The Federal Patient Protection & Affordable Care Act: State Implementation, High Risk Insurance Pool, Exchanges & Next Steps

Presentation to the
Legislative Finance Committee

Katie Falls, Secretary HSD
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New Mexico Human Services Department

Today's Discussion – Federal Patient Protection and Affordable Care Act (PPACA)

◆ PPACA and State Implementation
  ➢ Health Care Reform Leadership Team
  ➢ Strategic Plan, *Implementing Federal Health Care Reform—A Roadmap for New Mexico*

◆ PPACA and the Federal Temporary High Risk Insurance Pool Program

◆ PPACA and Health Insurance Exchanges
  ➢ Goals, Enrollment, Eligibility
  ➢ Federal Statutory Requirements
  ➢ Qualified Plans
  ➢ Individual Responsibility & Penalties

◆ HSD and the Exchange

◆ New Mexico's Creation of the Exchange

◆ New Mexico Statutory Issues

◆ PPACA and Next Steps for Overall Implementation in NM
  ➢ Health Care Reform Leadership Team's Master Matrix

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PPACA and State Implementation: 4/20/10 Executive Order 2010-012

◆ Establishes the Health Care Reform Leadership Team to:

➢ Develop a strategic plan, coordinate across state agencies, be accountable for recommendations

➢ Oversee development, planning and implementation of federal health reform

◆ Strategic Plan July 2010, *Implementing Federal Health Reform—A Roadmap for New Mexico,* http://www.hsd.state.nm.us/nhcr/nhcrlao.htm

◆ Recommendations Governor directs we move forward with:

1. Continue convening the Health Care Reform Leadership Team
2. Expand membership of the HCR Leadership Team
3. Create an Office of Health Care Reform
4. Host the Office of Health Care Reform at the Human Services Department.
5. Determine state statutes requiring amendment/enactment to be in compliance with the Patient Protection and Affordable Care Act.
6. Conduct tribal consultation regarding health care reform initiatives and policies that will impact American Indians.

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PPACA and the Federal Temporary High Risk Pool Insurance Program

◆ Creates the Pre-Existing Condition Insurance Plan Program or Federal High Risk Insurance Pool which covers primary and specialty care, hospital care, and prescription drugs.

◆ Provides health coverage if you:

➢ Have been uninsured for at least six months;

➢ Have a pre-existing condition or been denied health coverage because of your health condition, and

➢ Are a U.S. citizen or are residing here legally.

◆ HSD, in cooperation with the New Mexico Medical Insurance Pool (NMMIP), has a contract with HHS to administer the Federal high risk pool. $37 million is available for NM; Estimated to serve 1000 people over three years.

◆ A person with low income may also qualify for a subsidized premium.

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PPACA and the Federal Temporary High Risk Pool Insurance Program (cont)

◆ The temporary pool will expire in 2014, when the new federal law bars the denial of insurance coverage for medical reasons across all health plans in the country.

◆ Applications became available at the beginning of July and coverage is scheduled to begin in August. So far, four people are enrolled in the federal high-risk pool, 23 applications are pending and dozens of applications have been sent to interested New Mexicans.

◆ To see if you qualify for the new federal high-risk pool or for additional information on the existing NM high-risk pool visit http://www.nmmip.org or contact NMMIP (505) 424-7105 or Toll Free at (866) 622-4711.

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Health Insurance Exchange
Goals

The goals of the Exchange include:

◆ Promoting competition;

◆ Simplifying shopping for insurance;

◆ Enforcing consumer protections;

◆ Standardizing consumer information;

◆ Centralizing enrollment;

◆ Market Reform Policy—shift the market from **competition based on avoiding risk into competition based on price and quality;**

◆ New Mexico already conducts some functions of an Exchange within the

  ➢ Human Services Department's *Insure NM!* Call Center

  ➢ New Mexico Health Insurance Alliance

  ➢ New Mexico Medical Insurance Pool

  ➢ Public Regulation Commission's Division of Insurance

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Health Insurance Exchange
Enrollment and Eligibility

Enrollment Functions

◆ Determine eligibility for subsidies;

◆ Administer subsidies;

◆ Enroll individuals and businesses into plans;

◆ Develop and maintain website;

◆ Run a call center;

Integrated Eligibility

◆ Single application form for Medicaid/CHIP and Exchange subsidies

◆ Available online, in person, by phone, on paper

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Health Insurance Exchange
Federal Statutory Requirements

◆ All states must establish a Health Insurance Exchange by 2014 or allow the federal government to establish one for the state.

