



HEALTH BENEFIT EXCHANGE WORKGROUP MEETING  
Wednesday, Sept. 28, 2011  
North Carolina Institute of Medicine, Morrisville  
10:00 am – 3:00 pm  
Meeting Summary

*Members:* Louis Belo (co-chair), Allen Feeor (co-chair), David Atkinson, Tracy Baker, Steve Cline, Deby Dihoff, Teri Gutierrez, Rep. Verla Insko, Fred Joyner, Michael Keough, Adam Linker, Sen. Floyd McKissick, Barbara Morales-Burke, Aaron Nelson, Kelly Nicholson, Carla Obiol, Elizabeth Phillips, Shelia Platts, George Reed, Victor Velezquez, Rebecca Whitaker

*Steering Committee and NCIOM Staff:* Jean Holliday, Julia Lerche, Lauren Short, Pam Silberman, Rachel Williams

*Other Interested people:* Ryan Blackledge, Leslie Boyd, Conor Brockett, Bill Brooks, Abby Carter Emanuelson, John Dervin, Lee Dixon, Carol Durrell, Sandra Greene, Amy Jo Johnson, Andy Landis, Carolyn McClanahan, Kathryn Millican, Susan Nestor, Robert Seehausen, Ashlee Smart, Chuck Stone, Amy Whitted, Sally Wilson, Walker Wilson

WELCOME AND INTRODUCTIONS

*Louis Belo*  
*Chief Deputy Commissioner*  
*North Carolina Department of Insurance*  
*Co-chair*

*Allen Feezor*  
*Senior Policy Advisor*  
*North Carolina Department of Health and Human Services*  
*Co-chair*

Mr. Belo and Mr. Feezor welcomed everyone to the meeting and asked people to introduce themselves.

NEW FEDERAL REGULATIONS

**Health Insurance Premium Tax Credit**  
**Health Insurance Exchange Eligibility Determination**

*Pam Silberman, JD, DrPH*  
*President and CEO*  
*North Carolina Institute of Medicine*

Dr. Silberman gave an overview of three Notices of Proposed Rulemaking (NPRMs) which address the health insurance premium tax credit, health benefit exchange eligibility determination, and Medicaid eligibility determination process. She described how the HBE and Medicaid eligibility and enrollment process are envisioned to be seamless. The regulations focus on the eligibility processes for “insurance affordability” programs—which include Medicaid,

Children's Health Insurance Program (CHIP), Basic Health Program, and those eligible for the premium tax credit and cost sharing subsidies. States must use a common application form to determine eligibility for all of these programs. Further, individuals must be allowed to apply online, in person, by phone, or by mail. Eligibility for these programs will be based on the Modified Adjusted Gross Income (MAGI). Dr. Silberman noted that the NPRM clarifies that dependents will not be able to qualify for subsidized coverage through the HBE if they can purchase coverage through a family member's employer based plan, and the premium charged the employee for self-only coverage does not exceed 9.5% of the family's wages (in other words, affordability for the family is based on the employee-only premium, not family premium). The NPRM states:

“...An eligible employer-sponsored plan is affordable *for an employee or a related individual* if the portion of the annual premium *the employee must pay*, whether by salary reduction or otherwise ... *for self-only coverage* for the taxable year does not exceed the required contribution percentage [9.5%] of the applicable taxpayer's household income for the taxable year.” (26 CFR §1.36B-2(c)(3)(v)(A))

A copy of Dr. Silberman's presentation is available at: <http://www.nciom.org/wp-content/uploads/2011/07/Overview-of-all-NPRM.pdf>.

Selected questions and comments:

- Q: what is the difference between adjusted gross income and modified adjusted gross income? A: Modified adjusted gross income starts with adjusted gross income, but then adds in certain income sources or deductions, including foreign income and foreign housing deductions, student loan and higher education deductions, and IRA contribution deductions.
- Q: If the couple is in the midst of a legal separation, can they file jointly and still apply for coverage through the HBE? A: The staff were unable to answer that question.
- Q: What happens if you did not file your last taxes jointly? Will you be excluded from obtaining a subsidy in the HBE? A: No. The law requires that you file jointly in the year in which you receive the tax credit subsidy. If the married couple did not file jointly in the year they received the subsidies, they would not be able to receive the subsidies again the following year.
- Q: How long will it take to verify eligibility through the automated eligibility verification system (eg, through electronic searches of IRS or SSA data). A: We don't know yet. The federal government envisions a very quick turn around time, but we will not know until the system interfaces are built. However, we expect it may be quick. Currently, it takes DSS 24-48 hours to verify citizenship through an administrative data match with the Social Security Administration, and SSA is working to speed it up further to make the match instantaneous.
- Q: What if a person makes a mistake in submitting information online. Is there an opportunity to correct the information? A: Yes. We assume that DSS or HBE staff can help trouble shoot if a person has a problem with the electronic verification system.
- Comment: Family composition may be confusing. For example, an adult child under age 26 can receive health insurance through his or her parents, but s/he may be counted as a separate family for purposes of the advance premium tax credit or cost sharing subsidies (since the adult child is not generally counted as a dependent on the parent's taxes).
- Comment: The IRS notice of proposed rulemaking clarifies that an employer will not be penalized if the premium charged the employee does not exceed 9.5% of their wages

(rather than family income). The IRS NPRM noted that employers would have no way of knowing a family's total income (rather than wages). Thus, in a future notice, the IRS will create a safe harbor to protect employers from penalties as long as the premium charged the employee does not exceed 9.5% of the employee's wages. Employees can still qualify for a subsidy to purchase coverage in the HBE if their family income is less than 400% FPL, they do not qualify for public insurance coverage, and the premium exceeds 9.5% of total family income.

