colorado health INSTITUTE

Legislation In Review:
Advancing Health In Uncertain Times

Summer 2011

ACKNOWLEDGMENTS

Colorado Health Institute staff contributors to this report:

Amy Downs
Deborah Goeken
Michele Lueck
Marni Myers
Allison Summerton
Sherry Freeland Walker

colorado health INSTITUTE

Informing Policy. Advancing Health.

Colorado Health Institute (CHI) is a leading source of independent health information, data and analysis for health care leaders. Our team is available to assist legislators and their staff in making informed policies that improve the health of all Coloradans. Contact CHI for background information, briefings on specific bills and legislation or for custom research.

MICHELE LUECK
PRESIDENT AND CEO
COLORADO HEALTH INSTITUTE

Colorado, like many states, met with significant challenges in its 2011 legislative session. A politically divided legislature, a new administration and tremendous fiscal pressure, all set against the backdrop of national health care reform, led to a frequently politicized and trying environment.

From a health policy perspective, however, much was accomplished. Colorado continued to enact legislation that:

- Builds healthier communities throughout the state
- Brings simplification and transparency to insurance products, both public and private
- Encourages more clinicians to work in primary care and serve all Coloradans.

Further, Colorado's General Assembly passed enabling legislation that will allow the state to absorb the impact of national health reform.

This publication, *Legislation in Review: Advancing Health in Uncertain Times*, summarizes the decisions of the 2011 General Assembly. It follows our initial publication, *Legislative Opportunities and Trends*, which profiled the issues and themes of the 2011 session. With this new report, we also look ahead to what we anticipate seeing in the 2012 legislative line-up.

The Colorado Health Institute (CHI) is committed to presenting health policy ideas, trends and decisions in an objective, nonpartisan manner. Health matters to our state's economy and our state's people. This report highlights just how Colorado is ***advancing health in uncertain times***.

ADVANCING HEALTH AND CUTTING COSTS

Fiscal pressure. Legislators began the session with a daunting deficit of almost a billion dollars.

The Colorado General Assembly advanced health policy and improved community health and safety during the 2011 session, while at the same time making difficult cost-cutting decisions. The session's health-related work took place against a background of political and financial change:

A state budget deficit. Budget concerns dominated the legislative session. Legislators began with a daunting deficit of almost a billion dollars in January. That number was trimmed by half thanks to higher-than-expected revenues and lower spending. The result was a bipartisan budget compromise that reduced state spending by $450 million.

A divided legislature. The 2011 Colorado Legislature was divided by political party for the first time in a decade. Republicans gained control of the House by a one-vote

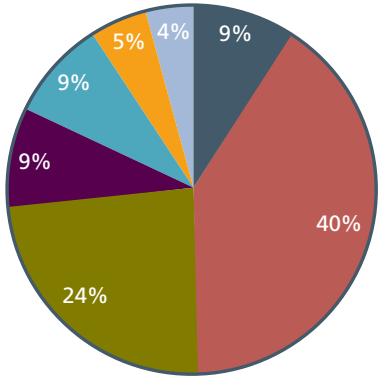
majority in the 2010 election. Democrats retained control of the Senate by a margin of 20-15. Almost one-quarter of the House and Senate members were newly elected and had no previous legislative experience.

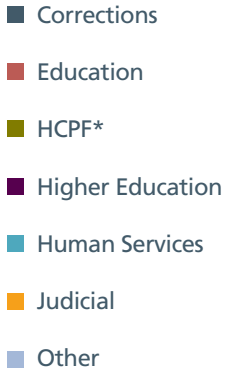
A new administration. A recently elected governor brought transition, different priorities and fresh leadership to the agencies responsible for state health care policy. Governor John Hickenlooper appointed Sue Birch, CEO of the Northwest Colorado Visiting Nurse Association, to head the Department of Health Care Policy and Financing (HCPF); Dr. Chris Urbina, director of Denver Public Health, to run the Colorado Department of Public Health and Environment (CDPHE); and Reggie Bicha, former secretary of Wisconsin's Department of Children and Families, to direct the Department of Human Services.

National health reform. The Patient Protection and Affordable Care Act (ACA) set the stage for some contentious deliberations among legislators. Debate centered on the state's role in adopting health reform measures, with a number of legislators reluctant to approve any bills related to the federal reform law. Nevertheless, Colorado was among 15 states that have established or intend to establish a health insurance exchange and the first to do so with a divided legislature.

This report summarizes health policy action taken by the General Assembly in 2011. It also examines some of the issues likely to get attention in the 2012 legislative session.

HEALTH CARE SPENDING





General Fund Spending by Department
FY 2011-12 General Fund Operating Appropriations

Source: State of Colorado Joint Budget Committee Appropriations Report: Fiscal Year 2011-12
*Department of Health Care Policy and Financing

The General Assembly scrutinized health care service costs as lawmakers worked to balance the budget. Services provided under the direction of HCPF, the department that administers Medicaid and the Child Health Plan Plus (CHP+) programs, consumed approximately 19 percent of General Fund appropriations in FY 2010-11. Increases in caseload and reductions in federal contributions for Medicaid are projected to increase that share to 24 percent in FY 2011-12. Overall, despite cost-cutting in some areas, General Fund appropriations for HCPF increased by $400 million this fiscal year.

