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MANAGING HEALTH REFORM

NEW MEXICO: ROUND 1

State-Level Field Network Study of the Implementation of the Affordable Care Act

March 2014

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NEW MEXICO: ROUND 1

State-Level Field Network Study of the Implementation of the Affordable Care Act

Part 1 – Setting the State Context

1.1 Decisions to Date

A brief overview of the governmental structure and political context of New Mexico may be helpful to understand the state's approach to health care reform. New Mexico is no longer one of the key battleground states as it has moved more Democratic in recent presidential races, a trend driven by Latino population growth and a shift to the Democratic Party among that population. Hispanic voters comprise nearly 40 percent of all voters in New Mexico, and a record 77 percent of Hispanic voters supported President Obama in 2012. However, New Mexico has also shown a propensity to support Republican candidates, including Governor Susana Martínez and Mayor of Albuquerque Richard Berry.

New Mexico's legislature is composed of a seventy-member House of Representatives and a forty-two member Senate. New Mexico has a "volunteer" legislature; members are unpaid for their legislative work. The legislature meets for a full sixty-day session in odd-numbered years and thirty days in even-numbered years that typically focus on state budget issues. Democrats enjoy a numerical advantage in both the House and Senate, though the three-seat advantage in the House is the smallest in decades.

Health care reform is not new to New Mexico. Former Governor Bill Richardson attempted to reform the health care system in the state during his second term in office.

On June 28, 2012, the Supreme Court handed down a five to four decision finding the Affordable Care Act (ACA) constitutional. However, the ruling afforded states flexibility regarding the ACA's Medicaid expansion provisions. Shortly after the ruling, New Mexico formed a task force to develop another proposal for creating a state-based health insurance exchange. In a December 13, 2012, letter to U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius, Martínez said New Mexico intended to operate a state-based exchange "that expands access to affordable health insurance to small businesses and individuals."[1]

During the 2011 legislative session, the Democratic-controlled legislature passed Senate Bill 38 and House Bill 370, which created a state exchange in accordance with the ACA. However, Martínez vetoed this legislation. The following year, during the short 2012 legislative session, authorizing legislation to create an exchange did not pass despite numerous efforts by legislative leaders and the Governor's Office to resolve questions regarding governance of a health exchange. During the 2013 legislative session, Senate Bill 221 passed and authorized the establishment of a state-run New Mexico Health Insurance Exchange (NMHIX). On March 28, 2013, the governor signed Senate Bill 221 into law.

Another major ACA-related decision involved Medicaid. Given the aggressive opposition from other Republican governors to the ACA, Martínez surprised some observers when she announced in early 2013 that New Mexico would expand Medicaid as long as the federal government provided the funding for the initial expansion. "The election is over and the Supreme Court has ruled. My job is not to play party politics, but to implement this law in a way that best serves New Mexico," the governor told the state legislature.

Part 2 – Implementation Tasks

Prior to the 2013 legislative session, on December 14, 2012, the New Mexico Human Services Department's Office of Health Care Reform submitted an "exchange blueprint," consisting of an application and a declaration signed by the governor, to the Centers for Medicare & Medicaid Services' Center for Consumer Information and Insurance Oversight. Among other things, this exchange blueprint informed the U.S. Department of Health and Human Services that the New Mexico Health Insurance Alliance (NMHIA) would function as New Mexico's health insurance exchange.

The Health Insurance Alliance, a quasistate agency, was established in 1994 after passage of the Health Insurance Alliance Act. The purpose of this act "is to provide increased access to voluntary health insurance coverage for small employer groups in New Mexico … [and to] provide for access to voluntary health insurance coverage for individuals in the individual market who have met eligibility criteria established by the act."[2]

Legislators raised concerns about whether the Health Insurance Alliance Act contained the necessary legal authority for the state to establish an exchange under the ACA. On December 21, 2012, Gary K. King, New Mexico's attorney general, issued Opinion No. 12-07 saying that:

> The New Mexico Health Insurance Alliance Act (HIA Act), NMSA 1978, ch. 59A, art. 56 (1994, as amended through 2010), does not comport with the ACA for the reasons discussed below. The discussion is not intended to be an exhaustive listing of the potential problems of using the Health Insurance Alliance (HIA) as an ACA health insurance exchange. It is intended to illustrate clear instances of conflict sufficient to support the conclusion that the HIA Act does not contain the necessary legal authority for a state exchange under the ACA.[3]

