



## Health Care: Decision Points for States Meeting Summary

On July 19-20, 2012, the National Governors Association (NGA) convened 40 states and territories in Washington, D.C. to discuss a range of critical decision points and considerations related to addressing health system challenges. Over the course of two days, state officials exchanged ideas, lessons learned, and potential promising practices. Many states confirmed they are in different phases of implementation of two widely discussed provisions of the Patient Protection and Affordable Care Act (ACA) – Medicaid expansion and Health Insurance Exchanges. However, there is a high degree of uncertainty about the next steps for many states. Before committing to a particular course, states are weighing their options, factoring in additional guidance from the United States Department of Health and Human Services (HHS), and in some cases, awaiting the results of the next presidential election. Meeting participants also noted the need for greater state flexibilities and opportunities to guide the implementation of the ACA. Moving forward, states are interested in continuing to engage in meaningful discussions with HHS. Following are some of the issues that arose at the meeting. Appendix A contains a full list of state questions.

### Medicaid

- Many states commented on the number and wide range of estimates “floating around” about how much expanding Medicaid would cost. Stakeholders with disparate interests have published data using varying methodologies that have produced an array of estimates. States are interested in building assessments of future costs of their Medicaid programs that include appropriate assumptions, such as those about the size of the woodwork effect, and the appropriate measure of state-only program spending that could be shifted to Medicaid, such as uncompensated care pools, mental health and substance abuse programs, high risk pools, and treatment of those who are incarcerated. That also includes measuring the cost if states are allowed to expand only to 100 percent of the federal poverty line (FPL) or somewhere below 133 percent of the FPL.
- Questions were raised about the ability of states to lower the eligibility level from 133 percent of FPL in the future if they encounter issues balancing the state budget. Does expanding to 133 percent of FPL mean staying at that level permanently?
- Questions arose about the uncertainty of continued federal funding of Medicaid, specifically about future reductions in the federal medical assistance percentage (FMAP) that might be part of a deficit-reduction deal.
- States want flexibility in program management. The Centers for Medicare and Medicaid Services (CMS) wants further clarity about the kinds of flexibility states are seeking.
- There is uncertainty related to the overlap of existing Medicaid waivers or renewal of waivers with the Medicaid expansion and other requirements in 2014.
- A few states will be rolling back Medicaid eligibility that they had previously expanded and will therefore have residents who could face less affordable coverage even with tax credits and cost sharing subsidies.

## **Exchanges**

- Questions were raised about ability to meet existing deadlines, and the need for pending guidance from CMS to be issued.
- Questions remain around Essential Health Benefits (EHB) and a desire for the publication of the proposed CMS regulation. States will need extra time after the regulation is published to choose a plan, but December is late to work out the details of the EHB with carriers.
- Clarity is needed on what the benefit package will be in the multistate plans. States are concerned that differentiation between the EHB for states and the multistate plans may lead to adverse selection.
- Clarification and further analysis are needed on cost, funding sustainability, and the level of effort needed from states interested in pursuing the Partnership and federally-facilitated Exchange (FFE) options.
- Recognition and further discussion related to how the insurance market reforms will impact the market both inside and outside of the Exchange is needed. Aligning the requirements placed on plans operating in both markets is important, including consistent open enrollment periods and coverage effective dates. There was further discussion related to the impact of premium increases as a result of the insurance market reforms.

## **State Exchange Discussion**

- Overall, states pursuing a state-based Exchange felt that CMS was generally working cooperatively with them.
- Continuing concerns about timelines exist. States are concerned that the federal government may amend existing rules, thereby making it increasingly difficult to meet the new expectations, particularly states that are not entirely sure they should pursue a state-based Exchange.
- Staffing the Exchange was an issue of concern, specifically recruiting people with the right mix of skills.
- There is anxiety from territories about the need for more federal guidance if they are to meet deadlines.

## **Partnership Exchange Discussion**

- Discussion and further research were requested to help states determine how to financially sustain a Partnership Exchange. Can states share the user fee with the FFE? If states are responsible for consumer outreach and plan management, part of the fee should be passed back to the state.
- Insight is needed around how the FFE will be governed. Since the FFE will not have a Board, how will the state voice be represented? What will be the process for input from state and local stakeholders into the operation of the FFE?
- Clarity is needed about how the technical interface between a state's Medicaid program and the Exchange will function. States requested guidance and information about when they can expect to

start negotiations with the federal government on a Memorandum of Understanding (MOU). States would also like to be informed of what information the federal government needs before they can start working on the technical interface.

- Guidance is needed on what the expectations are if a state realizes they cannot do a Partnership Exchange. Will there be a transition period to a full FFE?

### **Federal Exchange Discussion**

- Questions exist about the capacity of the federal government to implement a FFE.
- Questions exist about the MOU between the state and the federal government. What will be required of the state? Will the federal government subcontract with the state for pieces of the Exchange? What is the timeline on the MOU given that it will take time to negotiate?
- Some confusion exists about building the technical interface between the state Medicaid program and the FFE. Who is required to conform their programming language to the other program in order to link the systems?
- Clarity is needed on what costs states may incur by opting for a FFE.

### **Considerations for Eligibility and Enrollment Systems Procurement**

- Clarification is needed on a definition of “real time” with regard to eligibility determination.
- There are questions around Advance Planning Documents (APD) and the technical aspects of building an interface platform to support the connection between Medicaid and the Exchange.
- Clarification is needed on the minimum level of requirements in the Blueprint that must be met in order to build a state-based or Partnership Exchange. The metaphor was used of building a bicycle with simple components as opposed to building a car with complex infrastructure.
- There is agreement among states regarding the need for a detailed and thorough Request for Proposal (RFP) with language that reflects the fiscal uncertainty that exists, such as a need for exit clauses, and frustration of purpose clauses.

### **Conclusion**

State officials are working amidst continuing policy and political uncertainties to determine the best course for their state. Remaining unanswered questions from CMS, and political uncertainties have made it difficult for states to fully assess their options and choose a path forward. NGA will continue to work with states and HHS to determine answers to operational and regulatory questions in order to better assist states as they weigh their options.