

February 2007

Governor's Plan for Health Care Reform Sparks Questions

by Connie Zarkowski, Legislative Chair

By now, I would guess that virtually every health insurance agent has read Governor Schwarzenegger's health care reform proposal. What you may not have read are the legal issues, some of the "factual fallacies" upon which the plan is based and some of the unintended consequences that may result from its passage. There have been numerous analyses, and I urge everyone to read them all. Most important, as a health insurance professional, you need to be informed so that you are able to discuss the issues with your clients.

Legal Issues

States are pre-empted from regulating employer sponsored benefits under ERISA. Last week, a Virginia federal appeals court said that federal law (i.e. ERISA) prohibits states from requiring businesses to offer benefits to its employers. The case will probably be appealed to the U.S. Supreme Court, and I would wager that this decision will be upheld, as the court has historically done regarding any state mandate that challenges ERISA preemption. ERISA is the sacred cow created by the federal government to protect employee rights in pensions and health benefits while at the same immunizing employers (and carriers) from "bad faith" claims so that they are encouraged to offer the benefits in the first place. It also allows for standardization of benefits across state lines for multi-state employers. Under ERISA, California is allowed to regulate insurance companies until it is blue in the face, but it is not allowed to pass "any law relating to" how employers provide benefits.

The only state that has an employer mandate is Hawaii. Hawaii passed its employer mandate at the same time that ERISA was passed in 1974, and Congress allowed Hawaii to be "grandfathered" as far as ERISA preemption was concerned. The fact that Hawaii has an employer mandate is the perfect opportunity to look at its

effects; particularly the unintended consequences like businesses only hiring part-time workers to avoid the mandate.

A Factual Fallacy

The biggest fallacy is that providing incentives, such as tax deductions, subsidies or even mandates will cause everyone to enroll in or buy health insurance. Witness California's struggle to enroll or maintain all eligible children in Healthy Families. Parents can obtain emergency care for their children without having to pay the monthly \$8 - \$28 cost for Healthy Families. People also fail to enroll in MediCal until they are in need of care because they can enroll at point-of-service and be covered retroactively. It's like being able to buy fire insurance after your house has burned down. A mandate or tax break isn't going to change this behavior without a penalty of some kind.

Unintended Consequences

Let's see: no individual penalty to not abiding by the mandate; penalties for non-compliant employers that are lower than the cost of their premiums; and instant coverage on demand and at time-of-service. Why pay premiums?

Then there are the single-payer advocates who have jumped into the fray declaring that the only choice is between the Governor's plan and theirs – totally disregarding the current private sector system. Let your imagination run wild.

We certainly need to do something about the uninsured, and the current effort by Governor Schwarzenegger is a gallant one. It is imaginative and can possibly evolve into a workable solution. But unless *and until* there are real consequences to not obtaining affordable coverage, there can be no appreciable change in the numbers.

President's Message

Hello all!



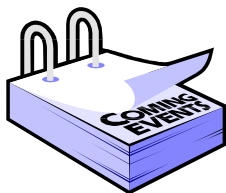
We had a wonderful turnout at January's meeting. Cora Tellez of Sterling HSA provided a great program for us, complete with updates on HSA plans and the new federal regulations. I want to thank everyone for attending this meeting, as we have seen an increase in membership attendance at the meetings this year. We are doing a great job as a chapter, and the VCAHU board thanks all of you. Congratulations go out to Nancy Kirby of Oxnard, as she was the PAC raffle winner for the Apple IPOD.

Kudos also go out to the following people for bringing guests to January's meeting: Kim Novak & Juli Canter of Warner Pacific, Greg Taylor of Ogilvy Hill Insurance, Kathy Martin of Carmichael & Associates, Derek Storey of 3 Mark Financial, Don Valenzano of the Valenzano Insurance Services and "yours truly" of Blue Shield.

Now don't forget, our annual Sales Symposium is on February 23, and we are looking forward to a great program. We have several great speakers that will inform and entertain you. Please get your RSVPs in, as this is a pre-paid event.

Brandon Martin
VCAHU President
2006-2007

Calendar of Events



- **February 23** - 13th Annual Sales Symposium
"Spring Break," featuring motivational speakers James Lloyd and Mike Framberger, and CAHU VP of Public Affairs Alan Katz, continuing education, exhibitors and more! (8 a.m. - 2:30 p.m.), Courtyard by Marriott, Oxnard
- **March 6** - Board of Directors Meeting (9 - 10:30 a.m.), Westlake Village
- **March 20** - Monthly Membership Lunch Meeting (11:30 a.m. - 1:30 p.m.), **Voluntary Benefits, Speaker: Tony Guide, Colonial (1 hour CE)**, Courtyard by Marriott, Oxnard

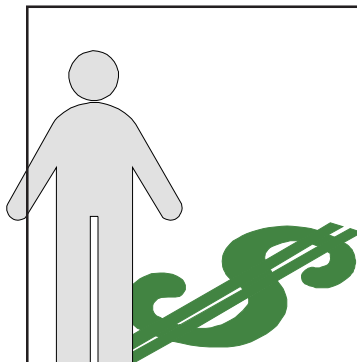
HSA Updates Presented to January Meeting Participants

by Nancy Miller, Programs Chair

Cora Tellez was the featured speaker for our January 16 member meeting, presenting "Employer Best Practices in Implementing HSAs." Cora is president and founder of Sterling HSA.