- Q: Does an employer have to provide coverage to dependents, or only to the employee?  
A: The ACA requires employers with 50 or more FTE employees to offer coverage to both employees and dependents, but the penalty only applies if an employer fails to offer coverage to the full-time employee. Thus, under the ACA there would be no penalty if an employer decided to drop dependent coverage.
- Comment: The NPRM might encourage some employers to drop dependent coverage so that family members could purchase subsidized coverage through the HBE. Employers could choose to cover all, or a greater share of the employees coverage, and stop providing any subsidy towards dependent coverage.
- Comment: We need to undertake a broad-scale public education campaign to let people know about the importance of reporting changes in their income. If a family that is receiving a subsidy fails to report a change in income, they may be required to pay back some or all of the advance premium tax credit when they pay their taxes.

#### ROLE OF DSS IN MEDICAID, CHIP, AND HBE ELIGIBILITY AND ENROLLMENT

*Carolyn McClanahan*

*Chief, Medicaid Eligibility Unit*

*Division of Medical Assistance*

*NC Department of Health and Human Services*

Ms. McClanahan noted that the state has already undertaken a number of steps that will help it prepare for the new Medicaid eligibility and enrollment requirements. For example, for the last several years, the Division of Medical Assistance (DMA) has been working with the Division of Social Services and other DHHS divisions to simplify eligibility requirements across programs. DMA has experience using administrative data systems to verify some eligibility requirements, including verifying citizenship through an administrative data match with the Social Security Administration. In addition, DMA has moved to ex parte verification of continued eligibility for children in the Medicaid and CHIP programs during the recertification process. Ms. McClanahan noted that while the state has made progress in preparing for some of the changes—other changes will be more difficult. For example, there are some differences in how the system will determine eligibility for Medicaid, CHIP, and the Health Benefit Exchange. Therefore, the automated eligibility and enrollment system will need to employ different decision rules depending on whether it is determining eligibility for Medicaid, CHIP, or subsidies in the HBE. The automated eligibility and enrollment system will be programmed to first determine eligibility for Medicaid, then CHIP and a Basic Health Plan (if the state chooses to establish one), then subsidies through the HBE. Ultimately, the enrollment system should be simple for an individual to use, but it will be complicated to set up. The state is moving forward to program NC FAST to meet the requirements of 2014. DMA must begin to accept Medicaid and HBE applications in October 2013.

A copy of Ms. McClanahan's presentation can be found at: <http://www.nciom.org/wp-content/uploads/2011/07/IOM-Medicaid-Enrollment-Eligibility-0911.pdf>.

#### Selected Questions and Comments:

- Q: What about the states that received early IT innovation grants? Can North Carolina learn from these states? A: They are sharing information, including their process flows, code, etc. They may be of some assistance, but states cannot afford to wait until those states have created fully operational systems.
- Comments: The group discussed how we can gear up for the surge in enrollment in 2013 and 2014, and also how we can meet the ACA requirements that a person be able to enroll online. Members discussed the role of navigators, insurance agents, and DSS eligibility specialists in helping people enroll. The group also discussed the possibility that we could create an electronic system of in-person enrollment (for example, through Skype with a navigator, agent/broker, or DSS worker). The group also discussed some common county locations where people could go to receive information or help with the enrollment process, including health departments, libraries, employment security commissions, hospitals, FQHCs, health care professionals, or DSS offices. Members noted that there would likely be intense need for consumer education in October-June (2013-2014) as people enroll, but that after people become more accustomed to the system and the range of choices, that demand for patient navigators or other help would likely decline.
- Comments: Navigators should be available through different groups so that people can seek assistance from people with whom they are comfortable. At the same time, the group recognized the importance of ensuring that navigators are adequately trained to provide appropriate information. The group discussed the potential role of the faith community in helping people enroll. The group also discussed the need to keep adequate records of patient navigators or enrollment brokers/agents, to ensure accountability and to avoid potential conflicts of interest. To the extent possible, we want to encourage people to apply on-line through the internet (which can reduce the amount of person time needed for one-on-one counseling). That means the system has to be user friendly.
- Q: If we accept mail in applications, where should applications be sent? Should Medicaid applications be sent to local DSS and HBE applications to a centralized office? A: The group suggested that there be one place to mail in applications. If the application is inadvertently sent to the wrong place, there needs to be a system to ensure that the application is routed to the correct location. Also, there should be one toll free number to meet the requirements for a phone application, but the toll free number may have multiple places to disperse calls in peak time periods. Also, there may be different skill levels for staff who answer the phones. Some calls can be addressed easily in quick responses. Other people may be calling in with more complicated questions (for example, seeking assistance in choosing a health plan). Those callers could be transferred to someone with more experience, or could be linked to a local patient navigator, agent, or broker. In peak time periods, the state could explore the possibility of setting up appointments for follow-up conversations.
- Q: Will navigators also have information about what insurance options exist outside the HBE. A: Probably not, but they could be trained to refer people to agents or brokers who could answer questions about insurance plans offered outside the HBE.
- Q: Who will help with verification if the eligibility requirements cannot be verified electronically? A: That will probably be a continued responsibility of the DSS workers.

