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Mental Health Parity and Health Care Reform – Presentation to NAMI Kansas

Andrew Sperling
Director of Federal Legislative Advocacy
NAMI National
andrew@nami.org
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Impact of Mid-Term Elections

- Control of U.S. House shifts to Republicans – 239-188 (7 races still undecided)
- Democrats maintain control of the Senate by a narrow margin – 53-47
- Extended partisan gridlock likely
- Focus on discretionary spending
- Obama Administration seeking to freeze non-defense, non-veterans discretionary spending
- House Republicans want to cut back to FY 2008 levels

Extending Higher Medicaid FMAP

- Signed into law on August 10
- Current higher FMAP of 6.2% from ARRA would have expired December 31
- Now extended through June 30, 2011 at a cost of $16 billion
- $100 million for Kansas
- January through March 2011 – each state gets a 3.2% FMAP boost, with an extra 1.2% higher boost for states with higher unemployment rates

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What Did The President Sign Into Law?

The Patient Protection and Affordable Care Act

- "The Senate passed bill"
- HR 3590, now P.L. 111-148
- Signed March 23

The Health Care and Reconciliation Act of 2010

- "Reconciliation fixes to the Senate bill"
- HR 4872, now P.L. 111-152
- Signed March 30

Federal Health Reform – Major Themes

- Immediate changes in 2010
- Insurance market reforms
- Individual mandate and employer responsibilities
- Coverage expansion – Medicaid expansion and low-income subsidies
- Cost control – Incremental steps away from fee-for-service medicine with numerous federal pilots designed to “bend the cost curve” (e.g. accountable care organizations, medical homes, chronic care management and payment reform commissions)
- Changes to Medicare Part D
- Cuts to Medicare Advantage plans

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Federal Health Reform – Major Themes

- Quality improvements (e.g. comparative effectiveness)
- Workforce development
- Health disparities
- Excise tax on high cost plans delayed until 2018
- Follow-on-Biologics
- Prevention and wellness promotion (funds for bike paths & jogging trails, restaurant menu disclosure)
- No permanent Medicare SGR fix for physicians

Potential Impact of 2010 Mid-Term Elections

- Repeal and replace?
  - Certain presidential veto – override of veto highly unlikely
  - Remove individual mandate only?
- Defund implementation?
  - Bar funding to enforce regulations and rules?
  - Prevent funding for key elements such as health insurance exchanges and prevention fund?
  - Stop mandatory programs such as Medicaid expansion, employer tax credits and subsidies for individuals and families?

Potential Impact of 2010 Mid-Term Elections on Health Reform Implementation - States

- Continued court challenges to constitutionality of the individual mandate and the Medicaid expansion
- Refuse implementation
  - Health Insurance Exchanges?
  - Medicaid expansion?
  - Federal planning assistance
    - Exchanges
    - Rate review authority
    - High-risk pools

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Immediate Changes Going Into Effect in 2010

Effective as of September 23, 2010:

- Bar on pre-existing condition exclusions for children under 19
- Prohibition on coverage rescissions months
- Family coverage for dependents up to age 26
- No lifetime limits on coverage
- Bar on annual limits for “new” plans that fail “grandfathered” status
- Free preventive care in “new” plans that fail “grandfathered” status

Immediate Changes Going Into Effect in 2010

- Small business tax credits of up to 35%
- $250 rebate for all Medicare beneficiaries reaching the coverage gap in 2010, 50% discount on branded medications begins in 2010
- Interim state-based high risk pools – federal fallback must be set up by HHS within 90 days (open to anyone with a health condition uninsured for 6 months or more)
- Follow-on-Biologics
- CER – Federal Coordinating Council is gone, authority for new corporation is immediate
- CLASS Act goes into effect on January 1, 2011

Insurance Market Reforms – Starting in 2014

- A prohibition on pre-existing condition exclusions
- Restrictions to severely limit the use of health status, gender and age in determining premium rates
- Requirements for guaranteed issue and guaranteed renewal of coverage in the individual and small group markets

Insurance Market Reforms – Starting in 2014

- New restrictions on annual and lifetime limits in insurance plans, with greater accountability for "grandfathered" plans (prohibiting caps after 2014 and a requirement for covering preventive services with no cost sharing after 2018)
- New restrictions on medical loss ratio (requiring plans to dedicate a fixed % of premium dollars to care)
- Greater transparency, accountability and notice requirements for health plans seeking to increase premiums on enrollees

