

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
HEALTH, LONG-TERM CARE & HEALTH RETIREMENT ISSUES COMMITTEE
INTERIM MEETING
JUNE 22, 2016

The National Conference of Insurance Legislators (NCOIL) Health, Long-Term Care & Retirement Issues Committee held an interim meeting via a phone conference on June 22, 2016 at 12:00 p.m.

Asm. Kevin Cahill of New York, Chair of the Committee, called into the conference and presided

Other members of the Committee who called into the conference were:

Rep. Deborah Ferguson, AR	Sen. James Seward, NY
Rep. Bill Botzow, VT	Sen. Bob Hackett, OH
Rep. Tommy Thompson, KY	Rep. Joseph Fischer, KY
Rep. Ken Goike, MI (Vice Chair)	

Also in attendance were:

Tom Considine, NCOIL CEO
Paul Penna, Executive Director, NCOIL Support Services
Will Melofchik, Legislative Director, NCOIL Support Services

MINUTES

DISCUSSION OF AHIP STATE-BASED PILOT ON PROVIDER DIRECTORIES

Asm. Cahill first advised that the Committee would discuss agenda item #1: AHIP state-based pilot on provider directories. Dianne Bricker from AHIP announced herself and turned the discussion over to Jeanette Thornton from AHIP. Ms. Thornton stated that AHIP was very pleased with how its pilot program was progressing and stressed that the accuracy of provider directories is extremely important. Ms. Thornton mentioned that there are also new Federal regulations regarding provider directories and that they require “at least quarterly” to make sure said directories are accurate.

Ms. Thornton further stated that a challenge in making sure the directories are accurate is that information such as the office’s hours can change frequently. Ms. Thornton said that a main goal of the pilot-program is to see how the health insurance industry can work together to make the directories as accurate as possible in the most efficient way. Ms. Thornton stated that 3 states are part of the pilot program: Florida, Indiana and California.

Rep. Goike then asked Ms. Thornton a question as to whether AHIP was getting good information from those States. Ms. Thornton said that they are using an independent evaluator to gather data from the States and the results will be available this Fall.

Asm. Cahill then asked Ms. Thornton how the pilot-program interfaces with Medicare Fee for Service. Ms. Thornton said that Medicare Fee for Service is not part of the pilot-program but that AHIP briefed CMS about the pilot-program. Ms. Thornton said that CMS was very interested to see how the program would turn out and said it would like to it for future help.

Sen. Hackett then states that part of the problem is the reduction in size of the networks and asked whether the program was focusing on those numbers. Ms. Thornton stated that the program was not necessarily focusing on those numbers but agreed with Sen. Hackett that the size of the network is an issue and when the network becomes smaller, accuracy of data is even more important.

DISCUSSION OF HHS' CATCH-22: FORCING CONSUMERS TO CHOOSE BETWEEN HSAs AND ACA-COMPLIANT HEALTH PLANS

Tom Considine offered some background on this issue. Cmsnr. Considine stated that regulations promulgated by HHS and CMS in March 2016, will effectively eliminate HAS qualified health plans from the insurance exchanges next year. Under the regulation, consumers can either choose an ACA Qualified Health Plan (QHP) or an Internal Revenue Service (IRS) qualified HAS; they would be precluded from selecting a plan that qualifies as both, as they can currently. This is because the out-of-pocket limits and deductible requirements for qualified exchange-based plans set by HHS will conflict with those set by the IRS for HSAs. For example, the new mandated deductible is \$100 too high for Bronze plans, and \$50 too low for Gold plans. For Silver plans, the out-of-pocket maximum is \$600 too high.

