AN UPDATE ON HEALTH CARE REFORM

A Preliminary Report by the Health Reform Task Force
to the Business and Labor Interim Committee
November 16, 2016

1. OPERATION OF THE SMALL EMPLOYER HEALTH INSURANCE EXCHANGE SHOULD BE TURNED OVER TO THE FEDERAL GOVERNMENT

For three years, the state of Utah has administered one of the two health insurance exchanges required by the federal Affordable Care Act (ACA). This has allowed employers with 50 or fewer employees to continue sending their employees to Avenue H, the exchange created by the state prior to passage of the ACA.

A series of events, however, has led the task force to conclude that the state should relinquish operation of the small employer exchange to the federal government, as permitted by the ACA. Although employees continue to have a meaningful choice of plans in Avenue H, the number of carriers willing to offer plans in the exchange has been reduced to two, and plans providing out-of-state coverage have been eliminated. Furthermore, even though Avenue H enrollment exceeds enrollment in similar exchanges in many other states, it appears improbable that enrollment will ever reach levels originally hoped for.

TASK FORCE ACTION

The task force voted to request that the executive branch notify the Centers for Medicare and Medicaid Services within the U.S. Department of Health and Human Services that beginning January 1, 2018, Utah no longer wishes to provide the operational platform for the SHOP (Small Business Health Options Program). The task force drafted a letter making this request to the governor, noting that as part of the required one-year transition plan, the state would seek to retain the plan management function for the exchange and encourage the federal government to allow direct-to-carrier purchasing. The task force also notified the governor that legislation will be introduced to repeal any statutory requirements for the Governor's Office of Economic Development to create and administer an online small employer health insurance exchange.

2. THE U.S. DEPARTMENT OF LABOR SHOULD MAKE RULES FACILITATING THE COLLECTION OF HEALTH INSURANCE CLAIMS DATA FROM SELF-INSURED EMPLOYERS

A recent U.S. Supreme Court case has threatened the ability of states to collect health insurance claims data from self-insured employers. This data has been considered important to the development of broad-based data sets with the potential to make variations in healthcare pricing and provider quality more transparent to consumers and providers.

TASK FORCE ACTION

The task force voted to comment on rules by the U.S. Department of Labor (DOL) in response to the recent U.S. Supreme Court Case. The task force drafted a letter to DOL in support of related comments and proposals made by the National Academy for State Health Policy in collaboration with the National Association of Health Data Organizations and the All-Payer Claims Database Council.

3. HEALTH INSURANCE PREMIUMS IN THE INDIVIDUAL MARKET WILL INCREASE SIGNIFICANTLY IN 2017

The Utah Insurance Department reported to the task force that premiums for plans offered in the individual health insurance market are expected to be 30% higher in 2017 than in 2016. Rates for plans in the small group market (employers with up to 50 employees) are expected to also increase by about 10%.

4. **ESTIMATED IMPACTS OF EXPANDING MEDICAID ELIGIBILITY HAVE BEEN UPDATED**
Implementation of the Medicaid eligibility expansion approved during the 2016 General Session of the Legislature is under review by the U.S. Department of Health and Human Services. Meanwhile, the Office of the Legislative Fiscal Analyst has updated estimates of the enrollment increases and fiscal impacts associated with recent expansion proposals. The task force reviewed the updated estimates.

5. **REGULATION OF SUBSTANCE ABUSE PROVIDERS HAS IMPROVED**
The task force reviewed the implementation of 2016 legislation affecting the regulation of substance abuse treatment providers. The legislation was designed to address allegations of questionable practices brought to the attention of the task force last year. Neither the Department of Human Services nor the Insurance Department are recommending further statutory changes at this time; however, one treatment provider recommended that Utah outlaw patient brokering.

6. **CONTRACTING MODELS USED TO PROVIDE MEDICAID DENTAL SERVICES ARE UNDER REVIEW**
The task force reviewed a report by the Department of Health comparing the cost of Medicaid dental services delivered under a managed care model with the cost of delivering the same services under a a fee for service model.

7. **NETWORK ADEQUACY AND RELATED ISSUES ARE UNDER REVIEW**
The federal Affordable Care Act requires states to adopt network adequacy rules or accept rules developed by the federal government. In response, the task force convened a workgroup representing medical professionals and insurers to develop rules specific to Utah. The workgroup has also addressed a related issue, billing for services provided by an out-of-network provider at an in-network facility.

The task force also convened a workgroup to consider whether the provisions of the Insurance Code regulating preferred provider organizations and health maintenance organizations could be merged.

At this point, the development of legislative proposals is still in process.

8. **FACILITATION OF TELEMEDICINE IS UNDER REVIEW**
In conjunction with the Public Utilities, Energy, and Technology Interim Committee, the task force created a stakeholder workgroup to identify and evaluate options for facilitating the appropriate use of telemedicine in Utah. Although the task force has not made any recommendations, the workgroup has reviewed proposals to establish pilot programs that would test the impacts and promote the increased use of telemedicine. The pilot programs target higher education students in need of mental health services, patients discharged from medical facilities, and patients receiving services at community health centers.

9. **RESPONSE TO FEDERAL RISK CORRIDORS PROGRAM IS UNDER REVIEW**
The federal government's decision to pay health insurers only 12.6% of their 2014 claims under the Affordable Care Act's risk corridors program has contributed to increased premiums and the closure of one Utah insurer. Whether to encourage the federal government to fully fund the program is still under review.

10. **COUNTIES REPORT THE NEED FOR $16.4 MILLION IN ADDITIONAL FUNDING TO TREAT THE JRI POPULATION**
The Utah Commission on Criminal and Juvenile Justice reported to the task force that although the Justice Reinvestment Initiative (JRI) passed by the Legislature in 2015 is moving toward the accomplishment of its main objectives—"focusing prison space on more serious and violent offenders; improving supervision outcomes; and reducing the overall correctional population while protecting public safety"—there "is clearly a strong need for

expansion of current substance use and mental health treatment capabilities for justice-involved offenders[,] and this remains a central mission of JRI." The Utah Association of Counties (UAC) reported that unless cost savings realized by the corrections system under JRI are reinvested in alternatives to incarceration, including the treatment of mental health and substance use disorders, JRI will simply shift costs and other burdens from the corrections system to county public safety and behavioral health systems. UAC reported that $16.4 million in additional funding is needed by counties to meet the mental health and substance use disorder treatment needs of the JRI population.

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Additional information, including agendas, minutes, and materials considered by the task force, are available at http://le.utah.gov/asp/interim/Commit.asp?Year=2016&Com=TSKHSR.

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