Medicaid and CHP+ spending.
Services provided by HCPF are projected to consume 24% of the General Fund appropriation in FY 2011-12.

To partially offset the increased state expenditures for Medicaid and CHP+, legislators approved a number of policy changes to reduce costs and improve efficiency in the two programs. They included:

Benefit reductions – Discontinued inpatient coverage for pregnant women awaiting eligibility determination in the CHP+ program.

Reduced the number and type of Medicaid dental services for children and physical therapy sessions for adults.

Provider payments – Decreased payments to Medicaid providers of acute care, pharmacy services, physical health, long-term care and nursing facilities. The cuts ranged from .5 to .75 percent, bringing provider payment cuts to more than 6 percent since 2009. Rates paid to CHP+ HMOs were reduced by 3 percent.

Payment reform – Expanded enrollment in innovative Medicaid programs designed to reduce costs and reward health outcomes by improving care coordination. Legislators also eliminated reimbursements for hospital readmissions within 48 hours for a related condition.

Redirected funding – Reduced Amendment 35 funding to health departments throughout the state. The 2004 constitutional amendment increased the excise tax on tobacco products to fund programs focused on tobacco cessation; cancer, cardiovascular and pulmonary diseases; and primary care services for low-income uninsured patients. Amendment 35 revenues may be redirected to balance the budget during a fiscal emergency, however, and legislators voted to use $33 million to pay for mandated Medicaid services.

Another $5 million was cut from primary care programs for the poor, a 16 percent reduction from FY 2010-11.

SB11-200. **The bill establishing the Colorado Health Benefit Exchange was the most significant piece of health care legislation to come out of the 2011 session.**

NEW LEGISLATION

The health insurance exchange bill (SB11-200) was the most significant piece of health care legislation passed in 2011. It established the Colorado Health Benefit Exchange, a nonprofit entity which will serve as a new insurance marketplace for individuals and small businesses. The debate was heated at times, but a majority of legislators approved a bipartisan bill based on recommendations from a broad coalition of state policymakers, business and consumer groups.

Other key legislation dealt with healthy communities, health insurance and scopes of practice for certain members of the health care workforce.

Healthier Communities

Measures to improve community and child health and safety were among the more than 45 health-related bills initiated this year. New laws addressed the growing rate of obesity among children and further regulated children's access to drugs and alcohol. Key legislation included:

HB11-1069 requires public schools to provide a minimum of 600 minutes a month (30 minutes a day) of physical activity for each full-time elementary school student.

SB11-40 requires youth coaches to complete annual training on how to recognize concussions and refer victims for proper treatment.

SB11-227 updates child-restraint laws by requiring all children under 8 years of age to be properly restrained in a motor vehicle, regardless of the model or age of the vehicle or the child's weight.

HB11-1016 makes it illegal for minors to buy, possess or use electronic devices that deliver nicotine, such as electronic cigarettes, on school property.

HB11-1250 allows for rules regarding how medical marijuana-infused products are packaged, labeled and marketed to limit access to children.

SB11-192 continues the Prescription Drug Monitoring Program which helps providers determine if a patient has an addiction to narcotics.

Patient Provisions: Public Insurance

The section on spending reductions pointed to a number of cost-cutting and efficiency measures related to Medicaid and CHP+. Other legislation this year eased access and integrated care for Coloradans enrolled in public insurance programs.

SB11-008 eliminates the "stairstep" by aligning Medicaid eligibility for children ages 6-18 with eligibility for children 0-5. This move makes all children in families with incomes up to 133 percent of the Federal Poverty Level eligible for Medicaid and simplifies the enrollment process for parents.

HB11-1242 directs HCPF to identify barriers to providing integrated care to Medicaid recipients receiving both physical and mental health care services.

SB11-250 moves pregnant women whose income falls into specified categories out of CHP+ and into Medicaid as required by federal law.

PATIENT PROVISIONS: PRIVATE INSURANCE

The major legislation affecting private health insurance established the Colorado Health Benefit Exchange through SB11-200, described earlier. Other key legislation increased children's and small businesses' access to health insurance.

SB11-128 requires insurance companies that offer individual health insurance policies to adults to also offer child-only policies. A number of companies had dropped out of this market when federal reform made it illegal to deny coverage for children with pre-existing conditions. This legislation establishes two open-enrollment periods per year when child-only plans can be purchased to prevent parents from purchasing policies only when their children are sick.

Small employers. SB11-019 permits small employers with 50 or fewer employees to reimburse employees for costs of health insurance premiums if the company has not offered a small group health benefit plan in the past year.

HB11-1019 allows a school-based health center to waive co-payments and still bill private insurance for the visit.

SB11-019 permits small employers with 50 or fewer employees to reimburse employees for costs of health insurance premiums if the company has not offered a small group health benefit plan in the past year.

SCOPE OF PRACTICE

Several bills encouraged the development of the state's health care workforce. Among them were four bills with regulatory changes for mental health professionals, direct entry midwives, physical therapists and optometrists. Other bills included:

SB11-242 lowers the age for a retired volunteer nurse license from 65 to 55 years of age in an effort to increase the number of volunteer nurses.

