



HEALTH CARE REFORM update



BlueCross BlueShield
of Kansas City

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Temporary Federal High Risk Health Pool

On Tuesday, March 23, President Obama signed into law the “Patient Protection and Affordable Care Act” (PPACA). A reconciliation bill making changes to the Act was signed by the President on March 30. The PPACA as amended by the reconciliation bill is collectively referred to as the Act in this summary. This summary provides an overview of the new temporary high risk pool provisions of the Act.

Summary

The Secretary of Health & Human Services, (HHS) must establish a new temporary high-risk insurance program before June 22, 2010, which will operate until January 1, 2014, when the new purchasing exchanges will be established. (PPACA §1101(a)) HHS is empowered to administer the program directly, or may contract with individual state governments or with private nonprofit entities. (PPACA §1101 (b)(1)-(2))

Eligibility

Enrollment in this program will be limited to individuals who are U.S. citizens who have not had creditable coverage for the six months prior to applying for participation in the new program, and have a pre-existing condition as described in guidance which is to be issued by the Secretary of HHS. (PPACA §1101 (d))

Temporary High Risk Pool Requirements

There are several prerequisites to establishment of a new qualified high risk pool, including:

- No pre-existing condition exclusion periods on benefits;
- Out-of-pocket limits may be greater than IRS guidelines for High Deductible Health Plans (\$5,950 individual in 2010); (Internal Revenue Code (IRC) §223(C)(2));
- Minimum benefits provided under the program must have an actuarial value of 65%;
- Regarding premiums, rates charged must be based on the following conditions:
 - Age rate bands of four to one;
 - Family size;
 - Geography; and
 - Cannot exceed 100% standard non-group rate
- HHS may adopt additional requirements (PPACA §1101 (c)(2))

High Risk Pool Payments

The temporary high risk pool will pay the cost of claims (and administrative costs) in excess of the premiums collected from enrollees. (PPACA §1101(g))

Differences from Existing High Risk Pools

High risk pools (HRPs) exist in 35 states. There are several important differences in the new program established by the PPACA:

- None of the existing HRPs require that an individual be without credible coverage for six months prior to applying for coverage.
- Premiums are capped in the existing HRPs between 125% and 250% of standard, non-group rates.
- Most existing HRPs allow for rate variations based on gender.
- Most existing HRPs have pre-existing condition coverage exclusion periods.
- In the vast majority of HRPs the claims incurred by the pool are covered by the combination of the premium paid by the individual, state funds, assessment on insurers and a federal contribution.

Because the new temporary high risk pool program is likely to be more appealing to high risk individuals, PPACA includes provision to deter plans from encouraging current members to shift to the new program.

Anti-Dumping Provisions

The Secretary of HHS shall establish criteria for determining whether insurers or employer based plans have dissuaded covered individuals from remaining enrolled based on health status.

Sanctions would include reimbursement for all the medical expenses incurred by the new high risk pool for any individual found to have been encouraged to disenroll and shift to the new program. (PPACA §1101 (e))

Limited Federal Funding

Congress has appropriated \$5 billion dollars to partially subsidize the claims paid under the new program. The money will be available July 1, 2010 to coincide with the beginning of state fiscal years. Allocation of the funds will be based on a state's population and medical costs similar to the way SCHIP funds are currently distributed. (Per Secretary Sebelius's April 2, 2010 letter to Governors).

HHS Implementation

On April 2, 2010, HHS Secretary Sebelius sent a letter to the Governor of each state asking each state to designate a principle contact person by April 9. The Secretary has scheduled a conference call planned with designated state officials for mid-April. HHS will be providing additional details to assist states in deciding whether or not to participate, but the Secretary's letter indicates that states have the following options:

- States that currently have a high risk pool could apply to administer a new high risk pool alongside a current state high risk pool;
- Build upon other existing coverage programs designed to cover high-risk individuals;
- Contract with a carrier of last resort or other carrier to provide subsidized coverage for the eligible population; or
- Do nothing, in which case HHS would carry out a coverage program in the state.

Effective Dates

The program must be established by June 22, 2010 and will expire on January 1, 2014.

This summary is provided for informational purposes only and is not intended as legal advice. This summary does not reflect any guidance or federal regulations that may have been issued after the passage of PPACA. Please consult your legal advisor for additional information.