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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- HEALTH INSURANCE OVERSIGHT

Introduced By: Senators Miller, Perry, Picard, Ciccone, and Sosnowski

Date Introduced: April 14, 2011

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Section 42-14.5-3 of the General Laws in Chapter 42-14.5 entitled "The Rhode Island Health Care Reform Act of 2004 - Health Insurance Oversight" is hereby amended to read as follows:

42-14.5-3. Powers and duties. [Contingent effective date; see effective dates under this section.] -- The health insurance commissioner shall have the following powers and duties:

(a) To conduct quarterly public meetings throughout the state, separate and distinct from rate hearings pursuant to section 42-62-13, regarding the rates, services and operations of insurers licensed to provide health insurance in the state the effects of such rates, services and operations on consumers, medical care providers, patients, and the market environment in which such insurers operate and efforts to bring new health insurers into the Rhode Island market. Notice of not less than ten (10) days of said hearing(s) shall go to the general assembly, the governor, the Rhode Island Medical Society, the Hospital Association of Rhode Island, the director of health, the attorney general and the chambers of commerce. Public notice shall be posted on the department's web site and given in the newspaper of general circulation, and to any entity in writing requesting notice.

(b) To make recommendations to the governor and the house of representatives and senate finance committees regarding health care insurance and the regulations, rates, services, administrative expenses, reserve requirements, and operations of insurers providing health

insurance in the state, and to prepare or comment on, upon the request of the governor, or chairpersons of the house or senate finance committees, draft legislation to improve the regulation of health insurance. In making such recommendations, the commissioner shall recognize that it is the intent of the legislature that the maximum disclosure be provided regarding the reasonableness of individual administrative expenditures as well as total administrative costs. The commissioner shall also make recommendations on the levels of reserves including consideration of: targeted reserve levels; trends in the increase or decrease of reserve levels; and insurer plans for distributing excess reserves.

(c) To establish a consumer/business/labor/medical advisory council to obtain information and present concerns of consumers, business and medical providers affected by health insurance decisions. The council shall develop proposals to allow the market for small business health insurance to be affordable and fairer. The council shall be involved in the planning and conduct of the quarterly public meetings in accordance with subsection (a) above. The advisory council shall develop measures to inform small businesses of an insurance complaint process to ensure that small businesses that experience rate increases in a given year may request and receive a formal review by the department. The advisory council shall assess views of the health provider community relative to insurance rates of reimbursement, billing and reimbursement procedures, and the insurers' role in promoting efficient and high quality health care. The advisory council shall issue an annual report of findings and recommendations to the governor and the general assembly and present their findings at hearings before the house and senate finance committees. The advisory council is to be diverse in interests and shall include representatives of community consumer organizations; small businesses, other than those involved in the sale of insurance products; and hospital, medical, and other health provider organizations. Such representatives shall be nominated by their respective organizations. The advisory council shall be co-chaired by the health insurance commissioner and a community consumer organization or small business member to be elected by the full advisory council.

(d) To establish and provide guidance and assistance to a subcommittee ("The Professional Provider-Health Plan Work Group") of the advisory council created pursuant to subsection (c) above, composed of health care providers and Rhode Island licensed health plans. This subcommittee shall include in its annual report and presentation before the house and senate finance committees the following information:

(i) A method whereby health plans shall disclose to contracted providers the fee schedules used to provide payment to those providers for services rendered to covered patients;

(ii) A standardized provider application and credentials verification process, for the

purpose of verifying professional qualifications of participating health care providers;

(iii) The uniform health plan claim form utilized by participating providers;

(iv) Methods for health maintenance organizations as defined by section 27-41-1, and nonprofit hospital or medical service corporations as defined by chapters 27-19 and 27-20, to make facility-specific data and other medical service-specific data available in reasonably consistent formats to patients regarding quality and costs. This information would help consumers make informed choices regarding the facilities and/or clinicians or physician practices at which to seek care. Among the items considered would be the unique health services and other public goods provided by facilities and/or clinicians or physician practices in establishing the most appropriate cost comparisons.

(v) All activities related to contractual disclosure to participating providers of the mechanisms for resolving health plan/provider disputes; and

(vi) The uniform process being utilized for confirming in real time patient insurance enrollment status, benefits coverage, including co-pays and deductibles.

(vii) Information related to temporary credentialing of providers seeking to participate in the plan's network and the impact of said activity on health plan accreditation;

(viii) The feasibility of regular contract renegotiations between plans and the providers in their networks.

(ix) Efforts conducted related to reviewing impact of silent PPOs on physician practices.

(e) To enforce the provisions of Title 27 and Title 42 as set forth in section 42-14-5(d).

(f) To provide analysis of the Rhode Island Affordable Health Plan Reinsurance Fund. The fund shall be used to effectuate the provisions of sections 27-18.5-8 and 27-50-17.