The subject was of great interest to agents and brokers, as was evident by the large turnout. Cora's presentation highlighted trends in employer adoption, recent legislative changes and best practices.

The latest news is that HSA trends are up. Cora addressed reasons for the acceleration of employer adoption of HSAs (cost control) and how the utilization trends show support for a lower medical trend. This lower trend is attributed to the fact that consumers want to take responsibility for health care decisions. Furthermore, surveys show that consumers use the Internet to comparison shop and are more likely to check prices, look for discounts, use generic vs. brand drugs, and avoid ERs.



In addition, new legislation makes HSAs more attractive to the employer and employee, liberalizing some of the restrictions regarding timing of deposits and simplifying some of the more complicated aspects. One of the most positive changes was dropping the "lesser than" rule in regard to IRS allowable contribution amounts and HDHP deductibles.

Cora's presentation was very educational and timely, and those agents and brokers who attended are now better prepared to help their clients control health care costs by using HSAs. For more information, Cora can be reached by mail at: Sterling HSA, 475 14th St., Suite 120, Oakland, CA 94612, by phone at (800) 617-4729 or via email at www.sterlinghsa.com.

VCAHU Board Members Attend NAHU's Capitol Conference

by Christopher Denton, PAC Chair

Our author, accompanied by fellow VCAHU board members Chuck Rosen, Robert Sichmeller and Jason Herbison, offers what was at press time a live snapshot of the topics of greatest interest at this year's Capitol Conference in Washington, D.C. Watch for more information and photos of our local representatives in the March issue of The Voice.

“Changing Directions in Health Insurance” is the theme for Capitol Conference 2007. As you know, one of the highlights of Capitol Conference is the opportunity to discuss important issues face-to-face with our elected officials.

As I sit in Washington writing this article, I realize that no matter where we hail from, we are all here for the same

reason: To discuss our common legislative goals and objectives. During the next few days, I will join my colleagues and insurance industry leaders from across the country in discussions with our legislators about many topics. Among those that are on this year's list are state children's health insurance program reauthorization, health information technology, Medicare and prescription drug costs, and mental health parity.

I know that I echo the sentiments of my fellow board members in attendance when I say “Thank You” for giving us the opportunity to be a part of such an important event for our industry.

Debunking Medicare Part D Myths: Part 1

by Grace-Marie Turner, Galen Institute, as submitted by Bill Robinson, IEAHU Legislative Chair

It seems that every opinion leader in the country has weighed in on the new Medicare prescription drug benefit. During the last few months, pundits and politicians have been filling the airwaves with compelling sound bites on its successes and failures. With all these competing assertions, its time to distinguish myth from reality:

MYTH NO. 1: The drug benefit is too complex and too confusing; it is impossible for a layperson to understand.

More than 30 million seniors already are enrolled, and the vast majority are satisfied. A survey by Americas Health Insurance Plans found that 88 percent had no trouble signing up or using their benefit. Only 3 percent had trouble enrolling. The Kaiser Family Foundation reported that over 80 percent are satisfied with the plan they selected and would pick the same plan again.

MYTH NO. 2: Under Medicare Part D, prescription drug prices are rising.

Like all persistent myths, this one has a kernel of truth to it. In a free market, prices rise and fall all the time, and that is also true for prescription drugs. But overall, the savings for seniors are significant. In a study released in June, the Centers for Medicare and Medicaid Services found that seniors in Medicare prescription drug plans

saved up to 72% on their drugs compared to those without coverage.

Meanwhile, Part D premiums now average about \$24 per month, which is nearly 35% lower than Congress expected last year.

MYTH NO. 3: We'd be better off if the government could negotiate prices like the Department of Veterans Affairs.

Nothing could be further from the truth. The VA decides which drugs can be prescribed and offers only 38 percent of the drugs approved by the Food and Drug Administration in the 1990s, and only 19 percent of the drugs approved since 2000. By comparison, Medicare's competing drug plans cover an average of nearly 90 percent of all of these new medicines and 100 percent of all priority medicines. That includes “miracle cancer” drugs like Gleevec and Tarceva.

In fact, a Columbia University study by Professor Frank Lichtenberg recently found that VA drug restrictions have lowered veterans life expectancy by an average of more than two months. Is that really an example we want to replicate?

Grace-Marie Turner is president of the Galen Institute, a research organization based in Alexandria, Va., that focuses on free-market ideas for health reform.

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