13 Ways the Baucus Health Care Reform Plan Affects States

The health care reform proposal offered Wednesday by Sen. Max Baucus, (D-Mont.) chair of the Senate Finance Committee, will impact state Medicaid mandates and matches. Baucus has been working with the "gang of six" to arrive at a bi-partisan Senate proposal. According to the New York Times and other media outlets no Republican Senators have endorsed his proposal although changes may still be made before the Finance Committee vote slated for next week. Additionally, some Democratic Senators are weighing in with their objections to the package.

Impacts on States

What Medicaid expansions are mandated? How will Medicaid matching rates change? What legislative actions may states need to consider?

The Council of State Governments health policy staff reviewed the proposed bill immediately after it was released to look for specific impacts on states. Highlighted below are a baker's dozen of key impacts.

- **Medicaid expansion:** Beginning on January 1, 2014, federal law would establish 133 percent of the Federal Poverty Level as the new mandatory minimum Medicaid income eligibility level for all non-elderly individuals – parents, children, and childless adults. However, non-elderly, non-pregnant adults between 100 and 133 percent of FPL would be able to choose between Medicaid and coverage through their state health insurance exchange.

- **State Medicaid match:** States would continue to receive pre-ARRA match rates, but beginning in 2014 additional Federal financial assistance would be provided to all states to defray the costs of covering newly eligible beneficiaries. Newly eligible beneficiaries would be defined as (1) non-elderly, non-pregnant individuals below 133 percent of FPL who were not previously eligible, or (2) who were eligible for a capped waiver but were not enrolled, as of the date of enactment. Those states that offer minimal or no coverage of the newly eligible population, currently 37 states, would receive more assistance initially than the 13 states that currently cover at least some non-elderly, non-pregnant individuals. However, by 2019 all states would receive the same level of **additional** assistance for covering newly eligible. No state's match rate would exceed 95 percent.

YEAR	EXPANSION STATE INCREASE	OTHER STATE INCREASE
2014	27.3	37.3
2015	28.3	36.3
2016	29.3	35.3
2017	30.3	34.3
2018	31.3	33.3
2019	32.3	32.3

- **Medicaid maintenance of effort:** States would be required to maintain existing income eligibility levels for all Medicaid populations upon enactment of the new federal law. This maintenance of effort provision would expire when the state health insurance exchange becomes fully operational which is expected on January 1, 2013.

- **State health insurance exchange:** States will have 24 months after passage of the federal law to form a state exchange though which the uninsured can choose and purchase health insurance. If they do not, the Secretary of Health and Human Services shall contract with a non-governmental entity to establish a state exchange.

- **Preventive screening and testing benefits for children:** States would have to ensure that all children of parents who choose the state exchange coverage would continue to receive the benefits, including early and periodic screening, diagnostic and testing (EPSDT) benefits, to which children are entitled under Medicaid.

- **Medicaid income rules:** Effective January 1, 2014, income disregards would no longer apply, and income would be measured based on modified adjusted gross income (MAGI) as defined in the state exchanges.

- **Medicaid and U.S. territories:** Spending caps for the territories would increase by 30 percent and the applicable FMAP by five percentage points – to 55 percent – beginning on January 1, 2011. The cost of covering newly eligibles would not count towards the spending caps.

- **Children's Health Insurance Program:** Upon enactment, states would be required to maintain income eligibility levels for currently eligible children. This requirement would expire on September 30, 2013 when states would be required to offer CHIP to all children between 134 and 250 percent of FPL.

- **State insurance regulations:** State insurance commissioners would continue to provide oversight of health insurance plans with regard to consumer protections such as grievance procedures, external review, agent practices and training, market conduct, rate reviews, solvency, reserve requirements, premium taxes, and all requirements imposed on insured plans under new federal law. States will have 12 months to adopt new model regulations to be developed by the National Association of Insurance Commissioners (NAIC) in the first year following passage of the law.

- **Health care choice interstate compacts:** Starting in 2015, two or more states may form health care choice compacts to allow for the purchase of individual health insurance across state lines. The National Association of Insurance Commissioners (NAIC) shall develop model rules for the creation of health care choice compacts no later than 2013.

- **State CO-OPs:** The Consumer Operated and Oriented Plan (CO-OP) program to foster the creation of non-profit, member-run health insurance companies that serve individuals in one or more states would be funded with $6 billion in federal loans and grants. CO-OP

grantees would compete in the reformed individual and small group insurance markets. There shall be sufficient funding for at least one co-op in all 50 states and the District of Columbia. Multiple awards per state are allowed. The Secretary of HHS shall not begin distribution of funds any later than January 1, 2012. In the event that organizations participating in the CO-OP program do not form in every state, the Secretary of HHS shall be authorized to use planning grants to encourage formation of new organizations or expansion of organizations currently participating in the CO-OP program.

- **State ombudsman:** In 2010, states would be required to establish an ombudsman office to act as a consumer advocate for those with private coverage in the individual and small group markets. Policyholders whose health insurers have rejected claims and who have exhausted internal appeals would be able to access the ombudsman office for assistance.

- **Consumer assistance organizations:** A $30 million competitive grant program would support a consumer assistance organization in each state to assist consumers in solving problems and navigating health insurance coverage transitions, as well as collect data on consumer encounters, and report to HHS on types of problems and inquiries.

Resources:

A press release from Sen. Baucus provides a summary of the provisions. The full details of the proposal are contained in the 223 page "mark-up" of *America's Healthy Future Act of 2009*.

Senator Baucus's proposal for *America's Healthy Future Act of 2009* joins another Senate proposal from the Health, Education, Labor and Pensions Committee and several versions of House Bill 3200, *America's Affordable Health Choices Act of 2009*. The Kaiser Family Foundation has completed a side by side comparison.