

## Vermont Exchange Advisory Group Meeting 6

October 24, 2011

### MINUTES

**Present:** Peter Sterling and Donna Sutton Fay (VT Campaign for Health Care Security), Trinka Kerr (VT Health Care Ombudsmen), Leigh Tofferi and Catherine Hamilton (Blue Cross and Blue Shield of Vermont), Floyd Nease (Vermont Association for Mental Health), Danielle Hibbard (Bi-State Primary Care Association), Senator Claire Ayer, , Senator Sally Fox, Representative Michael Fisher, Cassandra Gekas (Vermont Public Interest Research Group), Sonia Tagliento (MAXIMUS), Susan Gretkowski (McLean, Meehan and Rice for MAXIMUS and MVP), Heather Shouldice and Cheri L'Esperance (William Shouldice and Associates LLC), Theo Kennedy and Anthony Otis (Otis and Brooks), Dr. Julia McDaniel (Chiropractor), Cory Gustafson (Vermont Association of Hospitals and Health Systems), Tasha Wallis (Vermont Retail Association), Betsy Bishop (Vermont Chamber of Commerce), Dr. Tim Tanner, Madeleine Mongan (Vermont Medical Society), Mark Hage (Vermont NEA), Bill Lambrukos (Delta Dental Plan of Vermont/Northeast Delta Dental), Peter Taylor and George Richardson (Vermont Dental Society), Lucie Garand (Downs, Rachlin and Martin), Michael Wall (Vermont Insurance Agents Association VIAA), Timothy Ford (VIAA and Hackett & Valine), Richard Davis (Vermont Citizens Campaign for Health), Kelly Stoddard (American Cancer Society), Nancy Metz (self), Andrea Cohen (Vermont Businesses for Social Responsibility), Craig Fuller (Employers Health Alliance),

**Staff and consultants:** David Mannis (Banking, Insurance, Securities and Health Care Administration, BISHCA), Betsy Forrest & Mark Larson (Department of Vermont Health Access, DVHA), Robin Lunge (Agency of Administration), Jennifer Carbee & Katie McLinn (Legislative Council), Nolan Langweil (Joint Fiscal Office), Brendan Hogan (Bailit Health Purchasing)

#### I. Introductions

Robin Lunge convened the meeting and participants introduced themselves.

#### II. Establishment Grant

Robin Lunge and Betsy Forrest gave an update on the Level 1 Health Care Exchange Establishment grant that was submitted to the federal government. The grant was submitted on 9/28/11. The funding from this health care exchange implementation grant will provide the state with funding effective 10/1/11 through 9/30/12. The grant abstract and narrative were previously shared by email with this group. Examples of areas that the grant will fund implementation work include: Call Center, Financial Management, SHOP exchange, Certification process, Outreach and Education, Data and Actuarial Analyses.

The State has a call with the federal government about the grant on 10/26/11. The state expects to hear the response to the grant request in November.

#### III. Comments on Exchange and Related Federal Regulations - Robin Lunge

Robin Lunge reviewed areas of the various current sets of proposed federal regulations that the state is planning to submit comments about by 10/31/11.

1. Tax Regulations/reconciliation process. When someone applies for a subsidy and is over or under income a reconciliation process occurs at tax time. If someone does not report income changes it can become an over or underpayment. Discussion followed about how often does an enrollee need to report and should the federal government consider a hold harmless provision for people who report and still have a liability. Another comment was made that everyone cannot be held harmless. A question was raised about what if there is a problem with this process who do people call and what is the appeal process. According to the proposed federal rules it would a call to the IRS to resolve these issues. An additional comment was made that it is the state's responsibility to help Vermonters resolve these issues in the future.

More comments from separate organizations are helpful. Comments can be made by going online to <http://www.regulations.gov/#!home> and searching for the appropriate Health Care Exchange proposed regulations.

2. The state is not planning on commenting on the Reinsurance, Risk Corridor and Risk Adjustment (the 3 R's) proposed regulations. A question was raised about what is the definition of a risk corridor. A risk corridor is another form of risk adjustment administered by HHS instead of the states. The American Cancer society did a good summary on the the 3 R's which can be found at the following website:

<http://www.acscan.org/pdf/healthcare/implementation/background/RiskAdjustment.pdf>

3. Exchange regulations:

- o One of the provisions in the exchange regulations allows a federal state partnership option. Vermont is not pursuing this option as Vermont wants to develop all functions in order to proceed from Health Care Exchange implementation as a starting point of moving towards implementing the single payer system in Vermont.
- o Navigator program. The regulations offer 7 different categories or types of people who could serve as a navigator. The federal government is requiring exchanges to select from at least 2 of the 7 categories.
- o Single streamlined application for Medicaid and the exchange
- o Initial enrollment period - from 10/1/13 through 2/28/14 for individuals. The effective date for the enrollment is the first day of the month (starting with 1/1/14). Discussion followed about COBRA qualifying event categories and comparisons to Medicare Part D.
  - Qualifying event categories for enrollment in exchange include:
    - Loss of job
    - Dependent status change - birth, death, marriage, divorce
    - Citizenship status change
    - Error in enrollment
    - Contract violation
    - Tax payment discrepancy
    - Move out of service area of plan
- o The initial enrollment period also indicates that if an enrollment is received on or before 12/22/13 or subsequent 22<sup>nd</sup> day of a month the enrollment would be effective by the first of the following month. The state will try to get statistics on enrollment into Medicare Part D.

