AN UPDATE ON HEALTH CARE REFORM

A Preliminary Report on 2017 Studies and Recommendations
by the Utah Legislature's Health Reform Task Force

1. UTAH'S MEDICAID WAIVER HAS BEEN APPROVED

On October 31, 2017, the federal government approved the state's August 2016 request to extend Medicaid eligibility to adults without dependent children in the following order:

- those who are chronically homeless;
- those involved in the criminal justice system who need treatment for substance use or other mental health disorders; and
- other adults who need treatment for substance use or other mental health disorders.

This extension implements 2016 H.B. 437 and is considered by many as critical to the success of the state's Justice Reinvestment Initiative (2015 H.B. 348) and Operation Rio Grande.

The federal government also approved the state's request that Medicaid cover a broader array of treatment services for substance use disorders (services previously excluded because of the setting in which they were provided).

These changes are expected to extend coverage to 4,000–6,000 Utah adults otherwise ineligible for Medicaid. Additionally, the federal government has approved an increase in the Medicaid eligibility income ceiling for adults *with* dependent children, which has led to led to coverage of an additional 4,000 parents since July.

Projected costs for the first full fiscal year of implementation of the waiver (FY19) are $110 million (70% funded by the federal government).

TASK FORCE ACTION

If reauthorized, the task force can monitor implementation of the waiver, paying particular attention to enrollment, cost, and availability of services.

2. HEALTH INSURANCE PREMIUMS WILL INCREASE DRAMATICALY IN 2018.

In 2018, rates in the individual health insurance market will be 40% higher overall than in 2017. Rates in the small group market will be 10% higher overall than in 2017. Increases for specific plans may vary considerably due to several factors (See here and here.)

The rate increase in the individual market is attributable in part to an increase in medical spending, but primarily to the assumption that the federal government would not continue to fund cost sharing subsidies for participants in the federal health insurance exchange, which proved to be the case. Other federal actions also contributed to the increase.

With the encouragement of the Trump administration, several states have responded to escalating rates by requesting federal approval to create state-based reinsurance programs under the Affordable Care Act's 1332 waiver authority. These programs would be paid for at least in part with funds the federal government would otherwise use to subsidize the purchase of health insurance. In Utah, two major health insurers have recommended the state consider taking similar action. A state-based reinsurance program (or a state-based high-risk pool) would reduce future rate increases by absorbing at least some of the costs associated with more expensive enrollees.

TASK FORCE ACTION

If reauthorized, the task force can study whether creation of a state-based reinsurance program or high-risk pool is advisable.

3. PARTICIPATION BY HEALTH INSURERS IN UTAH'S INDIVIDUAL AND SMALL GROUP MARKETS CONTINUES TO DECREASE

Since 2013, the number of health insurers participating in Utah's individual market (either on or off the federal health insurance exchange, *HealthCare.gov*) has decreased from 39 to approximately 6 (2018 estimate made earlier this year). In 2018, only two health insurers will offer Utahns individual coverage through *HealthCare.gov*.

Also, since 2013 the number of health insurers offering group coverage to small employers (either on or off the state's small employer exchange, *Avenue H*), has decreased from 17 to approximately 10 (2018 estimate made earlier this year). Last year, the task force recommended that the state turn over to the federal government the responsibility to operate the small employer exchange. During the 2017 General Session, the Legislature passed

legislation to implement that policy this year and next.

TASK FORCE ACTION

If reauthorized, the task force can continue to monitor participation by insurers in Utah's individual and small employer health insurance markets.

4. UTAH MONITORED THE FEDERAL REPEAL/REPLACE DEBATE AND PROVIDED INPUT

Proposals to amend the Affordable Care Act were considered this year by the U.S. House of Representatives and the U.S. Senate. The task force monitored the proposals and a delegation of Utah legislative leaders shared their concerns with federal officials. (See Items 6A through 6J under "Meeting Materials" for the task force's June 8, 2017 meeting). No proposal passed both houses of Congress.

TASK FORCE ACTION

If reauthorized, the task force can continue to monitor proposed federal legislation and regulations having the potential to impact Utah's health insurance markets.

5. NO CHANGE RECOMMENED FOR MEDICAID BEHAVIORAL HEALTHCARE FUNDING

The task force considered whether the base budget for Medicaid behavioral healthcare services should be increased annually like the base budget for certain other Medicaid services. (See here and here.)

TASK FORCE ACTION

The task force opened a bill file to address the issue but took no further action.

6. UTAH'S GUARANTY ASSOCIATION LAW IS UNDER REVIEW

The task force is considering whether Utah law should be amended so that health maintenance organizations are included in the Utah Life and Health Insurance Guaranty Association, an association created to protect consumers when an insurer goes insolvent. The task force is also considering how risk would be distributed among participants in the association if health maintenance organizations were included.

The American Council of Life Insurers has recommended the Utah Legislature take no action until the National Association of Insurance Commissioners has finalized model legislation addressing guaranty associations.

The Utah Insurance Department reported that the receiver for Arches Health Plan, a Utah health maintenance organization that went insolvent at the end of 2015, has joined a class action law suit to obtain $57 million in unpaid risk corridor payments from the federal government.

HEALTH REFORM TASK FORCE MEMBERSHIP

Sen. Allen M. Christensen, Cochair
Sen. Gene Davis
Sen. Peter C. Knudson
Sen. Brian E. Shiozawa

Rep. James A. Dunnigan, Cochair
Rep. Rebecca Chavez-Houck
Rep. Francis D. Gibson
Rep. Michael S. Kennedy
Rep. Marie H. Poulson
Rep. Edward H. Redd
Rep. Dean Sanpei

Staff
Mr. Daniel M. Cheung, Associate General Counsel
Mr. Mark D. Andrews, Policy Analyst
Mr. Joshua M. Weber, Legislative Assistant

Additional information, including agendas, minutes, and materials considered by the task force, are here.

Prepared by the Office of Legislative Research and General Counsel, November 14, 2017
OLRGC