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Impact of Health Insurance Mandates and the Autism Mandate for 2014

The health insurance marketplace is changing with the implementation of federal health reform and the exchange. The essential health benefits package has already been determined for the state of Kansas and is the basis for all plans inside and outside the exchange beginning January 1, 2104. In addition, it has been determined that Kansas will be a Fully Funded Federal Exchange, which means that the federal government will govern a majority of aspects for plan filing and design on the exchange. If a mandate is enacted, the state must pay for the cost of the mandate. In addition, because of new rules and deadlines, a newly enacted mandate may not be part of the filing for 2014.

Below are some talking points and frequently asked questions for health insurance plans, specifically how new mandates may be treated in light of federal health reform and with the implementation of a health insurance exchange.

CMS – Frequently Asked Questions on Essential Health Benefits Bulletin – Dec. 16, 2011

Q: Could a State add State-mandated benefits to the State-selected EHB benchmark plan today without having to defray the costs of those mandated benefits?

A: No. We intend to clarify that under the proposed approach any State-mandated benefits enacted after December 31, 2011 could not be part of EHB for 2014 or 2015, unless already included within the benchmark plan regardless of the mandate. Note that any State-mandated benefits enacted by December 31, 2011 would be part of EHB if applicable to the State-selected EHB benchmark plan. As mentioned above, HHS intends to revisit this approach for plan years starting in 2016.

Colorado's Essential Health Benefits Benchmark Plan Response to Stakeholder Questions Updated July 6, 2012

Q: What if Colorado adds mandated benefits through statute in 201 or later?

A: The state will have to pay for any mandates added after December 31, 2011 and incorporated into the Essential Health Benefits plan, regardless of whether a particular mandate falls within a category of benefits required by the ACA. *Answer updated 6/29 (webinar)*

CMS – Center for Consumer Information and Insurance Oversight – Additional Information on EHB Benchmark Plans

Q: What are the State-Required Benefits?

A: For purposes of determining EHB, we consider state-required benefits (or mandates) to include only requirements that a health plan cover specific care, treatment, or services. We do not consider provider mandates, which require a health plan to reimburse specific health care professionals who render a covered service within their scope of practice, to be state-required benefits for purposes of EHB coverage. Similarly, we do not consider state-required benefits to include dependent mandates, which require a health plan to define dependents in a specific manner or to cover dependents under certain circumstances (e.g., newborn coverage, adopted children, domestic partners, and disabled children). Finally, we do not consider state anti-discrimination requirements relating to service delivery method (e.g., telemedicine) as state-required benefits.

The Center on Health Insurance Reforms – Essential Health Benefits Final Rule: No Major Departures

Q: How are *State Benefit Mandates Treated?*

A: The final rule confirms the policy laid out in the proposed rule, which allows state mandates enacted on or before December 31, 2011 (even if not effective until a later date) to be considered part of the EHB. For these mandates, the state would not be required to defray any associated costs. For mandates enacted after December 31, 2011, the state would have to defray any associated costs for those enrolled in qualified health plans. The responsibility for determining what those extra costs would be falls to the state's exchange (or federally facilitated exchange (FFE), as the case may be).

Feds Close Door on Healthcare Mandates – The Connecticut Business & Industry Association (CBIA)

"…..Instead of the states taking most of this year to determine their EHP, the CMS has closed the mandates door--as of Dec. 31, 2011. From the latest CMS Frequently Asked Questions Bulletin:

> **Q:** Could a state add state-mandated benefits to the state-selected EHB benchmark plan today without having to defray the costs of those mandated benefits?

A: No… any state-mandated benefits enacted after Dec. 31, 2011 could not be part of EHB for 2014 or 2015

What if state lawmakers pass new or expanded mandates this session? Who would be responsible for paying their cost?

CMS says the State of Connecticut would have to pay the extra costs.

Specifically, "The [federal health reform law] requires States to defray the costs of State-mandated benefits in [health plans sold through the exchange] that are in excess of the EHB."

This decision has enormous implications for all states—but especially Connecticut--that historically have passed more mandates than others.

If lawmakers adopt any new or expanded mandates this year, then they have to be prepared to pay for them through the state's General Fund.

No longer can lawmakers pass these mandates without any regard to cost—which usually hits small businesses. Now lawmakers have to face the fact that these mandates *will directly increase costs to the state….."*

From LDI Health Economist, **"Autism Advocates Wary of Losing Hard Won Coverage"**

From the Kansas Department of Insurance:

Filing Deadline: We understand that you will be able to submit your binders through SERFF beginning on or about March 28, 2013. KID strongly recommends that you have all of your binders, form, and rate filings submitted to us by no later than Wednesday, May 1, 2013. We will be making every effort to ensure that all filings submitted by that date are reviewed and have an opportunity to be ready for submission to the FFE by the July 31, 2013 deadline. Please be advised that we now understand that all rates related to individual and small group products to be sold both inside and outside the exchange, if a company is participating in the exchange, must be reviewed and approved prior to July 31, 2013.

Missouri Autism Mandate:

The Missouri Department of Insurance's new report shows that health insurance payments for autism-related treatments in Missouri rose by more than 50% in 2012. Since the autism mandate took effect in January 2011, overall claim costs incurred for autism services rose from $4.3 million to $6.6 million, of which $3 million was directed to ABA services. Between 2011 and 2012, the number of individuals who held Missouri licenses as a behavioral analyst grew by 44%.