

**MINUTES OF THE  
HEALTH SYSTEM REFORM TASK FORCE**

Tuesday, December 4, 2012 – 9:00 a.m. – Room 30 House Building

**Members Present:**

Sen. Wayne L. Niederhauser, Senate Chair  
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

**Staff Present:**

Mr. Mark D. Andrews, Policy Analyst  
Ms. Catherine J. Dupont, Associate General Counsel  
Ms. RuthAnne Frost, Associate General Counsel  
Ms. Lori Rammell, 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](http://www.le.utah.gov).

**1. Task Force Business**

Chair Dunnigan called the meeting to order at 9:17 a.m.

**MOTION:** Sen. Davis moved to approve the minutes of the November 1, 2012, meeting. The motion passed unanimously. Sen. Niederhauser and Rep. Gibson were absent for the vote.

**2. Exchange Blueprint Deadline**

Dr. Norman Thurston, Health Reform Implementation Coordinator, Utah Office of the Governor, explained the reasoning behind the content of a November 19, 2012 letter by Governor R. Herbert to U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius regarding which health insurance exchange model the state might implement. He said that it is impossible to make a logical and rational decision when the state does not have all the facts and indicated that the Governor is left with no option but to pursue a strategy that leaves all options open—a state-based strategy—which can later be withdrawn, if necessary. He indicated the state has contacted HHS' Center for Consumer Information and Insurance Oversight (CCHIO) for guidance on what it needs to include in its blueprint outlining the state's vision of a state-based exchange that includes a market-based, consumer-choice oriented small business model and other Utah ideas. In response, HHS sent the state an exchange blueprint milestone timeline, mailed to the task force before the meeting. Dr. Thurston briefly discussed the timeline.

Dr. Thurston also noted that HHS has indicated states have more time to work on the development of a reinsurance model.

Chair Dunnigan noted that Joint Republican Leadership sent a fairly unequivocal letter to the governor indicating that from their perspective they did not want to run or have their fingerprints on a state-based exchange, at least not the one mandated by the federal government.

**3. Response to Federal Regulations**

Mr. Andrews distributed and discussed "Recently Released Rules and Other Guidance Related to the Federal Affordable Care Act." He said the state has 30 days to respond to many of the proposed rules and that the task force could consider whether its workgroups should look at them at upcoming meetings.

Chair Dunnigan, Ms. Dupont, and Dr. Thurston commented on the proposed rules.

Dr. Thurston said the governor is planning to propose to the federal government a bold vision for the state, then wait for feedback. He indicated that based on information from others around the country, states don't seem to be getting the answers they need and the federal government is taking more control of and micromanaging the process. He indicated that he thought the executive branch would have a meaningful response to most, if not all, of the proposed rules and invited input from stakeholders, the community, and the Legislature.

Dr. David W. Patton, Executive Director, Utah Department of Health, said the because there is such a flood of proposed regulations right now, the department is looking primarily at the exchange and Medicaid expansion. He said that what he is hearing about the exchange is not encouraging and that he doesn't see a lot of answers regarding a Medicaid expansion. He also said that he has not heard anything regarding a partial Medicaid expansion.

Chair Dunnigan said that the proposed fees in the rules along with the taxes on health insurance will drive up the cost of health insurance.

Mr. Lincoln Nehring, Voices for Utah Children, said that Utah's essential health benefits plan is in conflict with the recently proposed rules in two ways. First, the state quantitative limits on mental health services are in conflict. And second, the state's limit of pediatric dental services to children 5 to 18 years old and its limit of vision services to children 3 to 18 years old are in violation of the proposed rules, which specify that those benefits are for all children under 19 years of age. He noted, however, that CCIIO has no enforcement mechanism for telling a state that it is not in compliance with the rules.

Chair Dunnigan referred to a little known provision of the ACA that limits total federal premium subsidies to a percentage of the federal budget and said that the Congressional Budget Office has indicated that by 2019 this provision could result in substantial cost increases to persons purchasing insurance in the individual exchange.

#### **4. Impact of the Affordable Care Act on Medicaid**

Mr. Russell Frandsen, Office of the Legislative Fiscal Analyst, discussed "Medicaid Consensus Forecasting," a briefing paper prepared by his office and mailed to the task force before the meeting. He presented consensus estimates of changes to FY 2013 and FY 2014 Medicaid and Children's Health Insurance Program (CHIP) costs resulting from baseline caseload changes and federal health care reform. The estimates were made by his office, the Governor's Office of Planning and Budget, and the Department of Health. Mr. Nate Checketts, Assistant Division Director, Division of Health Care Financing, Utah Department of Health, also discussed the estimates.

