

## **NHeLP's Capital Communique**

### **SEPTEMBER 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>.

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## **EXECUTIVE ACTION**

### *President's Request for FY 2011 Budget Amendments for HHS*

On August 20, President Obama sent a request to House Speaker Nancy Pelosi for FY 2011 budget amendments for HHS for an additional \$400 million in several areas. These additional funds would be for Health Resources and Services Administration (HRSA) health workforce training improvements, HRSA State AIDS Drug Assistance Programs (to address waiting lists for needed HIV/AIDS drugs), Centers for Disease Control and Prevention (CDC) initiatives for HIV/AIDS prevention and research, CMS state high-risk health insurance pools, and the Health Insurance Consumer Information account. The President noted that these funding amendments would not impact the discretionary budget authority in the FY 2011 budget. For the President's request [click here](#) . [Click here](#) for the Office of Management and Budget letter to the President on the FY 2011 budget amendments.

## **HHS UPDATES**

*HHS Interim Final Rule and Request for Comments -- Pre-Existing Condition Insurance Plan Program -- Due by September 28*

On July 30, HHS' Office of Consumer Information and Insurance Oversight (OCIO) issued interim final rules on the creation of a temporary high-risk health insurance pool to provide affordable health coverage for individuals with pre-existing health conditions. This will be known as the Pre-existing Condition Insurance Plan (PCIP) program, a federal program with fixed funding. The PCIP program is scheduled to continue until January 1, 2014, when the Exchanges created under the Patient Protection and Affordable Care Act (PPACA) begin. The interim final rule explains that the PCIP program does not impact existing state-based high-risk pools.

Moreover, the interim final rule reiterates statutory requirements for the PCIP program. Eligibility for the PCIP program is limited to U.S. citizens or nationals, or those "lawfully present" in the U.S. (as defined for CHIP in the July 1, 2010, CMS State Health Official letter. [Click here](#) for the letter). Individuals must also have not been covered under "creditable coverage" during the six-month period prior to applying for PCIP coverage, have a pre-existing condition as defined by HHS, and must be a resident of a state that is within the service area of a PCIP.

Required PCIP program benefits will be based on the essential benefits included in PPACA (although guidance has yet to be issued), as well as the most commonly covered services in existing state high-risk pools. Excluded services reflect those prohibited in the Federal Employees Health Benefit Plan, including current restrictions on federal funding of abortion services (with limited exceptions) as detailed in Executive Order 13535 and PPACA. Advocates remain concerned that individuals with chronic health conditions will be negatively impacted by not having access to coverage of excluded services in the PCIP program.

The interim final rule was effective July 30. Comments on the interim final rule must be submitted to HHS by September 28. [Click here](#) for the *Federal Register* notice.

*HHS Request for Comments on Exchange-Related Provisions of PPACA -- Due by October 4*

On August 3, HHS requested public comments on developing standards for creating and operating exchanges, and assisting states in planning their exchanges. HHS delineated specific topic areas for input including, but not limited to:

- Implementation Timeframes and Considerations -- What kinds of guidance or information would be helpful to states, plans, employers, consumers, and other groups or sectors as they begin the planning process?
- State Exchange Operations -- What specific planning steps should the exchanges undertake to ensure that they are accessible and available to individuals from diverse cultural origins and those with low literacy, disabilities, and limited English proficiency?
- Qualified Health Plans (QHPs) -- What factors are needed to facilitate participation of a sufficient mix of QHPs in the exchanges to meet the needs of consumers?

- Quality -- What factors are most important for consideration in establishing standards for a plan rating system?
- Enrollment and Eligibility -- How can eligibility and enrollment be effectively coordinated between Medicaid, CHIP, and exchanges?
- Outreach -- What kind of outreach strategies are likely to be most successful in enrolling individuals who are eligible for tax credits and cost-sharing reductions to purchase coverage through an exchange, and retaining these individuals?
- Consumer Experience -- What are some best practices in conveying information to consumers relating to health insurance, plan comparisons, and eligibility for other public health insurance programs (e.g., Medicaid)?
- Risk Adjustment, Reinsurance and Risk Corridors -- To what extent do states currently collect demographic and other information, such as health status, claims history, or medical conditions under treatment on enrollees in the individual and small group markets that could be used for risk adjustment?
- Economic Analysis, Paperwork Reduction Act, and Regulatory Flexibility Act -- What policies, procedures, or practices of plans, employers, and States may be impacted by the exchange-related provisions?
- Exchange Operations -- What other considerations related to the operation of exchanges should be addressed?

