

Blue Cross and Blue Shield® Plans Health-Care Reform Legislation and Regulation Update May 3, 2010

As expected, the Administration is moving quickly on health-care reform implementation—particularly with reforms that go into effect this year, like dependent coverage, pre-existing conditions for kids, medical loss ratio requirements and temporary high-risk pool program.

The Administration is expected to soon release interim final rules on the health-care reform insurance Web portal, early retiree reinsurance, screening for providers and suppliers under Medicare, Medicaid, the Children’s Health Insurance Program (CHIP), and other private market reforms. The Blue Cross and Blue Shield Association (BCBSA) will continue to work closely with Blue Plans to develop policy positions in order to shape these and other forthcoming regulations from the U.S. Department of Health and Human Services (HHS) and other agencies.

BCBSA is actively working with the Administration and Congress on key issues, and its most recent efforts have focused on the following:

Medical Loss Ratios (MLR): BCBSA has convened a new Blue Advisory Group on Loss Ratios—made up of Blue Plan actuaries—to seek input and develop detailed recommendations in response to the Administration’s recent request for information on MLRs. Comments on the RFI are due May 14, and BCBSA has shared high-level suggestions with the Administration, the National Association of Insurance Commissioners (NAIC), the American Academy of Actuaries and other key influentials who will be playing a role in shaping upcoming MLR regulations. On April 27, BCBSA sent a letter to the NAIC outlining some initial technical comments—developed in close consultation with Blue Plans—regarding how medical expenses should be defined in calculating the MLR.

Dependent Age Coverage: Well ahead of the new dependent age coverage requirements, BCBSA announced on April 20 that all 39 Blue Plans will allow covered individuals up to age 26 to remain on their parents' individual health-insurance policies effective June 1, and also offer this coverage to Blue employer accounts. The new policy has been well-received by policymakers, with HHS Secretary Kathleen Sebelius, the White House and congressional leaders publicly commending the new policy.

As a result of changes made to dependent coverage by the new health-reform law, the Internal Revenue Service announced this week that coverage provided for an employee's dependent children under 27 years of age will be generally tax-free to the employee, effective March 30, 2010. The new IRS guidance explaining this change is available at <http://www.irs.gov/pub/irs-drop/n-10-38.pdf>.

Temporary High-Risk Pool Program: HHS anticipates contracting with states to administer the new temporary high-risk pool program established under the health-reform law. On April 20, HHS posted a notice seeking to identify non-profit organizations that would be available to contract with HHS to operate the new program — in the event states decline to participate or submit unacceptable applications. BCBSA has heard that up to 20 states may not participate; BCBSA is assessing the role the Blue System could play as an administrator of the federal program.

In addition, HHS released a proposed state-by-state allocation estimate for the \$5 billion of federal funds appropriated by the health-reform law to support the temporary high-risk pool program. This allocation is based on a methodology that uses a combination of factors, including size of nonelderly population, number of uninsured and geographic costs—a formula HHS says that is “almost identical” to the methodology used for CHIP. BCBSA is sharing recommendations and principles with NAIC and Blue Plans to help influence state officials and others as the new program takes shape.

Rescissions: The CEOs of several insurance companies and BCBSA received a letter from the chairmen of key congressional committees urging health plans to ensure that rescissions occur only in cases of fraud or intentional material misrepresentation. The letter also requests that each company immediately institute a policy of independent, external third-party review of rescissions or policy cancellations. BCBSA sent a letter of response to committee noting that rescissions are extremely rare and do not occur absent fraud or intentional misrepresentation currently. While third-party reviews are not required by the new health reform law, BCBSA has always supported independent, third-party reviews.

Looking Ahead

Blue Plans will continue to collaborate to address emerging issues. BCBSA will host a series of bi-weekly conference calls for the Blue Plan Healthcare Reform Implementation Taskforce to share information, discuss key developments and obtain Plan feedback on key issues, and it will continue hosting all-Plan calls and Webinars to review the provisions in the bill and their business impacts. Key upcoming topics include:

- Early retiree reinsurance program
- Market applicability of new law
- State vs. federal interplay
- Small employer tax credit
- Employer issues
- Delivery system reforms