

(Draft - Awaiting Formal Approval)
**MINUTES OF THE
HEALTH SYSTEM REFORM TASK FORCE**
Thursday, August 16, 2012 – 2:00 p.m. – Room 450 State Capitol

Members Present:

Rep. James A. Dunnigan, House Chair
Sen. Allen M. Christensen
Sen. Gene Davis
Sen. Peter C. Knudson
Rep. Rebecca Chavez-Houck
Rep. Brian Doughty
Rep. Rebecca P. Edwards
Rep. Francis D. Gibson
Rep. Merlynn T. Newbold
Rep. Dean Sanpei

Members Absent:

Sen. Wayne L. Niederhauser, Senate Chair

Staff Present:

Mr. Mark D. Andrews, Policy Analyst
Ms. Catherine J. Dupont, Associate General Counsel
Ms. RuthAnne Frost, Associate General Counsel
Ms. Kimberly A. Heiner, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Dunnigan called the meeting to order at 9:38 a.m. Sen. Niederhauser was excused from the meeting.

MOTION: Sen. Davis moved to approve the minutes of the July 10, 2012, and the July 18, 2012, meetings. The motion passed unanimously with Rep. Chavez-Houck and Rep. Newbold absent for the vote.

2. Essential Health Benefits Package

Mr. Andrews provided an overview of essential health benefits under the federal Affordable Care Act (ACA). He said that the task force must recommend a benchmark to the insurance commissioner by September 1, 2012. Responding to a question, he said the ACA requires regular updating of the essential health benefits package.

Chair Dunnigan said the task force created a working group to address the essential health benefits benchmark and that the workgroup had meetings to allow for public comment. He said the benchmark applies to the individual and small employer markets, both inside and outside the exchange.

Chair Dunnigan said the Insurance Market Workgroup has recommended the Public Employees Health Program's Utah Basic Plus state employee health insurance plan as the benchmark plan for the definition of essential health benefits. He distributed and discussed "Utah Basic Plan, HSA Plan for the State of Utah."

Chair Dunnigan asked Ms. Dupont to address mental health parity in the essential benefits benchmark. She said it is clear the ACA requires the essential health benefits package to cover mental health and substance abuse disorders, including behavioral health, in some capacity, but that it is less clear whether mental health coverage in the package must meet federal parity standards. Ms. Dupont said that she

hopes the U.S. Department of Health and Human Services will issue rules to clarify what each state is required to cover with respect to mental health.

Chair Dunnigan clarified that the ACA does allow for some substitutions in health care options, but said that he is unclear whether this task force has the authority to choose those changes. He said the task force is waiting for clarification from HHS. He said that the task force is doing its best to make decisions based on incomplete and evolving guidance from the federal government.

Mr. Chet Loftis, Director, Public Employees Health Program, discussed "Utah Basic Plus, HSA Plan for State of Utah."

Ms. Janida Emerson, Policy and Public Affairs Coordinator, Association for Utah Community Health, discussed and distributed "Benchmark Plan Comparison for Selecting an Essential Health Benefits Package," which she said compares the benefits provided by the potential essential benefits benchmark plans for the state. Ms. Emerson said that all of the plans provided similar basic coverage, but the areas where she saw the greatest variations of coverage were in mental health, dental, and vision coverage. She responded to questions from the task force.

Mr. Lincoln Nehring, Voices for Utah Children, said that it's not clear what coverage would be provided under a Utah Basic Plus benchmark and encouraged the task force to select a plan that would provide greater clarity of coverage. Mr. Nehring responded to questions from the task force.

Ms. Tomi Ossana, Executive Director, HIPUtah, asked for clarification regarding the prescription drug coverage that would be provided by a Utah Basic Plus benchmark. She asked whether a monthly \$50,000 shot would be covered. Mr. Loftis indicated that it would.

Mr. David Stewart, PhRMA (Pharmaceutical Research and Manufacturers of America), asked whether there would be flexibility to have multiple drugs covered under a Utah Basic Plus benchmark. Chair Dunnigan said that right now the task force is only looking at creating a minimum requirement and that he expects individual insurance plans will expand upon this base.

Mr. Dave Jackson, benefits consultant and member of the Utah Defined Contribution Risk Adjuster Board, said he thinks the recommendation to use Utah Basic Plus as the benchmark is sound. He said that choosing a benchmark that is actuarially higher than what small employers offer today would disrupt the marketplace.

Mr. Wesley Smith, Executive Vice President and General Counsel, Salt Lake Chamber of Commerce, supports adoption of a plan with minimal health coverage mandates to serve as Utah's essential health benefits benchmark and views this type of plan as the most conducive to controlling currently unsustainable rising health care costs.

Ms. Judi Hilman, Executive Director, Utah Health Policy Project, said almost one-half of all Americans suffer from at least one chronic illness. She recommended the state keep its eye on better ways to diagnose, treat and prevent symptoms that are linked to chronic diseases, which account for eighty-three cents of every health care dollar spent. She recommended that the state not wait for the federal government to tell it how to fill in the three coverage category gaps between Utah Basic Plus and what

the Affordable Care Act requires but that instead the state use evidence-based clinical guidelines already available in Utah to guide it in filling in the gaps in ways that will allow better coordination of care and treatment of chronic conditions, including mental health and substance abuse. She also suggested using the All Payer Claims Database to determine what approaches are most cost effective.

