

### **overview: reform remains the issue of the day**

*With the state-subsidized Commonwealth Care program up and running, the Commonwealth Health Insurance Connector Authority turned its attention to getting Commonwealth Choice ready to go for open enrollment from May 1 through July 31.*

*The Health Connector board took two major actions related to the individual mandate. It defined what minimum creditable coverage would be and proposed that requirements be phased in by January 2009. The board also proposed affordability guidelines. The guidelines establish the maximum monthly premium people would be expected to pay for insurance based on a progressive income scale. If no plans are available at or below these monthly premiums, residents would be exempted. Both regulations are subject to public hearings and the board's final approval in June. In related action, the board expanded the income thresholds for Commonwealth Care to align them with its proposed affordability standards.*

*The Health Connector has postponed enrollment for contributing small employers (fewer than 50 employees) until it resolves several legal and operational issues. Meanwhile, it issued regulations to govern the requirement that employers with more than 10 employees maintain a Section 125 plan to facilitate the pre-tax purchase of health insurance by their employees.*

*State agencies with any health care oversight also continue to focus on providing regulatory or advisory guidelines related to reform issues. In some cases, new leadership will drive the state's agenda.*

*On both the state and federal level, mental health services have come to the forefront. In the Commonwealth, MassHealth will be beefing up its outreach and services to children under a court-ordered remedial plan. In the U.S. Congress, two bills propose different expansions of the mental health parity law.*

*And, as other health insurance products take the limelight, the Centers for Medicare & Medicaid Services already is proposing changes to the Medicare Advantage program (e.g., Fallon Senior Plan™) requirements for 2008 that will affect both health plans and their Medicare-eligible members.*

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#### **health care reform update—**

##### ■ **commonwealth choice launched**

Open enrollment is in progress through July 31 for the purchase of health insurance under the Commonwealth Choice program. FCHP has several affordable plan options for consumers. The Health Connector has postponed enrollment for contributing small employers until it resolves several legal and operational issues.

##### ■ **minimum creditable coverage defined**

The Health Connector board proposed regulations for "minimum creditable coverage" requirements, including prescription drug coverage, which will be phased in by January 2009. Certain types of plans will be exempt.

##### ■ **dor mailing will reinforce mandate; fchp plans in compliance**

In response to Department of Revenue notice to residents, FCHP informs members that all of its plans currently meet the standards for minimum creditable coverage.

- [affordability guidelines proposed](#)

The Health Connector board proposes a progressive scale of affordability based on income that sets out the maximum people would be expected to pay for insurance. Beyond this scale, individuals earning more than \$50,000 and couples earning more than \$80,000 will be considered able to afford insurance and be required to purchase it.

- [commonwealth care adjustments](#)

The Health Connector board expanded income thresholds for Commonwealth Care in order to align the program's guidelines with its newly approved affordability standards. As a result, premiums will be eliminated or reduced for another 52,000 residents.

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The Health Connector issues emergency regulations.

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Division of Insurance issues bulletins on dependent care and nondiscrimination requirements, drafts revised regulations for small group/non-group market and discusses other health care reform issues.

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A court-ordered remedial plan from the *Rosie D. v. Romney* case requires MassHealth to expand its outreach and services for children eligible for mental health services under the state program.

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## health care reform update—

### ■ commonwealth choice launched

The Commonwealth Health Insurance Connector Authority is marketing the new Commonwealth Choice program during a special **open enrollment from May 1 through July 31**. The Health Connector has a new Web site, [www.MAhealthconnector.org](http://www.MAhealthconnector.org), to learn about the program and compare plans.

The Health Connector has announced it will immediately focus on enrolling individuals, young adults and non-contributing employers while **phasing in enrollment for contributing small employers**. Selling to the small group segment has raised more complicated issues than anticipated. Therefore, the Health Connector will continue to work out these legal and operational issues in the next couple of months.

The Small Business Service Bureau of Worcester, in the role of “Sub-Connector,” is responsible for a range of administrative functions to enable individuals and groups to purchase health plans.

