



HEALTH CARE REFORM update



BlueCross BlueShield
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Temporary Federal High Risk Health Pool

On March 23, 2010, 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, 2010. 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 temporary high risk pool provisions, as known as a Preexisting Condition Insurance Plan (PCIP).

Summary

The Secretary of Health & Human Services (HHS) was required to 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 private nonprofit entities (PPACA §1101 (b)(1)-(2)). On July 30, 2010, HHS published an Interim Final Rule (IFR) in the Federal Register on the PCIP Program outlining the administration of the program, eligibility and enrollment, benefits, premiums, funding, and appeals and oversight rules.

Eligibility

Enrollment in this program will be limited to individuals who: (1) are United States citizens or nationals, and individuals who are lawfully present in the United States; (2) have not had creditable coverage for the 6 months prior to applying for participation in the new program; (3) have a pre-existing condition as described in guidance issued by the Secretary of HHS; and (4) reside in a State that falls within the service area of the PCIP (PPACA §1101 (d)).

Temporary High Risk Pool Requirements

There are several requirements for coverage in a new qualified high risk pool, including:

- No pre-existing condition exclusion periods on benefits;
- Out-of-pocket limits may be no greater than IRS guidelines for High Deductible Health Plans for 2010 and 2011 (\$5,950 for individual and \$11,900 for family coverage); (Internal Revenue Code (IRC) §223(C)(2));
- Minimum benefits provided under the program must have an actuarial value of 65%;
- Regarding premiums, rates charged may be based on the following conditions only:
 - 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)).

The PCIP may vary depending on what state you live in. HHS will run the PCIP in some states, and is contracting with a national insurance plan to administer benefits in those states. Other states have requested that they run the program themselves, and each of those states has the flexibility to design the program that best meets their state's needs.

As of July 1, 2011, some PCIP enrollees in the federally-administered plan will see a reduction in their monthly premium depending on the state they live. PCIP applicants will continue to have a choice of three plan options – the Standard Plan, the Extended Plan, and the HSA Plan. These plans have different levels of premiums, calendar year deductibles, prescription deductibles and prescription copays. Each of the three plan options provides preventive care (paid at 100%, with no deductible) when an enrollee sees an in-network doctor and the doctor indicates a preventive diagnosis.

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 Previously Existing High Risk Pools (HRPs)

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 6 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.

Anti-Dumping Provisions

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

HHS shall establish criteria for determining whether insurers or employer based plans have dissuaded covered individuals from remaining enrolled in their previous coverage 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 became 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 Kathleen Sebelius sent a letter to the Governor of each state asking each state to designate a principle contact person by April 9, 2010. The Secretary's letter indicated 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

These programs were to have been 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. Please consult your legal advisor for additional information.

References

PPACA:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf

Reconciliation: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4872pcs.txt.pdf

<https://www.pcip.gov/LearnMore.html>