◆ There will be 2 types of Exchanges operated in each state. One is known as the American Health Benefit Exchange, or Health Exchange, and the other as the Small Business Health Options Program, or "SHOP Exchange." States can choose to establish a single Exchange serving both individuals and small businesses, or provide coverage through separate entities.

◆ States can operate the Exchanges directly, contract with a nonprofit entity to operate it, enter into agreements with other states to jointly provide an exchange, or allow the federal government to run the Exchange for the state.

◆ States may form regional Exchanges or allow more than one Exchange to operate in a state as long as each Exchange serves a distinct geographic area.

◆ Plans must meet certain qualifications to be included in the plans that can be sold on the exchange to individuals and businesses. Those plans can sell policies at the same price outside of the Exchange too. See information on "qualified health plans".

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Health Insurance Exchange
Federal Statutory Requirements continued

The functions of the Exchange include:

◆ Establish a market place where individuals and businesses can do comparison shopping for health plans. Must include a website where people can compare plans and apply for coverage.

◆ Certify plans as qualified to sell in the Exchange by determining that plans meet the requirements.

◆ Help individuals determine their eligibility for Medicaid, CHIP and tax credits.

◆ Provide reports to the federal government about who are exempt from the individual mandate and therefore exempt from tax penalties.

◆ Establish "Navigator" programs that will make grants to community-based organizations and other entities to provide outreach and help people in enroll in health care coverage.

◆ Beginning in 2014, individuals can purchase health care coverage through the Health Exchange.

◆ Small businesses with up to 100 employees can purchase coverage through the SHOP Exchange. Beginning in 2017, states may allow businesses with more than 100 employees to purchase coverage in the SHOP Exchange.

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HEALTH INSURANCE EXCHANGE
QUALIFIED PLANS

Qualified Plans & Essential Benefits

◆ New Individual Market and Small Group Plans must offer qualified plans and essential benefits as defined by HHS.

◆ Plans that offer essential benefits can offer varying levels of coverage known as Bronze, Silver, Gold and Platinum levels.

◆ A qualified health plan must:

➢ Agree to offer at least one Silver and one Gold Plan

➢ Agree to charge the same premium whether the plan is sold through the Exchange or outside of the Exchange

◆ Plans can offer to individuals under the age of 30 "catastrophic plans" that cover essential benefits but have very high deductibles.

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Health Exchange
Role in Tracking Compliance and Penalties

◆ Individuals must acquire health care coverage or pay a tax penalty.

◆ Some people are exempt from the individual mandate including:

  ➢ Tribal members

  ➢ Individuals with low incomes who are not required to file taxes

  ➢ Members of certain religions that are exempted for religious reasons

  ➢ Incarcerated individuals

  ➢ Undocumented immigrants

  ➢ Those without coverage for less than three months

  ➢ People who do not have an affordable offer of coverage, either through the Exchange or through their employer. "Affordable" is defined as when the monthly premium does not exceed more than 8% of a family's income in 2014 (indexed in later years to account for both premium and wage increases).

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Interface with the Exchange

◆ The Health Insurance Exchange and HSD will be in constant communication with each other

  ➢ IT eligibility system must be able to interface with the Exchange

  ➢ There will be a single, streamlined application for persons applying to either Medicaid, CHIP or premium tax credits through the Exchanges;

    – Individuals will be screened for Medicaid before purchasing insurance through the Exchange.

  ➢ Individuals will be able to apply for Medicaid, CHIP, or the Exchange through a state-run web site that must be in operation by Jan. 1, 2014.

