

TESTIMONY

Presented by: Rebecca L. Ternes
Deputy Commissioner
North Dakota Insurance Department

Before: Budget Section
Senator Tony Grindberg, Chairman

Date: September 15, 2011

Good afternoon, Chairman Grindberg and Budget Section members. For the record, my name is Rebecca Ternes and I am the Deputy Insurance Commissioner. I appear before you today to provide an update on the status of provisions of the Patient Protection and Affordable Care Act.

Health Benefit Exchange Planning Committee

The committee consisting of representatives from the Insurance Department, the Department of Human Services (DHS) and the Information Technology Department (ITD) continues to meet approximately every week to discuss the Health Benefit Exchange (Exchange) in order to fulfill the requirements of 2011 House Bill No. 1126.

Exchange Regulations

Several new federal regulations affecting Exchanges were released in July and August. Specifically, two new options for states regarding Exchanges are being discussed by agencies and the interim Health Care Reform Review Committee:

- The federal government will offer to build the Exchange and the state can take it back at a later date.

- Requires a 12-month transition to take it back
- Would likely result in no grant funding to the state
- The federal government is also offering a partnership where the states can pick and choose various functions of the Exchange to run and let the federal government run the rest.
 - No details are yet available on the modules

Exchange Stakeholder Meetings

The Patient Protection and Affordable Care Act (PPACA), the implementing regulations, and all federal grant sources require specific levels of stakeholder involvement that include but are not limited to surveys and meetings.

The Insurance Department used some of the Exchange planning grant appropriated in 2011 House Bill No. 1126 to hold 11 stakeholder meetings in 4 cities. A hired facilitator asked a different set of questions related to the Exchange of each specific group. The facilitator's final report is due September 23. The expectation is that more stakeholder meetings will be needed regardless of who builds the Exchange.

Exchange stakeholders invited to the meetings included businesses, insurance agents, state/local agencies, legislators, health care providers, insurance companies, insurance consumers and Medicaid beneficiaries.

Exchange Research and Analysis Request for Proposal

The Insurance Department also used some of the Exchange planning grant appropriated in 2011 House Bill No. 1126 to hire a consultant to research various issues related to the Exchange, with the goal being to summarize key decision points for state

agencies and legislators prior to the special session. The scope is very detailed and includes:

- Assessing whether the Exchange should be run by the state or federal government
- Providing an assessment of governance model options
- Summarizing the North Dakota insurance market and roles of agents/producers
- Determining uninsured demographics
- Determining Medicaid enrollment numbers as of 2014
- Analyzing what will impact employer and consumer behavior related to Exchanges
- Determining a potential financial model for the Exchange to make it self-sustaining
- Identifying best practices to work with stakeholders including businesses, consumer and government leaders

It is expected that an interim report will be available in early October prior to the bill drafting deadline in 2011 House Bill No. 1126.

External Review of Health Claim Appeals

In the recent legislative session, 2011 House Bill No. 1127 was prepared by the Insurance Commissioner to satisfy a requirement of PPACA related to internal appeals and external review of health insurance claims. The states were given the chance to define a process that satisfies the requirements of PPACA and federal regulations. If that process had been deemed to be an “effective” external review process, the state would be the entity that assisted consumers with external review requests. The original bill, however, was significantly amended against the Insurance Department’s advice.

After review of 2011 House Bill No. 1127 and all other North Dakota statutes related to external review, the U.S. Department of Health and Human Services (HHS) determined the state does not meet the requirements and, therefore, all consumer requests for external review will go to either HHS or the U.S. Department of Labor (DOL) instead of the North Dakota Insurance Department. North Dakota can revise its statutes and ask HHS for another determination at a later date.

Medical Loss Ratio (MLR)

Under PPACA, the loss ratio will be defined as claims plus quality improvement expenses, divided by premiums less federal and state taxes. Starting in 2011, individual policies must have a loss ratio of at least 80 percent. Small group policies must have a minimum loss ratio of at least 85 percent.

North Dakota had requested a transition to the individual loss ratio starting with 65 percent for 2011, 70 percent for 2012, and 75 percent for 2013. This was supported by several of the health insurers and the majority of insurance agents. HHS did not grant the request.

Mr. Chairman and Budget Section members, this concludes my testimony. I would be happy to try to answer any questions you may have. Thank you.