### fchp and individual plan choices

Fallon Community Health Plan is participating in the Commonwealth Choice program and also offering a choice of other products to the individual consumer.

In addition to a young adult plan (ages 19 to 26), FCHP has different plan designs in the gold, silver and bronze levels of coverage designated by the Health Connector. The plans use both the FCHP Select Care and FCHP Direct Care networks. These and many other plans are available directly from FCHP.

Anyone interested in an individual plan may call Fallon Community Health Plan directly at **1-888-PWR-FCHP** (that’s 1-888-797-3247) (TDD/TTY: 1-877-608-7677) or visit us online at [www.fchp.org](http://www.fchp.org).

### ■ minimum creditable coverage defined

The Connector board on March 20 proposed regulations for “minimum creditable coverage” requirements that will be phased in by **January 2009**. The MCC requirements, if they hold up under a public hearing and final vote in June, will apply to all plans covering a Massachusetts resident.

Meanwhile, for the July 1 mandate, an individual simply must be covered either by an insurance product that is licensed to be sold in Massachusetts or by a self-funded product in accordance with ERISA.

The Connector board proposes the following MCC mandates by January 2009:

- **Plans must cover** preventive and primary care, emergency services, hospitalization benefits, ambulatory patient services and mental health services.
- **Prescription drug coverage will be required.** The Health Connector is attempting to develop a minimum alternative benefit that would add no more than 5% to the cost of a similar plan with no drug coverage.
- **Annual deductibles are capped for in-network services** at \$2,000 individual/\$4,000 family. Plans must allow at least three *preventive care visits* for individuals, and six for families, *before the deductible applies*.
- **Out-of-pocket costs are capped for in-network services** at \$5,000 individual/\$10,000 family.
- **Out-of-pocket maximums must include** deductibles, coinsurance and any services with a \$100 or more copayment.
- **Any separate deductible for drug coverage is capped** at \$250 individual/\$500 family.
- **Plans can’t have either an annual or a per-sickness benefit maximum.** Overall lifetime benefit maximums are allowed.

- **No fee schedule of indemnity benefits**, that is, no provisions stating that the plan will only pay up to a flat amount per day per service, as is commonly found in “Mini-Med” plans.

The phase-in process for minimum creditable coverage requirements will start in February 2008. The intention is to accommodate businesses and individuals as they enter open enrollment periods and may need to adjust plans to comply with the new standards. The board noted that the January 2009 compliance deadline is compatible with a new calendar year, tax year and benefit plan year.

Certain types of plans are exempt from the above requirements.

- **HSA-compatible Qualified High Deductible Health Plans**, whose federally-defined plan designs conflict with some MCC requirements.
- **Certain types of plans are exempt by statute**, primarily federally operated programs or specialized state programs that are presumed to be providing their target population with adequate coverage. Some examples are young adult plans, Commonwealth Care plans, QSHIP plans (student insurance sold through colleges in Massachusetts), Medicaid, Medicare (Part A and Part B is sufficient; Part D is not required), the Federal Employees Health Benefit plan and coverage through programs associated with the U.S. Armed Forces.

#### ■ **dor mailing will reinforce mandate; fchp plans in compliance**

The Health Connector, in collaboration with the Massachusetts Department of Revenue, will be sending Massachusetts taxpayers a notice that they are required to have health insurance coverage that meets minimum creditable coverage or face income tax penalties.

Fallon Community Health Plan wants to reassure its members and employer groups that all FCHP plans currently meet the standards for minimum creditable coverage. We’re communicating with our customers and sending a postcard to FCHP members to let them know they’re in compliance with the law and can rest easy.

#### ■ **affordability guidelines proposed**

At its April 12 meeting, the Connector board agreed on draft regulations that define affordability and who will be automatically exempt from the state’s health insurance mandate.

The new affordability rules will be finalized after public hearings and a June vote. They will be used by the state Department of Revenue to decide, starting next year, who will face financial penalties for failing to buy insurance. Residents must show they had health insurance by the end of 2007 or face the loss of their personal exemption on the 2007 state income tax filing—an estimated tax savings of \$204 for individuals.

