

Insurance Department evaluating health care reform law

The Patient Protection and Affordable Care Act (PPACA) signed into law on March 23 will undoubtedly bring change to the North Dakota Insurance Department. But what exactly that change will look like has yet to be determined.

Portions of the law that take effect in 2010 are currently under review by the Department, including the requirement for a temporary high-risk pool.

Temporary high-risk pool

The Secretary of Health and Human Services is required to establish a temporary high-risk health insurance pool program, effective 90 days after enactment, to provide coverage to individuals with preexisting conditions who have been without coverage for at least six months. The program may be carried out directly or through contracts with states or nonprofit entities.¹

North Dakota's current high-risk pool, the Comprehensive Health Association of North Dakota (CHAND), does not meet the requirements under the new federal law.

Health benefit exchange

Another area under review at the state level is the health benefit exchange. The new federal law mandates that states create health insurance exchanges by 2014 to help individuals and small businesses purchase coverage. There must be two exchanges: a non-group market exchange and an exchange for small businesses. States may choose to operate only one exchange serving both groups.¹ Although implementation is not required until 2014, there are a lot of details to work out before that time.

Some have compared exchanges to the website travelocity.com where consumers can access and compare multiple prices and other features of hotels and airline tickets in a centralized location—thereby maximizing their purchasing power.²

It is federal lawmakers' hope that the exchanges will modernize individual and small-group health insurance markets by creating competition for consumers while streamlining and simplifying administration and enrollment.²

The Secretary of HHS must determine by Jan. 1, 2013 whether states intend to operate qualified exchanges. If a state does not create a qualified exchange, the Secretary must create one.

Impact on Department, consumers

The additional budget and staff that will be needed to carry out all the requirements involved with the PPACA are still being calculated. The Department's request will be presented to the 2011 Legislature for approval.

¹ National Association of Insurance Commissioners

² National Conference of Insurance Legislators

April 2010

Requirement	CHAND	Temporary High Risk Pool
Preexisting condition exclusion	<p>Coverage is excluded for:</p> <ul style="list-style-type: none"> charges incurred during the first 180 days following the effective date of coverage for any preexisting condition for which medical care was recommended or received during the 180 days before the date of the application; and charges incurred for maternity during the first 270 days following the effective date of coverage (exception: an individual with a catastrophic condition or major illness who is also pregnant at the time of application is eligible for maternity benefits after the first 180 days of coverage). <p>Note: A preexisting condition may not be imposed on:</p> <ol style="list-style-type: none"> An individual who has reached the lifetime maximum coverage amount of the most recent health insurance; A HIPAA applicant; or A TAARA applicant. <p>N.D.C.C. 26.1-08-12.</p>	<p>None allowed.</p> <p>Patient Protection and Affordability Act (PPACA)* H.R. 3590, sec. 1101(c)(2)(A).</p>
Loss Ratio	<p>87.5%</p> <p>(Note: Participating health insurers must pay an assessment to cover losses if claims exceed income.)</p> <p>N.D.C.C. § 26.1-08-10.</p>	<p>Issuer's share of the total allowed costs of benefits provided may not be less than 65% of such costs.</p> <p>Patient Protection and Affordability Act (PPACA)* H.R. 3590, sec. 1101(c)(2)(B).</p>
Out-of-pocket limit	<p>The coverage must include a limitation of not less than \$3,000 per individual on total annual out-of-pocket expenses.</p> <p>N.D.C.C. § 26.-08-06(4).</p>	<p>\$5,950 a year for individuals. \$11,900 a year for families.</p> <p>Patient Protection and Affordability Act (PPACA)* H.R. 3590, sec. 1101(c)(2)(B).</p>
Premium limit	<p>May not exceed 135% of the individual premium rates charged for similar coverage throughout the state.</p> <p>N.D.C.C. § 26.1-08-08.</p>	<p>May not exceed 100% of the standard non-group rate (standard rate for a standard population)</p> <p>Patient Protection and Affordability Act (PPACA)* H.R. 3590, sec. 1101(c)(2)(C).</p>
Age banding	<p>5:1</p> <p>Based on similar coverage written by BCBSND which complies with N.D.C.C. § 26.1-36.4-06.</p>	<p>Premiums may vary on the basis of age by a factor of not greater than 4 to 1.</p> <p>Patient Protection and Affordability Act (PPACA)* H.R. 3590, sec. 1101(c)(2)(C)(ii).</p>
Other		<p>Meets any other requirements determined appropriate by the Secretary of the US Department of Health and Human Services.</p>

Health Insurance Exchange Basics

Information courtesy of the National Association of Insurance Commissioners

PPACA creates new “American Health Benefit Exchanges” in each state to assist individuals and small businesses in comparing and purchasing qualified health insurance plans. Exchanges will also determine who qualifies for subsidies and make subsidy payments to insurers on behalf of individuals receiving them. They will also accept applications for other health coverage programs such as Medicaid and CHIP.

