other than that the employers comply with the insurer's requirement to contribute at least 50 percent of the premium.

In response to a question from Senator Oehlke, Mr. Stueland said the ACA provisions provide for special cost-sharing assistance for health care coverage for Native Americans. He said members of federally recognized

tribes who do not have insurance through an employer and have income that does not exceed 300 percent of the federal poverty level will qualify for 100 percent coverage, without out-of-pocket expenses, regardless of whether the medical services are provided through the Indian Health Service. However, he said, if the enrolled member's income exceeds 300 percent of the federal poverty level, the enrolled member will be subject to normal cost-sharing requirements for health services provided outside of the Indian Health Service.

In response to a question from Representative Hogan, Mr. Stueland said the number of North Dakotans who will be eligible and use the advance premium tax credit (APTC) will depend on a variety of factors, including the effectiveness of public education, the status of the employer mandate, and the actions of employers. Representative Hogan reported she is concerned whether the public education piece will be effective. Mr. Stueland said the federal government has incentive to educate the public, as will the navigators. Additionally, he said, BCBSND is actively helping to educate the public and employers.

In response to a question from Senator Axness, Mr. Stueland said that yes, the health benefit exchange should help to inform applicants of eligibility of premium assistance as well as cost-sharing assistance.

In response to a question from Representative Kasper, Mr. Stueland said the application deadline has passed to apply for navigator grants from the federal government, and he expects the awards will be announced in August. He said his understanding is the role of a navigator is to provide information regarding the health benefit exchange, but the role is not to focus on enrollment. He said he did not know whether there would be penalties for a navigator providing incorrect information.

Representative Keiser reminded committee members that the interim bill considered and killed during the 2011 special session would have addressed how navigator services were provided in North Dakota in a manner that would have worked for North Dakota.

Representative Kasper said at a future meeting he would like to receive information regarding whether the ACA provides consequences if a navigator provides false information.

In response to a question from Senator Mathern, Mr. Stueland said a change in income would be a change of circumstances and would be a qualifying event that would allow that individual to revise the APTC.

In response to a question from Representative Keiser, Mr. Stueland said he is not in a position to disclose the details of the BCBSND federally filed plans due to propriety information; however, in order to qualify to file plans on the health benefit exchange, the insurer is required to include the essential health benefits in the plans and to offer at least one gold and one silver plan.

Senator Oehlke said a recent volunteer event on the Spirit Lake Reservation brought to his attention the unmet dental needs of children on the reservation. He said with pediatric dental services being one of the essential health benefits, there will be a huge increase in patients seeking dental services. He questioned how this need will be met. Mr. Stueland said pediatric dental benefits will apply to the nongrandfathered plans, and he expects this will result in an increase in demand and initially there may not be the capacity to meet this demand.

Chairman Keiser said workforce for health care delivery will be an issue for this committee to address at future meetings.

In response to a question from Representative Fehr regarding the impact of preventative services, Mr. Stueland said he is not aware of any solid studies and data on the long-term effects preventative services may have on health and health insurance premiums.

In response to a question from Representative Keiser, Mr. Stueland said at this time BCBSND will not be offering split-billing for its group plans to allow for premiums to be paid by more than one employer, but this may be allowed at some point in the future.

In response to a question from Senator Berry, Mr. Stueland said although employers are allowed to consider a variety of factors, he is not aware of any health-related factors other than tobacco use the employer is allowed to use. Additionally, he said, for federally administered health benefit exchanges, the federal government has announced a one-year delay in the availability of the Small Business Health Options Program (SHOP), which when implemented will allow small businesses to allow employees to choose from a range of health care options. He said SHOP is expected to be available beginning with the 2015 plan year.

DEPARTMENT OF HUMAN SERVICES

Chairman Keiser called on Ms. Maggie Anderson, Executive Director, Department of Human Services, for testimony regarding the Medicaid expansion components of the ACA and the status of North Dakota's implementation of these components.

Ms. Anderson stated in accordance with 2013 House Bill No. 1362, the department is moving forward with Medicaid expansion. She said the department is in the process of working with the federal Centers for Medicare and Medicaid Services (CMS) vendor to prepare the request for proposal (RFP) for a private carrier to provide the expanded coverage.

In response to a question from Representative Keiser, Ms. Anderson said the timelines the department has set are designed to allow the department to deal with the potential situation of no bids being submitted on the RFP.

In response to a question from Senator Mathern, Ms. Anderson said the department is in the process of modernizing the eligibility system, and it is her expectation that Medicaid applicants will use this online service. She said for a noncomplicated application, the application experience is expected to take approximately 20 minutes. Additionally, she said, the department will be working with county social services staff to address how to deal with in-person applicants. She said, North Dakota applied for and received a waiver for Medicaid and children's health insurance program (CHIP) renewals which will be in effect from January through March 2014--to free up staff to address the expected influx of applicants.

Ms. Anderson said although it may be possible to include a provision in the RFP that a successful bidder is required to assist applicants in the application process, due to the tight timelines the department is facing, inclusion of this service does not seem feasible for this first RFP.

In response to a question from Representative Hogan, Ms. Anderson said the most recent statistics indicate there may be 20,000 or more newly eligible under the Medicaid expansion. She said the ACA allows hospitals to follow "presumptive eligibility" so coverage will begin on the day of application, so the hospitals will likely be a point where many people access the health benefit exchange and are determined to be Medicaid-eligible. Additionally, she said, the United States Department of Health and Human Services (HHS) recently issued rules that she expects address the issue of the expanded Medicaid coverage of "three months prior" coverage.