(g) To analyze the impact of changing the rating guidelines and/or merging the individual health insurance market as defined in chapter 27-18.5 and the small employer health insurance market as defined in chapter 27-50 in accordance with the following:

(i) The analysis shall forecast the likely rate increases required to effect the changes recommended pursuant to the preceding subsection (g) in the direct pay market and small employer health insurance market over the next five (5) years, based on the current rating structure, and current products.

(ii) The analysis shall include examining the impact of merging the individual and small employer markets on premiums charged to individuals and small employer groups.

(iii) The analysis shall include examining the impact on rates in each of the individual and small employer health insurance markets and the number of insureds in the context of possible changes to the rating guidelines used for small employer groups, including: community

rating principles; expanding small employer rate bonds beyond the current range; increasing the employer group size in the small group market; and/or adding rating factors for broker and/or tobacco use.

(iv) The analysis shall include examining the adequacy of current statutory and regulatory oversight of the rating process and factors employed by the participants in the proposed new merged market.

(v) The analysis shall include assessment of possible reinsurance mechanisms and/or federal high-risk pool structures and funding to support the health insurance market in Rhode Island by reducing the risk of adverse selection and the incremental insurance premiums charged for this risk, and/or by making health insurance affordable for a selected at-risk population.

(vi) The health insurance commissioner shall work with an insurance market merger task force to assist with the analysis. The task force shall be chaired by the health insurance commissioner and shall include, but not be limited to, representatives of the general assembly, the business community, small employer carriers as defined in section 27-50-3, carriers offering coverage in the individual market in Rhode Island, health insurance brokers and members of the general public.

(vii) For the purposes of conducting this analysis, the commissioner may contract with an outside organization with expertise in fiscal analysis of the private insurance market. In conducting its study, the organization shall, to the extent possible, obtain and use actual health plan data. Said data shall be subject to state and federal laws and regulations governing confidentiality of health care and proprietary information.

(viii) The task force shall meet as necessary and include their findings in the annual report and the commissioner shall include the information in the annual presentation before the house and senate finance committees.

(h)(i) To facilitate a transition away from fee-for-service and toward global and other alternative payment methodologies for the payment of healthcare, and to promote access to affordable health insurance, the health insurance commissioner shall, by regulation or by supplemental order issued in connection with the approval or modification of any rate insurance filing:

(A) Establish benchmark standards for expanding the use of alternative payment methodologies and reducing the use of fee-for-service methodologies by payers and providers for the purpose of adopting alternative payment methods across the healthcare industry by the beginning of 2014 and for the purposes of lowering annual increases in total medical expenditures;

(B) Establish standards whereby contracts between payers and providers that are based on a fee-for-service payment methodology must include no less than one other optional alternative payment methodology, such as global payments, designed to decrease per capita healthcare expenditures, encourage doctors and patients to focus on overall health, and improve the efficiency, effectiveness and quality of healthcare delivery;

(C) Establish standards for the reimbursement of categories of inpatient and outpatient hospital services designed to result in reasonable constraints on health insurance rate trends, and reasonable constraints on the increase in per member per month costs attributable to such services; and

(D) Establish such other payment standards as the commissioner determines are necessary to carry out the purposes of this chapter and to promote access to affordable health insurance.

(ii) The standards established under this subsection shall be compatible with Medicare payment standards, to the extent such Medicare standards are determined by the commissioner to be appropriate to the Rhode Island health care system.

(iii) The commissioner may propose that such standards be adopted by regulation, or be issued by supplemental order after notice to affected parties in connection with an order approving or modifying a rate insurance filing. Upon timely application and offer of information, the commissioner in his or her discretion, and for good cause shown, may permit any carrier, hospital, or healthcare provider materially affected by such proposed supplemental order to offer relevant information with respect to the proposed supplemental order.

(iv) The commissioner shall monitor the compliance of healthcare providers and health insurance carriers with the requirements established pursuant to this subsection, and with any implementing regulations promulgated or supplemental orders issued by the commissioner, including, but not limited to, the achievement of benchmarks toward use of global and alternative payment methods by payers. The expenses of the office in preparing, adopting or issuing, monitoring and enforcing the standards authorized by this subsection shall be borne by the health insurance carriers affected by such standards, in proportion to the carriers' market share.

(v) Notwithstanding any other provision of this subsection, the commissioner shall encourage and assist providers with the voluntary adoption of alternative payment methodologies as much as practicable relative to funding and resources available to the office under this chapter.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- HEALTH INSURANCE OVERSIGHT

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This act would require that the health insurance commissioner establish standards and benchmarks to be used in reducing fee-for-service payment methodologies and increasing alternative payment methodologies with the purpose of lowering annual increases in total medical expenditures.

This act would take effect upon passage.

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