#### **who can afford insurance**

The board set limits on the affordability of market-rate plans. Generally, individuals earning more than \$50,000, couples earning more than \$80,000 and families with children earning more than \$110,000 will be considered able to afford insurance and be required to purchase it.

In all cases, individuals will be able to request exceptions: (1) by applying for a waiver prospectively, on the grounds that the individual can’t afford any available health insurance products; or (2) by filing an appeal retrospectively at tax time.

#### **what others would pay—or be exempt**

For people making less, the board proposes a progressive scale of affordability based on income (next page) that sets out the maximum they would be expected to pay for insurance. (An appeal process would be available for those who believe they should be exempted due to individual circumstances.)

If there are no health insurance policies available at or below these monthly premiums, residents would be exempted. An estimated 60,000 Massachusetts residents are expected to be in this group.

## scale of affordability based on income

[figures in parentheses are monthly premiums]

singles		couples		families w/children	
\$0 - \$15,315	( \$0)	\$0 - \$20,535	( \$0)	\$0 - \$25,755	( \$0)
\$15,316 - \$20,420	( \$35)	\$20,536 - \$27,380	( \$70)	\$25,756 - \$34,340	( \$70)
\$20,421 - \$25,525	( \$70)	\$27,381 - \$34,225	( \$140)	\$34,341 - \$42,925	( \$140)
\$25,526 - \$30,630	( \$105)	\$34,225 - \$41,070	( \$210)	\$42,926 - \$51,510	( \$210)
\$30,631 - \$35k	( \$150)	\$41,071 - \$50k	( \$270)	\$51,511 - \$70	( \$320)
\$35,001 - \$40k	( \$200)	\$50,001 - \$60k	( \$360)	\$70,001 - \$90k	( \$500)
\$40,001 - \$50k	( \$300)	\$60,001 - \$80k	( \$500)	\$90,001 - \$110k	( \$720)

### ■ commonwealth care adjustments

At its April 12 meeting, the Connector board also made adjustments to the state-subsidized Commonwealth Care program. As a result, premiums will be eliminated or reduced for another 52,000 residents.

Essentially, the board expanded income thresholds for Commonwealth Care in order to align the program's guidelines with the newly approved affordability standards.

- The income threshold for an individual who receives a full subsidy and does not have to pay monthly premiums for Commonwealth Care insurance would **increase from a limit of 100% of the federal poverty level (\$10,210) to 150% (\$15,315)**. This will cover an estimated 29,000 more people. (The change in income threshold will not alter which of the four plan types people join.)
- For those earning **between 151% and 200%** of the federal poverty level (\$20,420), the monthly premiums for Commonwealth Care were slightly reduced.

At the reduced contribution rates, health insurance will be considered affordable for all 140,000 adults who are eligible for Commonwealth Care. Currently, nearly 70,000 residents are enrolled in Commonwealth Care.

**The same affordability schedule would apply to those below 300%** of the federal poverty level (\$30,630 for an individual and \$61,950 for a family of four) **who have employer-sponsored insurance** that meets certain contribution thresholds and are thus ineligible for Commonwealth Care.

On a separate note, Gov. Deval Patrick has directed MassHealth to waive premium payments for children in the State Children's Health Insurance Program (SCHIP) when they have parents with Commonwealth Care coverage who are paying individual premiums.

### ■ section 125 plans regs issued

The Health Connector recently issued **regulations to govern the requirement that employers with more than 10 employees maintain a [Section 125 "cafeteria" plan](#)** to facilitate the pre-tax purchase of health insurance by their employees. The regulations were issued on an "emergency" basis, under which they are in effect immediately, but are subject to change following public comment. The public hearing was scheduled for April 27.

"Section 125 is a win-win for employers and employees," said Health Connector Executive Director Jon Kingsdale in an April 11 press release. "Everyone saves money. We will pursue an aggressive campaign to promote the establishment of Section 125 plans by all employers across the state. Our plan is to

make this easy for employers to do because the pre-tax benefit of purchasing health insurance dramatically reduces the cost.”