In response to a question from Representative Keiser, Ms. Anderson said the administrative costs of the state's Medicaid expansion likely will be covered under the current 50 percent federal reimbursement arrangement. However, she said, under the current system, the local governments pay the remaining 50 percent for the administrative costs, and it is possible the department will pass through to the counties the 50 percent federal reimbursement the department receives.

Chairman Keiser called on Ms. Jenny Witham, Director, Information Technology Services Division, Department of Human Services, for testimony ([Appendix C](#)) regarding the status of the Medicaid and CHIP eligibility system and how this system will be incorporated into the health benefit exchange.

In response to a question from Representative Hogan, Ms. Witham said the new application portal will be accessible for all applicants to use and will not be limited to use for Medicaid expansion. She said she expects it to be similar to the current online application process.

Ms. Witham said it is unknown whether the federally administered health benefit exchange will be ready to accept our new system when registration begins October 1, 2013; however, the department is working on contingencies if the health benefit exchange is not ready to share this information with the department.

Ms. Witham said the department is in the process of determining whether the portal will also allow applicants to be found eligible for other types of assistance, such as food stamps. She said the goal is to allow for these multiple eligibility determinations.

In response to a question from Senator Mathern, Ms. Witham said the department has not calculated how much it will cost to assist an applicant for assistance, but she can look to see if this data is available. She said the navigators should help to provide assistance to Medicaid applicants, but under today's system the counties are the first line to provide this service.

In response to a question from Representative Keiser, Ms. Witham said North Dakota is in the fourth testing group for testing the state's interface with the federally administered health benefit exchange. She said of the

\$42 million appropriation for full modernization of the department's eligibility system, Phase One has cost \$2.5 million.

INSURANCE DEPARTMENT

Chairman Keiser called on Ms. Rebecca Ternes, Deputy Insurance Commissioner, Insurance Department, to provide an overview ([Appendix D](#)) of the department's implementation of the ACA and a status report on the ACA.

In response to a question from Representative Hogan, Ms. Ternes said the federal government has confirmed the states are allowed to change the administration of the states' health benefit exchanges; therefore, at some future point, North Dakota could change to administration through a partnership model or through a state-administered model. Representative Keiser pointed out there are deadlines for applying for federal funds to establish a state-administered health benefit exchange, and if North Dakota changed models in the future, there may not be any federal money available to design the state exchange.

Senator Mathern requested that at a future meeting the committee see a mock run of the state's health benefit exchange and essential health benefits.

COMPUTER PRESENTATIONS

Chairman Keiser gave a computer presentation ([Appendix E](#)) of HHS's slides "The Health Insurance Marketplace 101." He called on Committee Counsel to give a computer presentation ([Appendix F](#)) of the National Conference of State Legislatures (NCSL) slides "NCSL's Top Issues of 2013."

QUALITY IMPROVEMENTS

Chairman Keiser called on Mr. Tim Blasl, North Dakota Hospital Association, for introductory remarks regarding quality measurement provisions in the ACA. Mr. Blasl introduced Ms. Barb Groutt, Chief Executive Officer, North Dakota Health Care Review, Inc., for comments regarding the past, current, and future status of quality improvement efforts in North Dakota. Ms. Groutt gave a computer presentation ([Appendix G](#)).

In response to a question from Representative Keiser, Ms. Groutt said using recent data, in North Dakota the annual amount of the 1 percent federal withholding from prospective payment system (PPS) hospital diagnosis-related group (DRG) payments for Medicare range from \$200,000 for the lowest-scoring hospital to \$50,000 for the smallest withholding.

In response to a question from Senator Berry, Ms. Groutt explained the DRG payments for Medicare are based on the patient's diagnosis and are not based on the actual services provided.

In response to a question from Senator Larsen, Ms. Groutt said she does not have statistics regarding the hospital readmission rates related to mental health issues.

In response to a question from Senator Oehlke, Ms. Groutt said the hospital satisfaction surveys are performed following hospital discharge and or typically performed via mail or telephone.

Senator Berry commented that data shows the highest percentage of health care costs are incurred at the end of life. He said one way to reduce these end-of-life health care costs is to not deliver the health care, perhaps through discussions ahead of time with the patient regarding the patient's wishes and regarding hospice options. He said he thinks it is possible to enhance the quality of care patients receive while still addressing cost issues. Ms. Groutt said data indicates there is underutilization of home health care and hospice services in North Dakota.

BACKGROUND

Chairman Keiser called on Committee Counsel to present the background memorandum "*Health Care Reform Review Committee - Background Memorandum*" ([Appendix H](#)).

Chairman Keiser said at the next committee meeting he is considering addressing the issues of the health provider workforce, quality measurements for hospitals which are unique to North Dakota, prevention programs, essential health benefits, and insurance products.

Senator Mathern said it may be valuable to contact the University of North Dakota School of Medicine and Health Sciences to discuss workforce. He said perhaps the committee could hold a future meeting in Grand Forks.

Representative Hogan said at future meetings she would like to receive additional information regarding navigators and enrollment issues.

Senator Mathern said as the ACA is impacted, there may be an impact on other state programs, and perhaps some of these programs will not be used as much once needs are met under the ACA. As the ACA is further implemented, it would be helpful to request information regarding utilization of state programs.

No further business remaining, Chairman Keiser adjourned the meeting at 4:00 p.m.

Jennifer S. N. Clark
Committee Counsel

ATTACH:8