Mr. Kevin Burr, Department of Workforce Services (DWS), discussed the administrative costs associated with the implementation of the ACA, which includes both a mandatory and an optional expansion of Medicaid eligibility. He indicated that the federal match rate for administrative expenses will not change as eligibility is expanded. He indicated that DWS has estimated that under a mandatory expansion only, 50% of the uninsured who are currently eligible for Medicaid will enroll. Those persons, combined with children moving from CHIP to Medicaid as a result of other ACA changes, will total 64,000 people. That will represent about a 20% increase in DWS' Medicaid eligibility workload and will add \$6 million in administrative costs, 50% of which will be paid for by the state. He said that this is a conservative estimate. Mr. Burr indicated that DWS has also estimated that if all persons who are income-eligible for Medicaid enroll (including 100% of the uninsured and 100% of the insured who will be income eligible), the total enrollment increase, will be 161,000 persons. Determining eligibility for 161,000 persons will

increase DWS administrative costs by \$14.9 million (51%), 50% (\$7.4 million) of which will be paid for by the state.

Sen. Davis indicated that looking at the administrative costs of expansion is important, but should not be the driving force when making a decision about whether to expand. He said that there are also other savings to the consumer from expansion.

He said that DWS will be able to automate the eligibility process only to the extent an applicant is willing to follow the automated process.

Mr. Checketts said that there are several factors, including moving to accountable care organizations, that make it difficult to estimate the Department of Health's change in administrative expenses resulting from implementation of the ACA. He indicated that the department has not submitted an appropriations building block request to cover administrative expenses but is considering submitting a request for a supplemental appropriation next year.

Mr. Checketts reported that CHIP enrollment will be reduced from 37,000 to 16,000 as a result of the ACA.

Mr. Checketts said the state has not produced a consensus estimate of the fiscal impact of the ACA over 10 years but believes a consensus estimate would be lower than the original 10-year estimate made by the department. He indicated the department has contracted with a group to help it with an analysis of the ACA's fiscal impacts and that the group's work will be submitted to the department in January.

## **5. Basic Health Program**

Chair Dunnigan introduced this issue by stating that the federal Affordable Care Act permits the state to create a Basic Health Program, which would provide health insurance for individuals with incomes between 139% and 200% of the federal poverty level and be funded with a portion of the federal monies that would otherwise be paid on behalf of these individuals as premium subsidies if they were enrolled in a federally subsidized health insurance exchange plan.

Mr. Andrews reviewed the ACA's allowance of states to cover individuals between the stated income levels and the related federal subsidies (in the amount of \$.95 on the dollar), as outlined in an actuarial study of this option, required by 2012 H.B. 144, "Health System Reform Amendments."

Ms. Janida Emerson, Public Affairs Manager, Association for Utah Community Health, presented the results of the study in a visual presentation "Utah's Basic Health Program." She stated that the study addressed the impact of having a Basic Health Program in Utah. She discussed the structure, funding, and eligibility of the Basic Health Program (BHP). She said the study projected that federal payments to the state should exceed the cost of providing coverage to BHP enrollees. She discussed the strategies suggested for containing administrative costs of the BHP. She said the greatest benefit of the BHP would be to the enrollees who would see a tremendous premium difference for qualified enrollees, between the amount they would pay on the exchange and the amount they would pay under the BHP (approximately \$1200 versus \$120). She suggested that, if the state chooses not to do a Medicaid expansion, running the BHP in addition to the exchange would be administratively difficult, as there would be four different categories of eligibility and subsidy. Ms. Emerson answered questions from the task force.

Rep. Sanpei confirmed that the BHP would be a Medicaid-like plan, but for those who are not eligible for Medicaid. Ms. Emerson stated that it would be similar to CHIP, with a nominal fee of as little as \$120 per year per enrollee.

Mr. Checketts distributed two graphs, "Income Limits for Medicaid, CHIP and Tax Credit Eligibility–No Medicaid Expansion Scenario with Basic Health Plan" and "Income Limits for Medicaid, CHIP and Tax Credit Eligibility–Medicaid Expansion Scenario with Basic Health Plan." He discussed both scenarios and answered questions from the task force.

Chair Dunnigan reviewed the impacts of the BHP to insureds (increased premiums for those who remain in the exchange, as some healthy insureds will leave to go to the BHP, and those who remain will see their costs go up somewhat) and providers (they will receive lower reimbursement than they would under the exchange).

Ms. Tomi Osana, Executive Director, HIPUtah (Utah's Comprehensive Health Insurance Pool), stated that, under HIPUtah, there are currently about 350 individuals who could be moved into the BHP, and an additional number of those under Federal HIPUtah (?) who would also be eligible, resulting in higher costs. Ms. Osana answered questions from the task force.

Mr. Andrews answered questions from the task force as well.

## **6. Wrap-up and Future Meeting Plans**

Chair Dunnigan reviewed the upcoming workgroup and task force meetings scheduled for December.

## **7. Adjourn**

**MOTION:** Sen. Niederhauser moved to adjourn the meeting. Voting in favor was unanimous.

Chair Dunnigan adjourned the meeting at 11:16 a.m.