SB11-88 allows direct entry midwives authorized to attend home births to administer eye ointment, vitamin K and Rho(D) immune globulin, anti-hemorrhagic drugs and IV fluids.

HB11-1186 adds licensed acupuncturists to the list of health care providers that cannot be denied reimbursement by insurance policies or plans that cover acupuncture.

HB11-1281 dedicates some state funds to the Colorado Health Services Corps (the state's health care professional student loan repayment program) and moves the nurse-faculty student loan forgiveness program from CollegeInvest, in the Department of Higher Education, to the state's Primary Care Office.

LOOKING AHEAD

The General Assembly will reconvene in January 2012 with Colorado's fiscal difficulties likely again to be on top of the list of critical issues. It is difficult to forecast specific pieces of legislation that will be introduced, much less passed, but several themes are emerging. These themes are based partially on what did or did not happen in 2011 and the continuing requirements of federal health reform. Look for:

Health Reform – Although many of Colorado's private and public insurance policies are aligned with the health reform measures in the ACA, some state laws will need to be modified to be consistent with the new federal law. For example, legislation may be needed to make Colorado's private insurance claims denial and appeals process consistent with the federal appeals processes defined in the ACA.

Medicaid growth. Colorado's Medicaid expenditures are projected to grow over the next 15 years and beyond because of the high rate of health care inflation and the costs associated with an increasing number of older enrollees.

Individual Responsibility – The theme of balancing individual responsibility for health and health insurance is likely to re-emerge in 2012. Legislation that passed both houses this year to establish monthly premiums for children enrolled in CHP+ was vetoed by Governor Hickenlooper due to concerns that a large number of children would lose enrollment due to the increase in costs. The governor directed HCPF to assess an increase in the annual enrollment fee instead. Policymakers may explore additional measures such as co-payments for emergency room visits to discourage inappropriate or overuse of services.

Supply of Health Care Professionals – Concern is increasing as to whether Colorado will have enough health care workers, distributed adequately across the state, when additional residents gain access to insurance in 2014. A bill that would allow the state to collect more information on providers of health care failed in the 2011 session. A similar bill is likely to appear next year.

Cost Savings – Colorado's Medicaid expenditures are projected to grow over the next 15 years and beyond because of the high rate of health care inflation and the costs associated with an increasing number of older enrollees, says the Center for Colorado's Economic Future at the University of Denver. The state will continue to seek ways to curb growth in Medicaid spending. Stalled legislation to explore using managed care for long-term care services is likely to be reintroduced in 2012.

Colorado's economy is forecast to improve moderately over the next few years. State expenditures for education and health care services, however, are projected to grow faster than state revenues. The limitations on the growth of state revenues combined with this expected rise in expenditures will pressure policymakers to further curb increases in state health care spending. State legislators will continue to explore new programs and ways to provide quality care and reduce costs.

For more detail on the legislation discussed in this brief, please contact the Colorado Health Institute at ***info@ColoradoHealthInstitute.org***.

RESOURCES FOR LEGISLATORS AND OTHER POLICYMAKERS

The Colorado Health Institute website features data, research and analysis on the most important health care issues facing the state. Please visit us at: ***www.ColoradoHealthInstitute.org***.

Health insurance status:

- *Colorado Adults' Health Insurance Status: Update 2011* ***http://bit.ly/ol0uxD***
- *Colorado Children's Health Insurance State: Update 2011* ***http://bit.ly/oHfawg***
- *Uninsured Coloradans: Who will be newly covered under health care reform? Who will remain uninsured?* ***http://bit.ly/qYOdUW***
- Findings and data from the 2008-11 Colorado Household Survey ***http://bit.ly/r56hYw***

Colorado's health care safety net:

- *Top Ten Trends Affecting Colorado's Safety Net* ***http://bit.ly/o2REth***
- *2010 Colorado Safety Net Specialty Care Assessment – Final Report* ***http://bit.ly/qpw433***
- Safety net data by county ***http://bit.ly/qfFwFI***

Health care workforce:

- *2009-10 Colorado Nurse Faculty Supply and Demand Study* ***http://bit.ly/pp5zsX***
- *A Profile of Colorado's Physician Assistant Workforce* ***http://bit.ly/qLvk1R***
- *Collaborative Models of Primary Care: Case Studies in Colorado Innovation* ***http://bit.ly/bQjkpa***

Regional Profiles:

- Demographic and health profiles of Colorado's 21 Health Statistics Regions ***http://bit.ly/pEyD0C***

Customizable data:

- Data by county and state level, including health care costs and financing; health care delivery systems; safety net; uninsured, health coverage and access; and health care workforce ***http://bit.ly/rf02QJ***

Bookmark CHI's blog for regular updates on health care policy issues. ***http://analysiswithaltitude.org/***

Colorado Health Institute
303 E. 17th Avenue, Suite 930
Denver, CO 80203
(303) 831-4200
coloradohealthinstitute.org

colorado health
INSTITUTE

Informing Policy. Advancing Health.