Additionally, the regulation requires plans to cover numerous services below the deductible such as a limited number of primary-care visits, specialty care visits, mental-health and substance-use-disorder outpatient services, urgent care visits and drug benefits. However, IRS qualified HSA plans are not permitted to cover any services below the deductible except for preventive services. Cmsnr. Considine stated that as a result of those conflicts, the millions of Americans who currently finance their present and future health care needs through HSAs will face a "catch-22": keep their HSAs, which will result in them being advised they are losing coverage within 6 months of the expiration of their current plan year; or choose a "qualified" plan on the exchange and forego the opportunity to have an HAS, and thus be left with a plan that will not best meet their unique health care and financial needs.

Asm. Cahill asked Cmsnr. Considine if the regulations effect of eliminating HSAs was intentional or accidental. Cmsnr. Considine stated that some people think that it is an unwritten policy of the current administration that they don't like HSAs but he believes that this could be a matter of miscommunication between the drafters of the rule and policy experts who assisted them.

Asm. Cahill then commented that HSAs are becoming increasingly important to which Mr. Considine agreed and stated that HSAs make high-deductibles more attractive and that the HHS-CMS regulation is anti-consumer.

Asm. Cahill asked whether NCOIL received a response to the letter it wrote to HHS-CMS about the regulation. Cmsnr. Considine stated that no response was received and that NCOIL will follow up.

MEANINGFUL ACCESS TO ACCURATE PROVIDER DIRECTORIES MODEL ACT

Asm. Cahill stated that he believes it best to not adopt this Model Act because due to other efforts on this issue being implemented, such as AHIP's pilot-program, NCOIL should see what information can be learned and then discuss the issue at a later meeting. Rep. Goike and Sen. Seward concurred. Rep. Ferguson also concurred and stated that there was recently an NAIC Model Act introduced on this issue and its very detailed and long. Accordingly, Rep. Ferguson agreed that its best to examine the NAIC Model Act and the AHIP program to see what NCOIL can learn.

Asm. Cahill made a motion to not adopt/table the Meaningful Access to Accurate Provider Directories Model Act. Rep. Goinke seconded the motion. No one opposed.

TELEMEDICINE REIMBURSEMENT AND TELEMEDICINE LICENSURE MODEL ACTS

Asm. Cahill stated the issue of telemedicine is very complex and that he thinks it can be divided into 3 sub-categories:a.) rural and remote healthcare in places that are underserved; b.) use of centers of excellence to bolster otherwise unsuitable health care environments and; c.) minute clinics. Asm. Cahill stated that he believes each of those categories deserves their own separate consideration and therefore recommended that more work be done to research the issues and not to adopt this Model Act. Rep. Goike agreed with Asm. Cahill and stated that Michigan is also working to develop more information on how best to deal with these issues.

Rep. Ferguson stated that she does not believe these Model Acts are controversial but rather thinks the issue of determining when the doctor-patient relationship being is controversial and complex. Rep. Ferguson stated she therefore wishes to adopt these Model Acts.

Sen. Seward stated that many states have now passed Telemedicine bills and it would be best to examine those approaches and continue discussions on these issues at a later meeting. Asm. Cahill then stated that he thinks it would be best to shift away from the AMA approach and to examine what the states have done on these issues, and then to possibly sub-divide those issues unto the categories he mentioned earlier.

Rep. Botzow stated that there are many issues to look at now with telemedicine that each deserve their own time and consideration.

Rep. Ferguson then made a motion to adopt the model acts but then withdrew said motion. Asm. Cahill then made a motion to not adopt these model acts and to have a brief discussion at either Portland or Las Vegas as to how to proceed with Telemedicine issues. No one opposed.

PREVIEW OF PORTLAND AGENDA

Asm. Cahill then announced the agenda for the committee at the upcoming Summer Meeting in Portland, OR. Asm. Cahill asked whether anyone wanted to include anything or remove anything. Several people responded that the agenda looked good. Asm. Cahill then proposed that a new agenda item be included titled “old business” which will include a discussion on a.) a response from HHS-CMS regarding NCOIL’s letter about their regulations’ effect on HSAs and, b.) review/approval of the minutes of today’s meeting.

ADJOURNMENT

There being no further business, the Committee adjourned.