

healthplan insider

Summer 2009

June 4 marked the close of the 2009 Kansas legislative session with new Governor Mark Parkinson presiding over the traditional sine die ceremony. This year's national focus on health care reform and the economy affected the state in several ways. In late April, Governor Kathleen Sebelius was confirmed as secretary of health and human services. Lieutenant Governor Mark Parkinson replaced Sebelius.

Several weeks later, Marci Nielsen announced her resignation from the Kansas Health Policy Authority's executive director position. The state agency, which is responsible for coordinating statewide health policy and purchasing health insurance for Medicaid, Children's Health Insurance Program, MediKan, and the State Employees Health Plan, is now led by the agency's former deputy director, Andy Allison.

The Kansas legislative session closed with the passage of several health insurance-related bills and leaves many more bills on the table for next session. The following health care bills were signed into law this year:

SB 44 – Kansas False Claims Act

The bill creates a civil cause of action for perpetrating an intentional fraudulent act against state government or political subdivisions of the state. This includes intentional fraudulent acts made against state agencies such as the Kansas Insurance Department and the Kansas Health Policy Authority.

SB 137 – Viatical Settlements

SB 137 amends the Viatical Settlements Act of 2002 using the model language from the NAIC. Viatical settlements involve the sale of life insurance policies by their policyholder prior to their death. The amendment clarifies the power and authority of the Kansas securities commissioner over these transactions to monitor and investigate fraudulent acts.

HB 2052 – Insurance Combo Bill

The original version of HB 2052 created the Kansas Public Adjusters Act and updated the risk-based capital requirements for the insurance industry. Toward the end of the regular session, HB 2052 became a vehicle for several other health insurance bills related to long-term care, COBRA, the Life and Health Insurance Guaranty Association, deposits and securities, and open records. The language in HB 2052 includes the following specific to BCBSKS business:

RBC Instructions:

The bill authorizes the Commissioner of Insurance to adopt any later version of the NAIC RBC instructions and includes language to protect domestic insurers' total adjusted capital.



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Long-Term Care Partnership Program Exchange:

HB 2052 requires LTC insurers to offer all existing policyholders that were issued coverage on or after Feb. 8, 2006, the option to exchange their existing LTC coverage for a policy that qualifies under the Kansas LTC partnership program.

Subsidized State Continuation Coverage/“Mini-COBRA”:

The insurance department drafted language to guarantee that consumers who are involuntarily terminated from employment at a small business (with fewer than 20 employees) have an opportunity to take advantage of the American Recovery and Reinvestment Act’s COBRA subsidy provisions.

Health and Life Insurance Guaranty Association:

The language pertaining to the Health and Life Insurance Guaranty Association increases the maximum annuity benefit from \$100,000 to \$250,000 beginning Jan. 1, 2010.

Open Records Act:

HB 2052 amends the list of items which are exempt from

disclosure under the Open Records Act. This change is specific to workers' compensation insurance policies.

HB 2214 – Mega Insurance Bill

The bill includes provisions on mental health parity, construction contractors’ insurance wrap around and state continuation coverage that were taken from SB 49, SB 126 and HB 2052 respectively. The mental health parity sections of the bill update current state law to match the new federal requirements of the Wellstone and Domenici Mental Health Parity and Addiction Equity Act of 2008. The mental health benefits for non-group and small group insurance were also expanded in the bill with an increase in the lifetime maximum dollar limit from \$7,500 to \$15,000. Fully insured large groups (including ASO groups under the federal law) with mental health insurance coverage are required to provide full parity. The federal mental health parity requirements take effect on Nov. 1, 2009 for new and renewed contracts. State mental health and substance use disorder parity laws became effective on July 1.

FEDERAL OVERVIEW – Three health reform bills**Senate Finance Committee Proposed Legislation**

Headed by committee chair Max Baucus (D-MT), the Senate Finance Committee health care reform plan includes these highlights:

- A public health insurance option resembling Medicare or a state run insurance program. The committee is also open to using the existing private insurance market with strong regulatory oversight.
- A national health insurance exchange or insurance clearinghouse to enroll individuals and assist small employers in purchasing health insurance.
- Prohibitions on the use of pre-existing conditions.
- An individual mandate that will require everyone to have health insurance.
- Insurance plans would have no annual or lifetime limits and offer a minimum level of standard benefits.

The Senate Finance Committee’s proposed bill would phase in these health care reforms beginning 2013 and may take three to 10 years for full implementation by each state.

Senate Health, Education, Labor and Pensions Committee

Senator Edward Kennedy (D-MA) chairs the Senate HELP Committee that released a 165-page health care reform bill. The bill is similar to the Senate Finance Committee’s recommendations. However, the HELP committee bill also includes:

- Provider reimbursement rates in the public plan at an equivalent to current Medicare reimbursement rates + 10%.

- A requirement for all providers to participate in the public insurance plan network.

The HELP proposal would go into effect four years following the date of legislative enactment or earlier if states adopted their own implementation date.

House Tri-Committee Legislative Proposal

Three House Committees (Ways & Means, Energy & Commerce, and Education & Labor) created a draft health care reform bill. The draft bill focuses on:

- A national health insurance exchange created regionally or at the state level. The exchange will include public and private insurance options.
- Individuals will be required to purchase insurance and employers must offer coverage.
- Insurers will be prohibited from rating products using gender, health status and occupation to determine premiums. Age rating will be strictly limited.
- Increased reimbursement rates for primary care providers and an expansion of Medicaid.

What’s next?

Americans should expect the health care reform debate to ramp up quickly this summer and culminate with Congress voting on health care legislation in October. There are still many unanswered questions on how the federal government can afford to create and expand health insurance entitlement programs when the U.S. debt is rapidly growing. But most insurers, providers and consumers agree that health reform is necessary to handle the uncontrollable cost of health care. However, it may be best to use the current private market to reign in cost and expand coverage to all rather than shifting even a greater financial burden on the federal government.