## stateside—

### ■ new leadership in the state

Over the first quarter of 2007, a number of leadership changes took place at state agencies. Some were continuing appointments by the Patrick administration, while others were unconnected to the transition in the governor’s office. Some of the more notable changes include:

- **Therese Murray**, a Democrat from Plymouth, has succeeded Robert Travaglini as **Senate President**. Travaglini, a key player in passage of health care reform legislation, stepped down to pursue opportunities in the private sector. Sen. Murray previously headed the powerful Senate Committee on Ways and Means. She is the first woman to serve as the leader of either branch of the Massachusetts legislature.
- **Nonnie S. Burnes** has assumed the post of Commissioner of the Division of Insurance, as we reported in our last issue. She replaced Julianne Bowler not only as Insurance Commissioner but also as a member of the Health Connector board. Burnes previously was a Superior Court judge.
- **Sarah Iselin** was named the new Commissioner of the Division of Health Care Finance & Policy, replacing Romney-administration appointee Amy Lischko. DHCFP is involved in a number of health-care related initiatives, including the determination of Medicaid rates, administration of the uncompensated care pool, review of proposed benefit mandates, oversight of Qualified Student Health Insurance plans and writing regulations to implement the health care reform bill’s fair share assessment and free rider surcharge.
- **Katharine London** was appointed Executive Director of a new agency, The Health Care Quality & Cost Council, which was created by the health care reform law. London had been the Director of Health Policy at the Attorney General’s Public Protection Bureau.

The Council is charged with a number of tasks related to the use of quality and cost data, most notably the creation of a public Web site with this information. The Council is within, but not subject to the direct control of, the Executive Office of Health & Human Services. It’s made up of various appointees and designated state officials, similar to the Connector’s board of directors. The Council recently issued a Request For Information to members of an advisory committee to solicit suggestions on projects that it might undertake to promote its goals.

- One important post yet to be filled is Director of Medicaid. The position has been open since Romney administration appointee Beth Waldman resigned in January to enter the private sector. **Tom Dehner continues to serve as acting Medicaid Director**, in which role he also covers Waldman’s former seat on the Connector board.

### ■ state regulatory activity

- The Division of Insurance has continued to hold regular meetings with insurers and other interested parties to discuss regulatory issues, some related to health care reform. From this process, the **DOI has issued bulletins** on the new [dependent age](#) and [nondiscrimination](#) requirements, as well as [revised small-group and nongroup regulations](#) (effective July 1). The DOI soon should release draft regulations related to young adult health plans.

Other topics being discussed at the DOI include requirements for products sold to individuals in the merged market, the classification of Health Connector plans as “group” or “individual”

plans under state and federal law, and the applicability of underwriting rules for individuals who buy merged-market products.

- In late December 2006, the Division of Health Care Finance & Policy issued two new regulations—covering the **free rider surcharge** and the **Health Insurance Responsibility Disclosure forms**. The DHCFP pulled both regulations after passage in January of a technical corrections bill that postponed the effective dates of these requirements to July 1. Apparently, with the change in the effective date, the DHCFP decided there was no urgent need to have the regulations in place. New versions have yet to be issued. It's unclear whether DHCFP plans only minor edits to the earlier regulations or a more extensive rewrite.

#### ■ state legislative activity

- The state legislature is wrapping up the organizational process of starting a new session and is getting down to the business of reviewing and voting on bills. FCHP is watching a number of bills, some of them re-files from the 2005-2006 session. It's too early to tell whether any of these bills will have staying power.
- Gov. Deval Patrick recently kicked off the state budget process by submitting his proposed budget bill for the fiscal year starting July 1, 2007. As in past years, a final budget is not anticipated until mid-year.

#### ■ Medicaid: court-ordered plan expands mental health services

MassHealth has begun taking steps to comply with a court-ordered remedial plan that emerged from the "Rosie D" case. *Rosie D. v. Romney* was a class action lawsuit lost by MassHealth in U.S. District Court last year. The court found that MassHealth had violated two provisions of the federal Medicaid statute, one mandating early and periodic screening, diagnostic and treatment services ("EPSDT") and another requiring "reasonable promptness" in the provision of services.

