

Health Reform Update- **September, 2011**

### **Green Mountain Care Board- The Work Ahead**

On September 13<sup>th</sup> Governor Shumlin announced his five appointees to the Green Mountain Health Care Board. The extensive press coverage contains many details about their impressive resumes; go to any of these links to find out the particulars:

- ✓ <http://vtdigger.org/2011/09/13/green-mountain-care-board-members-appointed/>
- ✓ <http://www.wcax.com/story/15456042/newest-faces-announced-in-the-fight-for-affordable-healthcare-in-vermont>
- ✓ <http://www.vermontbiz.com/node/19977>

The shorthand description in one media outlet was “Two policy wonks, two doctors, and a businessman.” I’d actually put one of the doctors, Dr. Karen Hein, in the policy wonk category as well. Her pedigree is prodigious in that regard: William T Grant Foundation, RAND, Institutes of Medicine, Albert Einstein and Dartmouth medical schools. While seasoned on many aspects of reform, she’s something of a new-comer to the debate in Vermont. The other appointees – Dr. Anya Rader-Wallack, Con Hogan, Al Gobeille and Dr. Allan Ramsay – are better known in Vermont.

The GMC Board members and their Chair, Dr. Rader-Wallack, appear to have the horsepower to take on the exceptional tasks ahead. What was most notable to me, however, about their press statements and the press reaction was this: the press wants to talk about the single payer, but the new board members, to a person, wanted to talk about cost containment instead.

That’s a good thing. Regardless of whether Vermont creates a single payer, or single pipeline, or a regulated multi-payer system, or an all-payer system (like the one in Maryland that allows multiple payers, but uses a single fee schedule) – regardless of the route, we have to contain costs. Fortunately, that’s the issue we can all agree on. And without some evidence of success on that point by 2014, it would be entirely foolhardy to proceed to put the health care system onto the state budget via a single payer, and the Board members appear to realize that.

Indications are that the federal legislation that would have amended the recent health care reform law (PPACA) to move up the date when states could get PPACA waivers is dead --- This bill is something Governor Shumlin hoped would allow Vermont to do the single payer in 2014, instead of the federally defined health insurance exchange. (Read more about this here: [www.vtreform.wordpress.com](http://www.vtreform.wordpress.com) ). That being the case, the single payer can only receive a PPACA waiver (allowing a modified use of the federal subsidy money) in 2017 at the earliest, and that’s the date that Dr. Rader-Wallack now uses in her speeches for the potential launch date. And that being the case, then really and truly the biggest job the Board has to undertake, first and foremost, is cost containment. And that means payment reform. Payment reform means paying health care providers and institutions differently so that we can pay them less. Not surprisingly, providers are uneasy about this. It creates a lot of uncertainty for them: should they recruit new doctors to their practice or look elsewhere? Will payment reform reduce administrative burdens? Or will it simply reduce incomes? Will all of our hospitals survive in their current form?

Uncertainty for employers and providers seems to be the biggest impact so far of health care reform in Vermont. An important part of the Board’s job will be gaining our trust, maintaining it, and building consensus on the tough choices and actions we must take to finally get costs under control – be it payment reform in a multi-payer system, or the single payer (which seems to be moving farther away every day). As appointee Al Gobeille said, just mentioning single payer takes the air out of the room and divides us. We have to deal with cost containment first, and we have to come together to achieve it.

### Meanwhile, back at PPACA implementation headquarters...

You may recall that PPACA would impose a \$3000 per employee penalty on employers with more than 50 employees who don't offer "affordable coverage" to their employees, if any employees receive subsidized coverage through the state's Health Insurance Exchange. The purpose of this penalty is to recover from employers something akin to a premium contribution to help subsidize the employee's Exchange coverage, and also to motivate employers to provide affordable coverage.

PPACA set up a difficult standard for "affordable" coverage: the employee's share of the individual premium could be no more than 9.5% of the employee's family income. To prove they met the test, employers would have to gather information from employees about spousal, housemate and other household income, something neither employees nor employers were happy about.

In response, the IRS asked for public comment on "a proposed safe harbor in which coverage would be considered affordable as long as the premium contribution for single coverage did not exceed 9.5% of an employee's W-2 wages." (*Business Insurance*, 9/14/2011) Under the proposal, the employer would determine at year end whether the safe harbor standard was met by comparing each employee's contribution for individual coverage under the lowest-cost plan offered, to 9.5% of that employee's W-2 wages.

While this safe harbor proposal significantly simplifies the calculation for employers by eliminating the need to gather more information than the existing W-2, doesn't it also change the "test" of affordability? Because the safe harbor changes the *basis* for the test from whole household income to just the employee's W-2 income, but *maintains* the 9.5% standard – it's possible that more employers will fail the affordability test.

For example, if the employee works a full-time minimum wage job, the annual income is around \$17,000 per year (2080 \* \$8.15). Next, 9.5% of that is only \$1,525. That means the employer could not charge more than \$1,525 (\$127 per month) in premium to the employee without losing the safe harbor. (The amount is just barely 20% of a \$7000 premium, for example). However, say the employee's spouse also works and earns \$17,000 per year. Under PPACA, the 9.5% would be applied to the total, allowing the premium share to be up to \$3,230 (\$269 per month) before the loss of the safe harbor.

While employers may appreciate the greater simplicity, it seems the standard of "affordability" set by Congress could be significantly changed by the IRS proposal. The IRS is taking comments on Notice 2011-73 until December 13, 2011.

(A reminder: this penalty and the safe harbor approach would apply only to employers with more than 50 employees. Employers smaller than that face no penalties under PPACA.)

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