

## **NHeLP's Capital Communique FEBRUARY 2010**

This issue is part of a series of periodic reports from the National Health Law Program's Washington office, reporting briefly on recent and forthcoming developments in federal policy of interest to NHeLP advocates and friends. We always appreciate your feedback and comments. Please send them to Deborah Reid at [reid@healthlaw.org](mailto:reid@healthlaw.org). For updates and information on NHeLP publications, go to <http://www.healthlaw.org>.

### **In this issue:**

#### **Status of Health Reform**

#### **President's FY 2011 Budget**

#### **Executive Agency Actions**

- Mental Health Parity
- HHS/CMS Appointment and Reorganization
- HHS Issues HIT Grants
- Children's Health Grants
- Children's Health Express Lane Eligibility

#### **Resources**

#### **Factoid**

#### **Announcement**

## **STATUS OF HEALTH REFORM**

On February 22, President Obama released his health reform proposal, in advance of the President's February 25 bipartisan summit on health reform. The plan includes a number of components from the House and Senate bills, and contains some new initiatives. The President's proposal:

- Allows states to expand Medicaid eligibility to non-elderly and non-disabled persons under 65 with income below 133 percent of the Federal Poverty Level (\$29,000 for a family of four), starting on January 1, 2014. The proposal also applies changes in income disregards (applicable to Medicaid and the Exchange) that will likely result in some current enrollees losing Medicaid and seeking insurance in the Exchange, where costs will be higher even with subsidies.

- Provides significant federal funding for the newly covered Medicaid enrollees. The federal government will pay 100 percent of the cost between 2014 and 2017; 95 percent between 2018 and 2019; and 90 percent thereafter. In addition, the plan raises Medicaid funding to the Territories even more than the Senate proposed. The proposal eliminates the special Medicaid federal matching fund that Sen. Ben Nelson (D-Neb.) obtained for Nebraska, and instead treats all states the same.

- Establishes the subsidies for the lowest income individuals seeking insurance in the Exchange. The amount an individual/family will have to spend on premiums is higher than either the House or Senate bill. For higher income people who receive subsidies, the President's proposal lowers their premium costs from the House and Senate legislation. The proposal also splits the difference on cost-sharing between the House and Senate bills, but many may face higher premiums and may be unable to purchase health insurance.
- Extends CHIP through FY 2019, with funding appropriated through FY 2016. Starting in FY 2016, the proposal would increase states' CHIP matching rate by 23 percent to help cover children. In contrast, the House bill eliminated CHIP, moving all CHIP enrollees into the Exchange on January 1, 2014, and the Senate bill extended CHIP only until 2015.
- Provides \$11 billion in funding for community health centers, which is a compromise between the Senate bill (\$8.5 billion - \$7 billion for services and \$1.5 billion for construction), and the House bill (\$12 billion).
- Reauthorizes the Indian Health Care Improvement Act, which provides health care services to American Indians and Alaskan Natives, to improve health care for this population and to update the Indian health care system.

The proposal does not change language on abortion restrictions currently in the Senate bill, nor include other provisions that were in the House and Senate bills addressing health disparities and language access, although the President does refer to developing standards for data collection to help address disparities. For more information on the President's proposal, [click here](#).

*Possible Action:* Those wishing to do so could encourage their members of Congress and the White House to support comprehensive health reform legislation that improves the health of low-income communities; addresses the health needs of women by meeting recognized standards of care with comprehensive family planning, abortion, and other health services; addresses racial, ethnic, and other health disparities; requires the provision of culturally and linguistically appropriate services; and equitably covers immigrants in Medicaid and the Exchange.

## **PRESIDENT'S 2011 BUDGET**

On February 1, President Obama released his budget proposal for Fiscal Year 2011. It includes funding for health reform legislation, as well as other measures to provide relief to states. The proposed budget for the Department of Health and Human Services includes:

- \$25.5 billion in additional federal funds through an increase in the federal Medicaid assistance percentages (FMAP) to states. The FMAP increase, enacted in the American Recovery and Reinvestment Act, is set to expire on December 31, 2010. Sens. Reid and Rockefeller have introduced bill S. 3000 to extend the enhanced match for six months. There is also discussion of including this extension in other legislation, such as the jobs bill (although it was not included in the bill passed by the Senate on February 24).
  
- \$79 million to sustain regional and local partnerships of rural health care providers, improve the quality of care and financial standing of rural hospitals, and increase the number of health providers in rural communities.
  
- \$169 million for the National Health Service Corps (NHSC) to locate health providers in medically underserved areas. NHSC pays a portion of the student loans of physicians, nurse practitioners, and dentists who provide care in these communities.
  
- Establishes a HHS high-priority performance goal of increasing enrollment in the Children's Health Insurance Program (CHIP) by more than 500,000 eligible children, or 7 percent from 2008 to 2011. HHS will identify strategies and departmental resources to meet this goal over the next two years.
  
- Funds demonstration projects to improve care coordination for Medicare and Medicaid beneficiaries with chronic conditions.
  
