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Utah State Legislature

Senate • Utah State Capitol Complex • 320 State Capitol

PO Box 145115 • Salt Lake City, Utah 84114-5115
(801) 538-1035 • fax (801) 538-1414

House of Representatives • Utah State Capitol Complex • 350 State Capitol

PO Box 145030 • Salt Lake City, Utah 84114-5030
(801) 538-1029 • fax (801) 538-1908

MEMORANDUM

TO: Executive Appropriations Committee
Business and Labor Interim Committee

FROM: Senator Sheldon L. Killpack, Senate Chair, Health System Reform Task Force
Representative David Clark, House Chair, Health System Reform Task Force

DATE: November 18, 2008

SUBJECT: Health System Reform Task Force Update

TASK FORCE DUTIES 2008 H.B. 133, "Health System Reform," created the Health System Reform Task Force and charged it with reviewing and making "recommendations on the state's development and implementation of [a] strategic plan for health system reform." Elements that might be included in the plan and reviewed by the Task Force were spelled out in the legislation (see lines 452–530 of H.B. 133 in Attachment 1). Those elements are also included and categorized in two important road map documents in Attachment 2, "A Reasoned Approach to Health System Reform" and "The Pathway to Future Health System Reform: A 16 Point Strategic Plan."

POTENTIAL LEGISLATION To discharge its duties, the Task Force has met eight times and plans to meet again in December. At our last meeting, we reviewed many of the concepts studied by the Task Force and its five input groups for possible inclusion in draft legislation to be considered on December 16. An outline of those concepts is included in Attachment 3.

EXECUTIVE BRANCH ACTIVITIES In addition to creating the Task Force, H.B. 133 charged various executive branch agencies with specific tasks that lay the foundation for significant consumer-oriented, market-driven health care reform. Those tasks are shown in Attachment 4 and have been tracked throughout the interim by the Task Force. Many of these tasks are well under way, including the development of a standardized, simplified health insurance application form, creation of an Internet portal that will be integral to various reform initiatives, and the submission of Medicaid waivers that would expand the use of state and federal monies to encourage coverage in the commercial insurance market.

HEALTH INFORMATION TECHNOLOGY (HIT) The continued enhancement of our health information technology infrastructure is critical to meaningful health care reform. Notably, H.B. 133 included funding that:

- (1) permits medical costs to be reported by entire episodes of care rather than as multiple isolated treatments for the same condition; and
- (2) supports the development of electronic exchange protocols for clinical health information.

H.B. 133 also required the creation of a health insurance portal and other activities that will lay the groundwork for further HIT-based reforms. A summary of HIT activities in Utah is included in Attachment 5.

FISCAL IMPACT At this point it is impossible to forecast the fiscal impact of legislation that may grow out of the Task Force's efforts. It is clear, however, that the current trajectory of health care spending cannot continue unabated. Real change is required. And that change must result in improved health for individual Utahns and a significant reduction in the long-term runaway spending growth of the past.

A Reasoned Approach to Health System Reform

HB133 envisions a **1-3-6-10** approach to health system reform. During the **1st** year, we have already enacted specific changes that will establish a foundation for future success. Over the next **3** years, we will develop and implement a plan to address **6** areas of need, recognizing that it may take as long as **10** years for full implementation.

The Six Areas of Need

1. Health Insurance Reform

We need an insurance market where every working Utahn and their dependents have access to a health insurance policy that is a) paid for with pre-tax dollars, b) chosen by the employee, c) portable from job to job, d) guaranteed issue, e) rated based on a broad-based risk pool, not the possibly few people you work with, f) structured to incorporate cost-controlling features, and hence has low cost increases from year to year.

2. Personal Responsibility

Create incentives for patients to take better ownership of their health, health insurance and health care

3. Transparency and Value

We have funded HB 9 (All Payer Database), and passed and funded HB 47 (the Clinical Health Information Exchange) to ensure that patients have access to information about cost and quality of providers and that there is a real opportunity for patients and providers to securely share patient data across networks.