  ➢ Individuals will be able to apply or renew Medicaid coverage through a web site with electronic signature;

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PPACA and Next Steps—Exchange

◆ *Decision Points – Exchange*

Date	Action
By 12/31/10	Decision to create an Exchange and whether one Exchange or two; decision to create a New Mexico-only Exchange or join in a regional Exchange
	Form planning group to develop Exchange; create work plan
	Secure federal planning funds
9/10 & Ongoing	Decision on where Exchange should be housed
	Continue efforts to implement new state HSD Medicaid and other public programs' eligibility systems, as needed to comply with federal law; Issue RFP for new IT HSD eligibility system by Fall 2010
1/1/12	Action to create Exchange
1/1/14	Launch Exchange

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Individual Health Exchange	Business Health Exchange

1. Does NM Want One or Two Exchanges?
2. What Type of Exchange do we want?
3. Which Model below should we choose?

Exchange Operated by the Feds	Exchange operated by a non-profit agency	Exchange operated within a state agency	Join in a Regional Exchange with other States	Create regional exchanges within NM

4. What legislation is needed to create the Exchange?
5. Determine functions within the Exchange (see # 2) and relationship to HSD

HSD	← →	Exchange

6. Who will determine Medicaid eligibility?
7. Who will determine eligibility for the tax subsidies?
8. How will consumer education and protection be coordinated?
9. How will individuals move between the Exchange and HSD without loss of health care coverage?
10. Will individuals maintain some consistency in health care benefits when they move back and forth from the Exchange to Medicaid?

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PPACA and Next Steps—NM Statutory Issues for an Exchange

Provide the Exchange with authority to:

- Certify whether a health care plan meets the eligibility requirements to participate in the Exchange, based on criteria developed by HHS.

- Make eligibility determinations and provide assistance for participation in the Exchange, in catastrophic plans, to obtain premium tax credits and cost-sharing reductions, and to enroll in public programs such as Medicaid or CHIP.

- Gather income and tax information to make affordability determinations.

- Access or keep a database of employers and employees, which is needed to determine which employees drop coverage and to be able to communicate to employers when such an event occurs.

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PPACA and Next Steps—NM Statutory Issues for an Exchange (cont)

- Consider charging insurers user fees or otherwise to generate revenue to be a self-sustaining Exchange by January 1, 2015.

- Publish licensing and regulatory fees.

- Approve and deny premium increases.

- Collect and publish coverage transparency data.

- Provide enrollment periods as specified under PPACA.

- Monitor and enforce quality improvements required by the PPACA.

- Establish a navigator program, award grants from Exchange funds (cannot be derived from federal funds) to entities to carry out certain functions, and monitor and enforce the grants to ensure compliance with grant requirements.

- Collect and maintain adequate records regarding financial, enrollment and other data necessary for federal and state auditing and reporting requirements.

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PPACA and Next Steps—NM Statutory Issues for an Exchange (cont)

Potential considerations for the NM Insurance Code:

- Provide mental health parity law in conformance with federal law.

- Provide that HIPAA nondiscrimination and special enrollment provisions, along with federal genetic nondiscrimination provisions, are applicable to qualified health plans in the Exchange.

- Whether enrolled in the Exchange or not, require insurers to pool all enrollees in the individual market into one risk pool, and all small group market members into one risk pool (unless the plan is "grandfathered"). In the alternative, the state can decide to merge the individual and small group markets.

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PPACA and Next Steps—NM Statutory Issues for an Exchange (cont)

Other statutory considerations regarding an Exchange:

◆ Ensure that the governing entity, whether it is run by a board of directors or by a governmental agency, receives and considers **input from a diversity of interests** as required under the PPACA.

◆ Depending on what is included as "essential health benefits" under federal law, legislation may be needed to repeal or a decision made to retain some or all of the **current mandated benefits** in the small group, group and individual markets under state law.

◆ Consider whether the Exchange should initially provide **consumer protections** that are not included in federal legislation.

◆ Consider whether the Exchange should be given **additional authority** to influence insurers, providers, and consumers in the areas of cost containment and quality.

◆ In addition to authorizing legislation, the Exchange should be provided with clearly delineated **enforcement authority** or clearly delineated authority to send enforcement actions to currently constituted enforcement authorities within state government.

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PPACA and Next Steps—Overall Implementation in New Mexico

◆ See Health Care Reform Leadership Team's "Master Matrix"

◆ Further Information Available at

http://www.hsd.state.nm.us/includes/nhcrlao.htm

Or Contact

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