- State Exchanges must be operational by **January 1, 2014**
- If a state does not create qualified Exchanges, then the Secretary must create one
- Secretary must determine by **January 1, 2013** whether the state intends to operate qualified Exchanges
- Secretary will provide start-up grants to states 1 year after enactment – amount to be determined
- There are two Exchanges – a non-group market Exchange and a SHOP Exchange for small businesses
 - States may choose to operate only one Exchange serving both groups
- Functions to be performed by a Qualified Exchange
 - Certify Qualified Plans to be sold in the Exchange
 - “Qualified Plans” defined by the Secretary and must:
 - Include Essential Benefits
 - Include quality provisions outlined in the legislation
 - Comply with marketing regulations
 - Provide choice of providers
 - Provide an adequate network of providers
 - Utilize uniform enrollment form
 - Utilize standard format for presenting plan options
 - Use a uniform enrollment form
 - Provide standardized comparative information
 - Maintain a website
 - Provide for Initial, Annual and Special open enrollment periods
 - Maintain a toll-free number
 - Create a rating system for plans and perform satisfaction survey
 - Determine eligibility for other state/federal health insurance programs
 - Provide a calculator to determine enrollee premiums and subsidies
 - Identify those individuals exempt from the individual mandate and notify Treasury
 - Work with navigators
 - Require participating plans to provide justification for rate increases
 - Report to the Secretary and GAO on use of funds
 - Provide employee choice of plan in the small group Exchange
- States must also:
 - Operate reinsurance and risk corridor programs in years 2014-2016
 - Operate a risk adjustment program
 - Determine the role of agents
 - Enact other non-group and group market reforms in the legislation

ND Insurance Department Healthcare Reform¹ Budget Impact, 2011-2013

North Dakota Industry Business and Labor Committee
April 28, 2010

Temporary High Risk Pool (for uninsured without coverage for 6 months and having pre-existing condition)

- Letter of intent to participate due to HHS Secretary on April 30, 2010
- CHAND does not meet the requirements
- Eligibility review must include citizen, national, or legal immigration verification
- Expect approximately \$8 million for ND to cover shortfalls in claim payments

Insurance Exchange (must be designed and certified by 1.1.13, operational by 1.1.14; grants to come no later than one year after enactment)

- The exchange must operate for the non-group market and the small business group market (Small Business Health Options Program (SHOP))
- Must certify plans; operate toll-free hotline; maintain website w/info on standard plans; rate health plans (quality and price); inform individuals of eligibility for Medicaid, CHIP and enroll them if eligible; provide online calculator; grant certifications for mandate exemptions; determine subsidies and pay out subsidies to insurers; identify those individuals exempt from the individual mandate and notify treasury; establish a Navigators program (outreach)
- Closer analysis needed to determine when FTEs are hired.
- Not operating the exchange will not completely eliminate the need for FTEs and requirements by the state.

Questions:

- 1) Who will operate the exchange? The Insurance Department? Separate entity? Existing non-profit? The Federal government?
- 2) Should ND join other states for a regional exchange?

Estimated Additional Fiscal Impact

Salaries and wages	\$2,340,000
Operating expenses	\$1,472,700
IT system development	??
Total	\$3,812,700 +
FTEs	19

- Once the Department is given more guidance on implementation, salaries and wages can be adjusted according to hiring dates.
- The Insurance Department has been a mostly special funded agency. The agency spends dollars from the Insurance Regulatory Trust Fund. The Fund on average collects \$10 million per biennium in

¹ Due to the passage of the Health Care and Education Reconciliation Act of 2010 (H.R. 4872) and the Patient Protection and Affordable Care Act of 2010 (P.L. 111-148).

fees and fines from the industry. Typically, it turns back \$4 million per biennium. Additional costs could come from the Insurance Premium Tax Fund or the General Fund.

- Federal grant funds may be available for the temporary high risk pool, the Exchanges, consumer assistance offices and rate review (see below).
- Federal funding is temporary.

Federal Grant Description	Date	National Amt Available	Notes
Consumer Assistance Office	3.23.10	30,000,000	\$ to states – no guidance available
Rate Review	3.23.10	250,000,000	\$ to states over 5-year period– no guidance available
Exchange Establishment		??	\$ to states - funds will be available in amounts to be determined by the Secretary.
Temporary High Risk Pool	6.1.10	5,000,000,000	For claim shortfalls through 2013- According to CHIP formula, for ND approx \$8 million