Comments must be submitted to HHS by October 4. For the *Federal Register* notice, [click here](#).

#### *HHS Request -- Health Plan Measures of Health Literacy/Communication -- Due by Oct. 22*

On August 23, HHS' Agency for Healthcare Research and Quality (AHRQ) published a request for measures of how well health plans and health providers address enrollees' literacy needs, as well as the sufficiency of the communication between enrollees and health plans. AHRQ suggests that possible areas of communication measures are explanations of screening results, health issues and concerns, treatment instructions and choices, instructions on how to take medications, language access availability, and disease management.

Submitted health literacy and communication measures must satisfy certain criteria, such as being able to determine patients' or their caregivers' experiences obtaining health and health plan information, and exhibit substantial reliability and validity.

Measures must be submitted to AHRQ by October 22. [Click here](#) for the complete *Federal Register* notice.

#### *Centers for Medicaid & Medicare Services (CMS) Guidance on Improving Access to Home and Community-Based Services*

On August 6, CMS issued a Dear State Medicaid Director (DSMD) guidance letter on improving

access to home and community-based services (HCBS) through Medicaid state plans, based upon requirements in PPACA. In order to better serve individuals with disabilities and others in home and community settings, the DSMD letter details several improvements to HCBS that states can obtain through requests for state plan amendments (SPAs) to CMS. The new provisions become effective on October 1. For the complete DSMD guidance letter, [click here](#).

#### *Availability of HRSA Grants for Primary Care Delivery to Underserved Communities*

On August 9, HHS Secretary Kathleen Sebelius announced the availability of \$250 million in grants for the delivery of primary health care services for underserved communities, through PPACA. HRSA will award these funds to address barriers that prevent access to primary care. Potential grantees include public or nonprofit private entities (including tribal, faith-based and community-based organizations) that satisfy health center funding requirements.

For the news release [click here](#).

#### *Availability of HRSA Grants to Support Rural Health Priorities*

On August 23, HHS Secretary Sebelius announced that more than \$32 million in FY 2010 funds are available to increase access to health care for individuals living in rural areas. Among other purposes, the funding would be used to: recruit and retain rural health care providers; update health care infrastructures and develop collaborative regional and local delivery systems in rural communities; provide technical assistance to assist health care providers and networks to implement cost-effective tele-health programs in rural and underserved communities; and assist eligible entities in creating innovative strategies to provide rural veterans and other residents access to mental health and other health services.

[Click here](#) for the news release.

## **CONGRESSIONAL UPDATE**

#### *Health Equity Leadership Commission*

Rep. Donna Christensen (D-U.S.V.I.) headed the first meeting of the Health Equity Leadership Commission (Commission) on August 16, which was created by the Congressional Black Caucus' Health Braintrust. The Commission's objectives are to ensure that health reform information is conveyed to those serving racial and ethnic minority communities, and serve as resources on health equity and eliminating health disparities to HHS and the Obama Administration during the planning and implementation of PPACA's provisions. [Click here](#) for details on the Commission and its members.

## **RESOURCES**

A Q&A interview with Jane Perkins, NHeLP's Legal Director, was the recent focus of the Sargent Shriver National Center on Poverty Law's "Perspectives on Health Reform." Perspectives on Health Reform is an ongoing feature on advocates whose careers have contributed to the expansion of low-income clients' access to health care. Jane was the first person interviewed for the project. [Click here](#) for a podcast of the interview.

American College of Physicians, *Racial and Ethnic Disparities in Health Care, Updated 2010*. The study found that while some progress has been made in addressing disparities, racial and ethnic minorities are still likely to experience poorer health care than white Americans. The report includes several recommendations to address disparities, such as supporting the medical home model, incorporating cultural competency training in medical schools' curricula, and supporting preventive medicine and chronic disease management.

[Click here](#)  
for the report.