4. Maximizing Tax Advantages

Give Utah citizens and businesses access to all of the advantages in the federal tax codes to help fund their benefits. Implement a non-refundable tax credit for individuals that purchase health insurance with taxable income.

5. Optimize Public Programs

Create outreach programs to identify and enroll individuals and children in existing public programs. Use waivers and policy to direct patients toward private health insurance solutions.

6. Modernizing Governance

Put the state government at the forefront of health system reform. Lead by example by allowing state employees to be the first in the state to receive the advantages of the new health insurance market. Create a level playing field by giving preferences to state contractors that give their employees access to health insurance.

**The Pathway to Future Health System Reform
A 16 Point Strategic Plan (references refer to H.B. 133 or 63M-1-2405)**

Health Insurance Reform

- *Health Insurance Modernization (1)* – Propose legislation to create policies for all Utahns that:
 - a. are individually owned & portable
 - b. are affordable for most purchasers
 - c. have minimum coverage that results in lower premiums than current plans
 - d. cover preventive services
 - e. encourage cost-effective use of care
 - f. minimize risk-skimming by insurers
 - g. can be purchased with pre-tax dollars
 - h. contain innovative features to lower costs
 - i. may contain consumer-driven features
 - j. can work in a defined contribution environment
- *Insurance Practices (2)* - Address the rating and issue practices to make sure these products can work
- *Multiple Premium Sources(16)* – Require insurers to accept premium payments from multiple sources, including state subsidies.
- **Identify Federal Barriers (12)* – Working with our federal partners to remove barriers to state health reform. *This applies to all points of the strategic plan.

Personal Responsibility

- *Personal Responsibility Principle (8)* – Promote personal responsibility for people to:
 - k. Have health insurance
 - l. Be self reliant
 - m. Make good health choices
 - n. Adopt healthy behaviors and lifestyles
- *Individual Mandates (9)* – Look at the costs and benefits of various forms of individual mandates, including state-wide implementation and possible enforcement approaches.

Transparency and Value

- *Best Practices for Providers (6)* – Encourage best practices to benefit the health care system.
- *Liability Protection for Providers (7)* – Create some protection for providers that follow best practices.

Maximizing Tax Advantages

- *Maximize Tax Benefits (13)* – Maximize the use of pre-tax dollars for health insurance.
- *Employer Role in Tax Benefits (14)* – Require employers to set up a way for all employees to use tax-exempt funds for their share of premiums

Optimizing Public Programs (Support Private Health Insurance)

- *Public Programs (3)* – Develop ways to reduce the impact of the uninsured and underinsured on the insured through changes to current programs, especially looking at reimbursement rates and the possibility of using UPP instead of CHIP for children.
- *Subsidy Programs (10)* – Submit amendments to our Medicaid waivers to make the subsidy programs more effective and more applicable and finding a way to fund those subsidies.
- *Waiver Amendments (11)* – Look for additional ways to use the waiver to promote private health insurance over public programs.

Modernizing Governance

- *Public Employee Benefit Structure (4)* – Develop a proposal to bring all public employees into a defined contribution health benefit.
- *Public Employees Participation (5)* – Allow public employees to purchase individually owned, portable policies.
- *State Contractor Incentives (15)* – Give a preference for bidders that provide access to a health insurance benefit for their employees.

POSSIBLE LEGISLATION FOR THE HEALTH SYSTEM REFORM TASK FORCE

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HEALTH REFORM - INSURANCE MARKET CHOICES

I. Preserve the current small employer group market and individual market. Create a new voluntary market that will exist in conjunction with the existing markets to test the viability of insurance reform measures.

- Use the state's internet portal to facilitate and monitor the development of a new market for health insurance in the state and determine if the new market addresses the issue of cost, promotes the availability of affordable health insurance coverage, increases the number of insured individuals in the state, increases transparency of the health care system, and encourages innovation of the methods of paying for and receiving health care in the state. This new market will feature voluntary participation by insurers and insured individuals. It can function as a pilot program to test the new market's viability.