Coverage Expansion - Medicaid

- Medicaid expansion up to 133% of Federal Poverty Line (FPL) beginning in 2014 (effectively 138% of poverty with an additional 5% "income disregard"),
- Approximately $14,404 for individuals and $29,327 for a family of 4, regardless of traditional eligibility categories such as SSI, thus including childless adults living with mental illness,
- 100% FMAP for "new eligibles" in 2014-2016, phasing down to 90% in 2016 v. lower FMAP rate for mandatory populations such as SSI beneficiaries
- 69% of households below 133% of FPL are single adults, 32% have at least 1 chronic condition

Coverage Under Medicaid Expansion

- States will be allowed to enroll “new eligibles” in benchmark plans
- New protections added to DRA benchmark requirements
- “Essential benefits package” will be required in all benchmark plans
  - Ambulatory
  - Hospital
  - Emergency
  - Prescription drugs
  - Mental health & substance abuse
  - Rehabilitation and habilitation
- People with disabilities, dual eligibles, “medically frail” and children in foster care are exempt from enrollment in benchmark plans
- Medicaid limits on premiums, deductibles and cost sharing for prescriptions and other services continue to apply to new eligibles, especially for those below 100% of FPL

Medicaid Expansion in Kansas

- Medicaid expansion up to 133% of Federal Poverty Line (FPL) beginning in 2014
  - 100% FMAP for “new eligibles” in 2014-2016, phasing down to 90% in 2017 through 2020 v. 50% FMAP rate for mandatory populations such as SSI beneficiaries
  - 178,900 “new eligibles” in Kansas
  - $3.3 billion projected additional federal Medicaid share (FMAP) for 2014 through 2020 Enrollment
- Current Enrollment
  - Total – 352,900
  - Children – 200,300
  - Adults – 53,000
  - Elderly – 35,500
  - Disabled – 64,100

New Medicaid 1915(i) – Home and Community-Based Services Expansion

- Expands current 1915(c) option by preventing waiting lists and requiring statewideness,
- Allows targeting of 1915(i) to certain populations (waiving comparability),
- Allows targeting of different benefit packages for targeted populations (e.g., serious mental illness),
- Permits additional HCBS beyond those in the statute for a particular population (e.g., supported employment, ACT teams, supportive services in housing, transportation, etc.)
- Optional category up to 300% of federal SSI level,
- No cost neutrality requirement!!!! – new opportunity to overcome IMD exclusion as a barrier!!!!

Additional New Medicaid Options

- Community First Choice Option
  - Starting October 1, 2011, states can offer a variety of community-based attendant care services and supports for eligible individuals
  - Up to 150% of FPL
  - “Institutional” level of care required (based on ADLs/IADLs)
- State Balancing Incentives Program
  - Starting October 1, 2011, higher FMAP for HCBS that replace institutional care
  - “no wrong door single point of entry” to promote streamlined referrals
  - FMAP based state’s current % of Medicaid spending on non-institutional care

Medicaid Coordination of Care or "Medical Home" Option

- Section 2703
- Available through a plan amendment – no waiver required
- New state plan option allowing Medicaid enrollees with -
  - at least two chronic conditions, or
  - one chronic condition and risk of another, or
  - at least one serious mental health condition
- Allows the state to designate and reimburse a provider (which could be a community mental health center) as a health home; services include: case management, care coordination and health promotion, family support, use of health IT.
- 90% FMAP for two years,
- Effective January 2011

Health Coverage in Kansas

- 2.718 million residents
- 346,100 uninsured
- 183,000 in the individual market
- 197,000 projected to be eligible for subsidies and tax credits in 2014 ($3.2 billion in tax credits and premium subsidies between 2014 and 2019)
- 292,239 young adults (ages 19 to 25) are now eligible for extended family coverage
- In 2009, 73,900 Medicare beneficiaries reached the Part D coverage gap, 35,500 with no assistance

Coverage Expansion – Health Insurance Exchanges

- State-based insurance exchanges starting in 2014, with a federal fallback exchange
- Individual mandate with penalties, the greater of:
  - $95 in 2014, $325 in 2015, $695 in 2016, OR
  - % of household income (1% in 2014, 2% in 2015 and 2.5% in 2016 and beyond)
  - Exempts individuals below the tax filing threshold

Coverage Expansion - Employers

- Employer mandate – Penalizes employers with 50 or more workers that do not offer affordable coverage.
  - Companies that fail to offer coverage and have employees receiving subsidies in the exchange must pay $2,000 per employee
  - Companies that offer coverage but have employees in the exchange must pay $3,000 per employee

- Subsidies in the exchange – Tax credits up to 400% of FPL ($43,420 for an individual and $88,200 for a family of 4) with limits on premiums to no more than 2% of income for those at 100% of FPL, phasing up to 9.5% of income at 400% of FPL. Tax credits also subsidize cost sharing on a sliding scale, phasing out at 400% of FPL.