- A comment/request was made that when the federal regulatory requirements are discussed, that Robin should indicate whether they are a ceiling or a floor requirement (maximum or minimum requirement).
  - A comment was made about whether the administration and the legislature should jointly submit comments. It was determined that the administration would submit comments, and in the future, if a specific legislative committee would like to submit comments, they would on behalf of that committee.
  - Several state staff and legislators attended an HHS listening forum on the regulations. HHS reminded everyone who attended that they need to HHS must receive written comments in order to react to any potential changes in the draft regulations.
  - The federal Office of Personnel Management is requiring that there be at least 2 multi- state plans. Vermont will comment on whether or not these plans will be subject to state insurance law and regulations, or whether the federal government is going to pre-empt those requirements.
  - Discussion also followed about encouraging the use and purchase of separate dental policies under the ACA.
4. Vermont will comment on the following areas:
- Office of Personnel Management plans – Vermont wants state insurance regulations to apply.
  - Open enrollment timeframes – Vermont wants the timeframes to be long enough to allow Vermonters to choose the right coverage, but with enough lead time to adequately enroll someone into a health insurance plan.
  - Bronze offering – Does the Vermont Healthcare Exchange have to include Bronze plans as a requirement or is it a floor that the state can exceed?
  - Vermont seeks flexibility to change its exchange to meet the single-payer implementation work as needed.
  - Vermont wants to connect exchange plan changes to Medicaid state plan changes.

#### **IV. Essential Health Benefits Update**

- Several documents were distributed to meeting participants:
  - Essential Health Benefits – Balancing Coverage and Cost – Institute of Medicine (IOM) report brief
  - Essential Health Benefits – Criteria – IOM
  - Healthcare.gov fact sheet from August 2011 – Affordable Insurance Exchanges: simple, seamless and affordable coverage – exchange eligibility and employer standards and the Affordable Care Act.
  - Treasury lays the foundation to deliver tax credits to help make health insurance affordable for middle-class Americans.
  - Comparison of Vermont’s State Mandated Services to Federally Mandated Services and Potential ACA Essential Health Benefits
- This last document in the list of documents was discussed in great detail at the meeting.
- The federal government has not come out with proposed federal regulations for the essential health benefits under the health care exchange. States all over the country need this information to help with the implementation aspects of health care exchange. The proposed regulations are expected in December 2011, but often it takes months for regulations to go from proposed regulations to final regulations, so states will need to work on implementation without this complete picture.

- Vermont will need to determine the cost of mandates without having this information, since the legislature in 2012 may need to determine which state-only mandates will continue to be covered and find appropriate funding to cover any mandates not funded by the federal government.
- Vermont expects that the current state mandate list can be divided into one of the following 3 categories:
  - Covered by the federal government
  - About a 50/50 chance of being covered by the federal government, or
  - Seems unlikely that the federal government will provide coverage.
- One attendee commented that when the state looks at the costs of mandates, it should look not only at the costs of increased rates to insurance companies, but also avoided costs by keeping a mandate (i.e. chiropractic services may reduce inpatient hospital costs).
- The state will comment on the essential health benefit regulations when they are released by the federal government, which could occur in December 2011.
- A comment was made that CMS is collecting input from all health plans now about essential health benefits prior to promulgating draft regulations.
- A comment was made that chiropractors are listed as probably not included based on oral statements from HHS, and that this should be updated in a revised version of this chart.
- A comment was made that section 7706 of PPACA talks about nondiscrimination clauses in PPACA, so that if two providers (such as chiropractors and primary care providers) are providing substantially similar services (such as evaluation and management services), exchange plans cannot discriminate against one provider over the other.
- Discussion followed about the fact that if a state has mandates that exceed the essential health benefits, the state would need to cover the costs of those mandates.
- Discussion followed about whether or not there would be a market outside of the exchange in Vermont.
- Comparisons were made to Medicare Supplemental plans where the benefits for specific plans are laid out by the federal government and can be compared across companies.
- Discussion followed about differences between Medicaid benefit requirements and essential health benefits.
- The mandate list will be reviewed to ensure that recent oral chemotherapy and children's vaccine mandates are listed.
- Discussion continued to remind everyone about the state reviewing the possibility of paying for both non-covered mandate expenses, as well as subsidizing the federal premium subsidies with a state subsidy

**V. Public Comment**

Questions were asked about the Basic Health Plan analysis, as well as the 5-options report and the status of each analysis and report.

The Basic Health Plan analysis is in process and the results will be brought to the Medicaid Advisory Board and the Exchange Advisory Board.

On the 5-options report, a presentation was made at a previous exchange advisory group outlining 5 different options for SHOP exchange design. Robin Lunge continues to meet with employer groups and human resource representatives to get input about the 5 options.

**VI. Next steps (Robin Lunge)**

**The next** Monthly Advisory Group meeting will be in the House Chamber of the Statehouse in Montpelier from 10-12 on Friday, November 18<sup>th</sup>.