II. Within the new market, remove barriers to affordable products.

- Allow the creation and offer of virtually mandate free health insurance products.
- Establish a lower cost alternative for COBRA, conversion policies, and the basic health care plan.

III. Within the new market, increase access to affordable products.

- Create the foundation for a defined contribution option in the market, which includes:
 - ▶ Give employers and employees flexibility to use pre-tax dollars to pay for a health plan if an employer sets up a Section 125 cafeteria plan for the employee.
 - ▶ Allow employees the flexibility to choose a health care plan that best fits the needs of the employee's family.
 - ▶ Give an employee the ability to aggregate contributions from the employers of other family members or from government assistance programs so that a family can be covered by a single policy rather than multiple policies sponsored by employers of various family members.
- Create an insurance risk rating system that promotes affordable products for the greatest number of people. This could be the current rate banding system or another form of modified community rating.
- Allow an employer to automatically enroll an employee in a plan unless the employee affirmatively opts out of coverage.
- Expand access to the small group market to an individual who is a self-employed sole proprietor by decreasing the minimum small group size from 2 to 1, but limit the expansion by requiring the individual to meet a certain threshold such as the individual's income from a bona fide business, as reported on the Schedule C, must be at least 50% of family income for the year.

- As an incentive for insurers to offer a wide variety of products in the new market and to create a robust market the legislation could:
 - ▶ Provide that an insurer may only offer the new mandate lite products in the portal market; and
 - ▶ Facilitate the enrollment of an adequate number of lives to support products in the new market (as examples this could include opening the market to ERISA plans, or opening the market to lives insured through state funding).
- Provide protections in the new market against adverse selection by implementing a risk adjuster or reinsurance program for products offered in the new market. Provide a private sector, broad based mechanism to fund the risk adjustment.

IV. Increase transparency for all products

- Require broker disclosure of compensation.
- Authorize uniform standards for the electronic exchange of health plan information between consumers and insurers and between providers and insurers (similar to the uniform standards in place for uniform claims submission and electronic exchange of clinical health records).

HEALTH SYSTEM REFORM - MARKET PLACE INNOVATION

I. Administrative Simplification Initiatives

- ▶ Reduce administrative costs associated with billing practices and insurer claims payment and adjudication practices. This could include:
 - uniform standards for insurance enrollment cards with card swipe technology;
 - standardized claims adjudication and more meaningful pre-authorization;
 - insurer disclosure of claims "edits" to providers;
 - standard rules for coordination of benefits;
 - limits on the period of time in which an insurer can require a refund from providers; and
 - more meaningful hospital billing statements.

II. Payment Reform Initiatives

- Facilitate episodes of care payment demonstration projects and Medical Homes demonstration projects. Facilitate the new payment and delivery methodologies with a consortium of stakeholders such as HealthInsights, the Utah Partnership for Value Driven Health Care and the Utah Health Data Authority to meet with stakeholders to establish market wide consensus of best practices and episodes of care reimbursement models.

HEALTH SYSTEM REFORM - STATE CONTRACTING PRACTICES

This legislation amends the contracting authority of The Department of Environmental Quality, The Capitol Preservation Board, the Department of Natural Resources, the Division of Construction and Facilities Management, and the Utah Department of Transportation to require contractors with the state to provide health insurance to the contractor's employees if the amount of the contract is over \$500,000 and if the contract is for design or construction.

HEALTH SYSTEM REFORM - MEDICAL MALPRACTICE AMENDMENTS

- This legislation will:
 - (1) Amend the standard of proof a plaintiff must meet when bringing an action against a provider who gives care in an emergency room under EMTALA;
 - (2) Facilitate the convening of stakeholders for the development of best practice guidelines and explore the possibility of linking the use of best practices with malpractice protections;
 - (3) Pursue other reforms that will promote appropriate medical care and prevent utilization based on defensive medicine.