## SMALL EMPLOYER VALUE ADDED SERVICES AND EDUCATION/OUTREACH

*Sandra Greene, DrPH*

*Professor of the Practice*

*Department of Health Policy and Management*

*Senior Research Fellow*

*Cecil G. Sheps Center for Health Services Research*

*University of North Carolina at Chapel Hill*

As part of the Level I planning grant, the state will be contracting with the Cecil G. Sheps Center for Health Services Research at The University of North Carolina at Chapel Hill to host focus groups with small businesses to learn more about how to successfully educate and market health plans in the HBE to small businesses, and to learn about what additional services could be offered in the SHOP Exchange which would make it more attractive for small businesses to purchase coverage through the Exchange. Dr. Greene explained the focus group process and solicited feedback from the HBE workgroup about topics that should be covered in the small business focus groups. A copy of Dr. Greene's presentation is available at: <http://www.nciom.org/wp-content/uploads/2011/07/Greene-presentation.pdf>.

### Selected Comments and Questions:

- Comments: The workgroup members discussed strategies to make the focus groups more productive. Several members noted that small business owners do not always have a basic understanding of the law, and that it might be helpful to begin the meetings with a brief overview of the coverage provisions and the financial implications of choosing insurance inside or outside the HBE.
- Comments: The group also noted the importance of having a broad cross-section of small businesses—not just those who either support or oppose the law. The focus groups should target the business executives who make the decisions about insurance coverage (which may or may not be the owner of the business).
- Comments: Workgroup members suggested that the focus groups ask small business representatives what value added services the HBE could offer to make it attractive (in addition to the tax subsidy). The facilitators may be able to solicit this information by focusing on some of the barriers small businesses have faced in the past to obtaining coverage for their employees (such as price, claims/billing problems, ease of getting issues resolved). In addition, the focus groups should ask about whether small businesses need help setting up 125 plans or tax free health savings accounts (eg, HRA, HSA). The facilitators should also ask how much employers would be willing to pay for value added services. The focus groups should list specific services and what it might cost to add those services as a means of getting employers to provide meaningful feedback.
- Comments: We also want to ask employers what are the best ways to educate employers about the new coverage options in the HBE (eg, through agents, print media, advertising, chambers of commerce, etc.) In other words, where do employers get their information about health insurance coverage?
- Comments: It would be helpful to get feedback from employers about whether they would prefer a lot of different plan choices or whether they would prefer a more limited choice of standardized products (for example, the Utah vs. the MA HBE models). We also want to probe on what employers consider to be meaningful choice (eg, 3 plans, 5 plans, 50 plans)? How important is it to have a lot of choice about deductible levels, copays, broad networks, carriers? Are employers willing to trade off some aspects in order to reduce premium costs (for example, broad networks vs. higher premiums)?

What aspects of plan design are most important to them (eg, low deductibles, broad networks, high deductible plans, etc.)?

- Q: Can insurers require employers to meet certain participation requirements in 2014? A: Unclear. We need further clarification.
- Q: If employers allow individual employees to select their own health plan in the HBE, does that turn the coverage into individual coverage rather than employer group coverage? A: No, it is still considered employer group coverage, and the employer and employee still get the tax advantages of employer-sponsored insurance.
- Comment: The workgroup would like Dr. Greene to circulate the list of focus group questions to provide an opportunity for additional feedback once they are developed.
- Comment: Two of the workgroup members with ties to small businesses offered to toll their members to obtain additional feedback after the focus groups, if that would be helpful.

#### PUBLIC COMMENTS

- Q: Can carriers offer their plans outside the HBE? A: That is a state decision. This issue has not been discussed in North Carolina.
- Comment: North Carolina should help explain to non-profit businesses the advantages of offering health insurance coverage, including available tax credits.
- Q: How will the new laws affect sole proprietorships? A: This is unclear. It appears that the federal government does not include sole proprietorships in the definition of small business. This conflicts with current state laws regulating small group insurance.
- Q: Are we required to follow the federal enrollment periods? We would have greater opportunities to educate adults (for example, through back to school information, or county fairs) if we expanded the open enrollment period to September. A: We are limited to the federally prescribed enrollment periods, but we can send out educational materials at any time.
- Q: When is the US Department of Health and Human Services going to publish the essential benefits package NPRM? A: That is unclear. We had thought initially that the essential benefits package would be released in December, now there is some discussion about potentially the spring.