Delivery System and Payment Reforms

- Independent Payment Advisory Board (Section 3403)
- Center for Medicare and Medicaid Innovation at CMS (Section 3021)
- Medicare Shared Savings Program and Accountable Care Organizations (ACOs)
- National pilot program on payment bundling (Section 3023)
- Hospital value-based purchasing program (Section 3001)
- Hospital readmission reduction program (Section 3025) & payment adjustment for conditions acquired in hospitals (Section 3008)

Elimination of the Medicare Part D Coverage Gap

- Elimination of the “doughnut hole” coverage by 2020
- Drops the $500 increase in the initial coverage limit and offers a $250 rebate in 2010
- Required 50% discounts from brand name manufacturers
- Plans required to phase down the remaining beneficiary co-insurance requirement from 50% to 25% (with separate rates for brands and generics)
- New limits on deductibility for employer subsidy for Rx coverage for retirees

Mental Health Specific Provisions

- Essential benefits requirements (Section 1302) – includes emergency services, prescription drugs, mental health and substance abuse treatment services.

- Parity requirement in state-based exchanges (Section 1311) – all plans offered through exchanges must comply with the Domenici-Wellstone Mental Health Parity and Addiction Equity Act of 2008

- Medicaid emergency psychiatric demonstration project (Section 2707) – Lifts IMD restrictions for emergency acute care

Parity Implementation – the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

- P.L. 110-343, signed on October 3, 2008
- Attached to the financial market rescue and tax extenders legislation
- Becomes effective in new group health plan years starting after October 3, 2009
- Expands the 1996 federal parity law and requires equity in coverage with respect to:
  - Durational treatment limits (caps on inpatient days and outpatient visits)
  - Financial limitations (higher cost sharing, deductibles, out-of-pocket limits)

What Does the New Law Apply To?

- Group Health Plans and Health Insurers That Provide Coverage to Group Health Plans (employers with over 50 employees)
- Medicaid Managed Care Plans
- State Children's Health Insurance Program
- Non-Federal Governmental Plans – waiver still available under HIPPA
- Federal Employees Health Benefits Plans

Parity in Group Health Plans

- Includes both mental health and substance abuse “as defined by the plan” “in accordance with applicable federal and state law”
- No preemption of state mandates or parity laws above the new federal standard
- Small employer exemption for firms with 50 or fewer workers
- Cost increase exemption available, unlikely to be used

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Mental Health Coverage in Kansas

- Passed in 2009
- Parity with a minimum benefit mandate, if offered
- §40-2,105 and 2,105a
- Applies to individual and group markets and HMOs (exemption for small employers 25 and under)
- No less than 45 inpatient care, $15,000 lifetime minimum
- Broad definition of mental health and substance abuse disorders
- 1% cost increase cap added in 2003
- 30 inpatient days & 20 outpatient visits – applies to all group health plans with equal co-pays, deductibles and co-insurance

Parity in Kansas

- 847,000 Kansans in ERISA self-insured plans exempt from the Kansas law (801,000 in plans sponsored by firms >50 workers)
- 626,000 in fully-insured state regulated plans, 375 sponsored by firms with 50 or fewer workers

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Non-Federal Governmental Plans in Kansas Waiving Federal Parity

- City Wichita
- High Plains Educational Cooperative #611
- Unified School District #428

Areas That Still Clarification in Future Regulations and Guidance

- Preemption of State Laws
- Cost Increase Exemption
- Application of parity to Medicaid managed care plans

Parity in Health Reform

- Final Senate bill includes new national standards for all health plans offered through state-based health insurance “Exchanges”
- Standards include a minimum benefit package that lists mental health treatment as a requirement
- Non-discrimination standard in the Exchanges includes compliance with the Wellstone-Domenici MHPAEA

Questions and Comments