On February 22, trial judge Michael A. Ponsor accepted as final settlement in the case a plan proposed by the Executive Office of Health and Human Services. The plan emphasizes more expansive outreach to inform eligible families about mental health services and more comprehensive assessments of children to ensure they receive appropriate care.

At the heart of the 35-page plan, according to the *Boston Globe* (February 24, 2007), "is the substantial expansion of home-based services and the creation of crisis teams capable of intervening in the community." According to Judge Ponsor's ruling, an estimated 15,000 Massachusetts children whose care is paid for by the government could be affected by the decision, at a cost to the state of up to \$459 million.

Some provisions of the plan must be implemented by the end of 2007; the entire plan must be in effect by June 2009.

MassHealth has begun to send out information requests related to this implementation, especially in the areas of behavioral health services and access. Fallon Community Health Plan expects to be working in concert with MassHealth over the next several months as programs are developed and implemented.

#### the feds—

#### ■ federal legislative activity

Bills have been introduced in both the U.S. House and U.S. Senate that would greatly strengthen the requirements of the federal Mental Health Parity law. The only effect of the current law is to ban the practice of expressing benefit caps on mental health services in dollar terms (day or visit caps are allowed).

The current proposals would bring the law more in line with the requirements of the Massachusetts state mandate, and in some respects would go beyond it. Unlike the state mandate, a federal law would apply to both fully-insured and self-funded plans.

The Senate bill (S. 558), introduced by Sens. Pete Domenici (R-NM), Mike Enzi (R-WY) and Edward M. Kennedy (D.-Mass.), was the first to be filed, and initial reports indicated it stood a good chance of ultimately gaining approval. However, the introduction of a competing bill (H.R. 1424) in the House by Reps. Patrick J. Kennedy (D-R.I.) and Jim Ramstad (R-Minn.) has posed a considerable challenge.

#### ■ **medicare**

As we approach mid-year, the product planning process for 2008 Medicare Advantage plans is well underway, both at Fallon Community Health Plan and at The Centers for Medicare & Medicaid Services.

- All Medicare Advantage plans (e.g., Fallon Senior Plan™) were required to submit applications to CMS in March for any new plan offerings in 2008. A filing containing 2008 formulary information only was due in April. Once approvals are in hand, FCHP must submit to CMS by early June its annual bid filing for 2008 plan offerings.
- CMS recently released its draft [2008 Call Letter](#), which lays out proposed changes to Medicare Advantage program requirements for next year. The Call Letter also shows a renewed emphasis on organizational accountability, including tighter oversight of plan marketing, and additional reporting requirements for Medicare Advantage plans. CMS was accepting public comment on the Call Letter through April 3; it has yet to be finalized.
- CMS also recently issued its 2008 Medicare Advantage payment rates. Rates for 2008 are slightly increased over 2007, but there is concern that they may not be in step with current medical cost trends. This could force Medicare Advantage plans to raise member premiums.

#### **coming soon—**

- **In June:** The Connector board plans to finalize its minimum creditable coverage, affordability and Section 125 regulations.
- **July 1:** The individual and small group markets are officially merged.
- **July 1:** Coverage under Commonwealth Choice becomes effective.
- **To be determined:** Enrollment period for contributing small employers.

#### **for more information**

For details on health care reform and FCHP products, turn to our Web site, [www.fchp.org](http://www.fchp.org), and click on our home page link. And be sure to ask your sales executive or account manager for a copy of FCHP's brochure, *Get in the Know: Health Care Reform and Your Business*.

*Eye on Government* is published quarterly to help FCHP brokers and employers keep up with the latest developments related to the state and federal governments' oversight of health care. Please e-mail your questions or comments to either [broker.services@fchp.org](mailto:broker.services@fchp.org) or [Employer.Edge@fchp.org](mailto:Employer.Edge@fchp.org), or call your sales executive or account manager at 1-800-333-2535.