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Michigan Senate Passes Medicaid Expansion

Last week the Michigan state Senate passed the bill to expand Medicaid coverage in the state. The legislation (previously passed by the House) would expand Medicaid eligibility to 133% of the poverty level, as provided in the federal Patient Protection and Affordable Care Act (“ACA”). The measure will now go back to House for a vote on some changes made by the Senate.

The Senate vote came after a months-long push by Governor Rick Snyder, supported by Democrats, hospital providers, major business groups, labor, and other organizations. Supporters have said increasing Medicaid eligibility would help the uninsured by making more than 400,000 more residents eligible, and would help provide access to care in more appropriate and cost-effective settings than hospital emergency rooms.

The Legislation

The Medicaid expansion would cover people up to 133% of the federal poverty level. The funds needed for the expansion are fully paid for by the federal government through 2017, after which there is a partial state match required. The federal contribution drops to 90% by 2020.

Besides increasing eligibility, some other features of the bill include: requiring Medicaid enrollees to contribute in part to their coverage, setting up health savings accounts for enrollees, creating incentives for certain healthy behaviors, provisions aimed at cost control, and quality measures.

The bill requires the Medicaid beneficiaries to contribute 5% of their out-of-pocket medical costs, increasing to 7% after a person has been on Medicaid for 48 months, with a provision allowing the person to purchase insurance on the health care exchange at that time. There are exceptions to the increased co-pay for people with certain medical conditions.

The Senate bill has language about caps on hospital charges that differs from the House version.

The Timing and Implementation

This Senate amendment regarding caps on hospital charges requires the legislation to go back to the House for a vote. The House speaker indicated that this vote will take place right after Labor Day. The Governor will sign the bill, however Michigan has a built-in “delay” feature for new legislation. Laws take effect only after 90 days after the legislative session adjourns (adjournment is expected in December), which means the program would not take effect until around the end of the first quarter of 2014. Supporters, including the Governor, have indicated they will try to get the Senate to agree to an earlier effective date, but that will require another vote.

In addition, two of the bill's provisions will require the federal government to grant waivers to Michigan. The Governor and state health officials say they are confident the waivers will be granted, and in fact waivers are a common feature in many state Medicaid plans. But the waivers require application to and processing by federal authorities. Presumably the state will work to have the waivers approved before the effective date under Michigan law.

This Medicaid expansion will likely mean that more education and enrollment activities will need to occur, by the state authorities and perhaps by hospitals (some providers, especially hospitals, have often taken steps to educate and enroll patients in Medicaid so that the providers can get paid for otherwise-uninsured care). However, there is also recent activity on education and enrollment for the healthcare exchanges, which apply to a different group of people who are not Medicaid-eligible. In fact, the federal government has recently announced grants to organizations to serve as "navigators" for enrollment in the healthcare exchanges. The state and those organizations are discussing how to coordinate the enrollment and education for both programs, but much work remains to be done.

It will be important for hospital and other providers to keep on top of the Medicaid expansion effective dates, and the education and enrollment efforts, to assure that all eligible Michigan residents are placed in the appropriate insurance plan so that providers can get paid for the health care services they render.

If you have any questions about this Client Alert, please contact your regular Butzel Long attorney, a member of the Butzel Long Health Care Industry Group, or the author of this alert.

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