- Funds HIV/AIDS prevention programs that reinforce the Obama Administration's National HIV/AIDS strategy to reduce the incidence of HIV and increase access to care. The budget also funds HIV testing among high-risk groups, and supplements the Ryan White program that provides care and support services for individuals living with HIV/AIDS.

For further details on the President's FY 2011 budget, [click here](#).

## EXECUTIVE AGENCY ACTIONS

### *Mental Health Parity*

On February 2, HHS and the Departments of the Treasury and Labor issued interim final rules to implement the Paul Wellstone and Pete Dominici Mental Health Parity and Addiction Equity Act of 2008. The interim final rules require that group health plans and health insurance coverage provide parity in financial requirements and treatment between mental health or substance use disorders and medical/surgical benefits. The effective date of the interim rules is

April 5. For the interim final rules, [click here](#).

*Possible Action:* Those wishing to do so can submit comments by May 3.

### *HHS/Centers for Medicare & Medicaid Services (CMS) -- Appointment and Reorganization*

On February 17, Marilyn Tavenner was named as the new second-in-command of CMS, as the principal deputy administrator. Previously, Tavenner was the Secretary of Health and Human Resources for former Virginia Gov. Tim Kaine, and served as chairperson of the Virginia Hospital Association. In addition, CMS reorganized its structure to create an Office of External Affairs and Beneficiary Services and four "centers" lead by deputy administrators (Center for Medicare; Center for Medicaid, CHIP and Survey & Certification; Center for Program Integrity; and Center for Strategic Planning). Cindy Mann, Director of the Center for Medicaid and State Operations, transitions to Deputy Administrator of the Center for Medicaid, CHIP and Survey & Certification. The Center for Medicare will be headed by Deputy Administrator Jonathan Blum.

### *HHS Issues HIT Grants*

On February 12, HHS Secretary Kathleen Sebelius and Labor Secretary Hilda Solis announced almost \$1 billion in federal funds to increase the use of health information technology by hospitals and primary care physicians, and provide job-training skills to individuals in the HIT field. State and regional grant recipients will assist health providers in using electronic health records in a meaningful way to improve the provision of health care. \$386 million will go to 40 states and specific designated entities to improve state-level health information exchanges. Thirty-two nonprofit organizations will receive \$375 million to support the work of regional extension centers (RECs). RECs will offer technical assistance and guidance on the best practices to support at least 100,000 primary care health providers in becoming meaningful users of electronic health records and assist in creating a nationwide health information exchange. For more details on the HIT grants, [click here](#).

### *Children's Health Grants*

On February 22, HHS Secretary Sebelius announced \$100 million in federal funding to several states over a five-year period to improve health systems for children in Medicaid and CHIP. Some grants were awarded to individual states, while others were awarded to multi-state collaborations. In total, 18 states were provided with federal funding to help implement provider performance measures and use health information technology for pediatric electronic health records and other initiatives. For more information, [click here](#).

### *Children's Health Express Lane Eligibility*

On February 4, CMS issued a "Dear State Health Official" letter (SHO) addressing a state

option to establish simplification processes for enrollment in Medicaid and CHIP (enacted in the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA)). CHIPRA allows states to rely on information from state-designated agencies ("express lane" agencies) to determine one or more factors for Medicaid or CHIP eligibility. For example, a Medicaid or CHIP agency could establish an express lane relationship with Head Start or the Public Housing agency that requires income verification, and use the income information to determine Medicaid/CHIP eligibility. The SHO letter provides guidance to states on establishing relationships with other public agencies to streamline enrollment and re-enrollment. This provision of CHIPRA became effective on February 4, 2009. For a copy of the letter, [click here](#).

*Possible Action:* Those wishing to do so could contact your state Medicaid and/or CHIP agency to explore establishing express lane eligibility and enrollment processes.

## RESOURCES

New from NHeLP: "The Denial of Abortion Care Information, Referrals, and Services Undermines Quality of Care for U.S. Women." The report examines the medically recognized standard for providing quality reproductive health care in the United States, and how the omission of abortion information and services violates this standard. For additional information on the article, [click here](#).

A new article in *Health Affairs* documents that funding federally qualified health centers (FQHCs) reduced the numbers of uninsured persons. For every \$500,000 in federal grants that is given to FQHCs, the centers provide care for 540 more uninsured individuals. Anthony LoSasso and Gayle Byck, "Funding Growth Drives Community Health Center Services." For further information, [click here](#).

## FACTOID

The National Association of Free Clinics sponsored a one-day free medical clinic on February 3, which provided voluntary care to more than 1,000 uninsured people in Hartford, Connecticut, the "insurance capital of the world." Individuals were diagnosed and given a variety of health screening examinations and referrals for follow-up treatment to providers who offered free or sliding-fee scale services. [Click here](#) to read the complete story.

## ANNOUNCEMENT

After almost 10 years of serving as the Managing Attorney of the Washington, DC office of NHeLP, Steve Hitov has recently moved on to other career opportunities. While we will miss his expertise and his commitment to securing health rights of low-income communities, we certainly wish him well.

