

Health Reform Update- January, 2012

Vermont's Health Care Exchange: Who's in? Who's out?

With the legislature back in session, the focus is finalizing the plans for the Exchange that will launch January 1, 2014. The federal law provides several options for states on eligibility and operations, and this is the last time the legislature will have an opportunity to make the choices.

Last year's session was dominated by the single payer advocates interested in making the Exchange effectively a "single payer" model for those who currently have private insurance. This year employers are weighing in, and having some early impact on the legislation, H. 559, in the House Health Committee.

By the end of the 2011 legislative session, the debate on a few of the "state options" had become so contentious that the legislative leadership and Governor postponed key decisions to this year on these key parameters for the Exchange:

- Small employers (called "small groups" in the insurance statutes) are the only employers allowed by federal law on the Exchange. However, states can decide whether to define "small group" as employers <50, or as employers <100. Which will the legislature choose?
- The federal law allows states to either keep the individual and small group pools separate and charge premiums based on each pool's experience, or combine the two into a single pool, and charge the same rates to everyone, charged on the total pool experience. Would Vermont maintain the current small group and individual markets separately? Or combine them?
- Last year the Shumlin Administration and majority party in the legislature made it clear that if you were an employer defined as a "small group" member, that the Exchange would be the ONLY place you could buy health insurance for your employees. In other words, will the legislature ban the sale of insurance outside of the Exchange?

One of the wrinkles in making these decisions is that since 1992, Vermont has allowed employer associations, such as BRS, the Chamber of Commerce, VSBR, Retail Association, etc. to offer small group health insurance to their members, and charge a rate based on that Association's own claims experience. But under the federal law, once a state defines the size of the "small group," then any employer meeting that definition must be charged by a carrier the same premium for the same coverage, however and wherever it is purchased. In other words, Associations can no longer charge different premiums if they are offering the same plan from the same carrier. The carrier's premium for each plan applies to all. Whatever Blue Cross or MVP plan you buy, you'll pay exactly the same premium no matter where you buy it. This is

recognized now to signal the end of Associations as resellers of health insurance plans in the small group market. (The Vermont League of Cities and Towns responded to the change in the federal law by disbanding their health insurance trust effective January 2012, because the cities and towns could gain no advantage by buying through VLCT.)

The real wrinkle about this change is that the Associations through tough negotiation, aggressive wellness and health promotion programs and group purchasing have enjoyed premiums that are lower than, for example, individuals who buy their insurance directly from the carriers. But the combination of those three changes bulleted above means the following:

- Small businesses (perhaps defined to include all businesses up to 100 employees, representing 98% of the businesses in Vermont) – those small businesses can no longer buy their plans through Associations, but instead could only purchase insurance through the Exchange.
- The small businesses and individuals will be combined into the same pool for the purpose of calculating premiums, so the lower claims experience of the Association small businesses gets combined with the higher claims experience of the individuals and small businesses not in Associations.
- All of these members will have no choices except the plans on the Exchange.

In mid-January, a study was released by the Department of Banking, Insurance, Securities and Health Care Administration (BISCHA) estimating that the end of the Associations and the combining of those small businesses with individuals would increase the premiums for small businesses (the <50 employees group) by as much as 18% in the first year.

The first group to rebel were the businesses sized 50-100 employees, who currently buy insurance in the “large group” market. Their current premiums are generally lower than small groups, and are partially rated on the employer groups’ own claims experience. This means that investments in wellness programs, for example, have an impact on premiums, and they have a lot of flexibility in making changes to their plans to manage costs. The legislature’s plan would redefine small group to include them, and then combine small group with individual for premium setting, and then force them into the Exchange as the only opportunity for health insurance. The greatest impact of the proposed changes would have been on this group. After putting two weeks of intense pressure on the legislature and the Governor, they were heard. However, it was announced that the bill coming out of the House would not include the size 50-100 employers in the reforms. They are, effectively, left untouched by the Exchange and other pooling changes.

As of 2/16/2012, the House Health committee is taking final testimony on the rest of the bill, H. 559. As it stands, the three bullets in the list at the top of this update will move forward, and



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applies to employers with fewer than 50 employees, and individuals. The Governor has signaled that the changes he agreed to in regard to employer size are the only changes he's willing to make. The House committee will vote H. 559 out this week, and it will be debated by the House the week of Feb 20th. From there, it will move to the Vermont Senate for a month or two of discussion and debate. A proposal to "un-do" the three bullets at the top of the article has already been introduced in the Senate, S. 208.

The discussion and debate is far from over, but whether any more changes will be made is not at all clear.

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