Rep. Chavez-Houck expressed concern that Utah is still siloing the way mental health and substance abuse challenges are addressed by defining coverage in terms of treatment visits rather than outcomes. She asked Ms. Hilman for suggestions on how to reconcile a benchmark with the idea of adopting principles of integration in accountable care organizations. Ms. Hilman said the wonderful work being done by the Medicaid Mental Health Payment and Delivery Reform Workgroup should play into how the state fills in the gaps between Utah Basic Plus and the ACA benchmark standards.

Ms. Dupont noted that the task force's selection of an essential benefit plan option is limited to potential benchmark plans offered in the first quarter of 2012.

Mr. Adam Trupp, Utah Association of Counties, asked the task force to keep in mind that people with mental health and substance abuse disorders frequently fall out of the private insurance market and into the public treatment system of Medicaid and Medicare because the services provided in the private market are not adequate. He said that as a result, we all pay for these conditions in one way or another.

Rep. Sanpei said the current discussion about essential health care benefits is not about what can't be covered but about what has to be covered. He said that given that we still have ambiguity from HHS and more rules still to come, and that each added service adds cost, it is prudent to start small and add coverage over time, as opposed to starting with lots of mandated coverages and trying to subtract them over time. He said that all of the discussion about behavioral health discussions will continue, regardless of which basic plan the task force selects today.

Ms. Kris Fawson, Legislative Coalition for People with Disabilities, expressed concern that Utah Basic Plus has a combined limit of 20 therapies for rehabilitative and habilitative services. She recommended focusing on outcomes rather than counting the number of treatment visits.

Ms. Laura Nielson, Utah Autism Coalition, said that her research shows it was Congress's intent to include autism as an essential health benefit. She said she believes that autism therapy should be covered in the benchmark plan Utah adopts.

Mr. Kelly Atkinson, Executive Director, Utah Health Insurance Association, said that the goal when adopting an essential health benefits benchmark should be to get more people covered, and that doing so depends on the cost of insurance. He said that Utah Basic Plus has the potential as a benchmark of bringing "young immortals" into the health insurance market. He said that although Utah Basic Plus won't address some of the coverage needs raised at this meeting, there will be plenty of options in the market place to "buy up."

MOTION: Sen. Christensen moved to adopt the Public Employees Health Program's Utah Basic Plus plan as the essential health benefits benchmark recommendation to the insurance commissioner.

The task force discussed the motion.

The motion passed unanimously, with Rep. Menlove absent for the vote.

3. Reinsurance Program

Chair Dunnigan presented a report from the Risk Adjustment and Reinsurance Workgroup, "Reinsurance Program Under the Affordable Care Act (ACA)," on behalf of Rep. Kiser. He said the workgroup is recommending that Utah adopt a state-based reinsurance program. He also said that there will be additional analysis.

Ms. Osana explained how the workgroup's recommendation would allow the state more flexibility in designing a reinsurance program. She said the workgroup hopes that in September it will be able to provide an analysis of the risk that would be coming in to the reinsurance program and how the state could do a better job of running the program.

MOTION: Sen. Davis moved to adopt the recommendation from the Risk Adjustment and Reinsurance Workgroup that the state proceed with a state-based reinsurance program, that the recommendation be communicated to the governor for the November 16, 2012, deadline, and that the insurers continue to participate to make sure that the task force has the information it needs to move forward on reinsurance. The motion passed unanimously with Rep. Menlove absent for the vote.

4. Utah Health Care Compact

Sen. Adams discussed and distributed "Health Care Compact Working Group Recommendations" and explained the recommendations to the task force. He responded to questions from the task force.

Mr. Danny Harris, Advocacy Director, AARP Utah, said his group wants to make sure that the state has the autonomy to do what is best for Utah, and that he appreciates the work the task force has done.

5. Medicaid Payment and Delivery Reform

Rep. Sanpei discussed a slide presentation providing an overview of the work of the Medicaid Mental and Behavioral Health Payment and Delivery Reform Workgroup and its recommendations.

7. Executive Branch Update

Dr. Norman Thurston, Health Reform Implementation Coordinator, Utah Office of the Governor, said that he did not have a lot of news since the last task force meeting. He reported that the executive branch is still analyzing the three potential exchange models and trying to figure out the differences. He said it appears that there is not a lot of flexibility in the partnership model and that the decision is coming down to a state-based exchange versus some type of federal exchange.

Mr. Thurston also discussed the Internal Revenue Service's proposed month-by-month year-end reconciliation process for persons claiming an advanceable premium tax credit. He said that some conservative blogs are indicating that the Affordable Care Act does not provide a legal mechanism for the Internal Revenue Service to recover overpayments of premium tax credits or to collect penalties from individuals who do not have health insurance.

6. State Role Under Three Exchange Models

Ms. Dupont discussed and distributed "Working Together to Implement Exchanges" from the U.S. Department of Health and Human Services' Centers for Medicare & Medicaid Services and briefly reviewed the options for state control under each of the three proposed exchange models. Sen. Knudson asked if we needed to abandon the current CHIE (Clinical Health Information Exchange) that Utah had developed, and Ms. Dupont said that the task force would need to make a policy decision.

Chair Dunnigan distributed and discussed "Health-Related Revenue Provisions in ACA" from the Congressional Research Service and reviewed the chart.

8. Future Workgroup Studies

Chair Dunnigan announced that the workgroups will meet following the interim meeting.

9. Adjourn

MOTION: Rep. Sanpei moved to adjourn. The motion passed unanimously with Sen. Christensen absent for the vote.

Chair Dunnigan adjourned the meeting at 11:55 a.m.