King cited various restrictions on coverage participation in the Health Insurance Alliance Act, including:

1. "Contains restrictions on individual eligibility for insurance coverage that are contrary to and conflict with the ACA."
2. "Contains restrictions on small employer eligibility for insurance coverage that conflict with the ACA."
3. "Conflicts with the guaranteed issue provision of the ACA."
4. "Section 59A-56-14(E), (M) will be in conflict with the ACA's prohibition on preexisting conditions denials."
5. "The reinsurance program set forth in NMSA 1978 … therefore appears to conflict with the reinsurance program implemented by the federal government under the ACA."
6. King also cited potential control of the governing board by insurance carriers, brokers, or agents.

Legislators also raised concerns about the composition of the Health Insurance Alliance Board, which was dominated by health insurance company and broker representatives and small business representatives, all appointed by the governor. Specifically, the act says the HIA board will consist of:

> (1) Five directors elected by members, who shall be officers or employees of members and shall consist of two representatives of health maintenance organizations and three representatives of other types of members;
> (2) Five directors, appointed by the governor, who shall be officers, general partners or proprietors of small employers, one director of which shall represent nonprofit corporations;
> (3) Four directors, appointed by the governor, who shall be employees of small employers; and

(4) The superintendent [of insurance] or the superintendent's designee.[4]

Despite legislative objections and the attorney general's opinion, the Centers for Medicare & Medicaid Services (CMS) accepted the HIA to operate the state's health insurance exchange. On January 3, 2012, Sebelius announced that New Mexico had made significant progress in setting up its own affordable health insurance marketplace. New Mexico was conditionally approved to operate a state-based exchange prior to the 2012 legislative session.

2.1 Leadership – Who Governs?

As noted above, Senate Bill 221, passed in the 2013 legislative session, established the New Mexico Health Insurance Exchange (NMHIX), a hybrid state-run health exchange. It operates as a quasigovernmental nonprofit public corporation established for the purpose of providing qualified individuals and qualified employers with increased access to health insurance in the state.[5] The NMHIX is composed of an exchange for the individual market and a small business health options program, or SHOP exchange, under a single governance and administrative structure overseen by a Board of Directors consisting of:

- Appointees required by state statute: New Mexico Health and Human Services Department Cabinet Secretary Sidonie Squier and Superintendent of Insurance John Franchini;
- Governor appointees: J.R. Damron, M.D. (Board chair), University of New Mexico School of Medicine; Gabriel Parra, Presbyterian Healthcare Services; Ben Slocum, Lovelace Health Plan; Terriane Everhart, Property Consultants; and J. Deane Waldman, M.D., University of New Mexico School of Medicine;
- Legislative appointees: Martin Hickey, M.D., New Mexico Health Connections; Larry Leaming, M.D., Roosevelt General Hospital; Jason Sandel (Board vice chair), New Mexico Medical Insurance Pool; Patsy Romero, Easter Seals El Mirador; Theresa Gómez, Futures for Children; and David Shaw, Nor-Lea General Hospital.

NMHIX draws together the existing small business health insurance infrastructure of the Health Insurance Alliance and the state's high-risk pools, the New Mexico Medical Insurance Pool (NMMIP).Thus, New Mexico will operate a hybrid exchange with the small business platform state-operated and using the federal platform for individuals wishing to apply for coverage offerings that are managed and overseen by the state. There is a single Web site for the marketplace and the SHOP.

Implementation of the exchange is funded with nearly $54 million in grants from the Centers for Medicare & Medicaid Services. The state's Office of Health Care Reform, which reports to the Governor's Office and was led by Dr. Daniel Derksen,

received an initial Level One grant of $34,279,483 on November 29, 2010. On February 26, 2013, the state requested a 25 percent administrative supplement to the initial Level One award in the amount of $8,569,871. On May 15, 2013, the state applied to HHS for an additional Level One health insurance exchange establishment grant and cooperative agreement in the amount of $20 million.[6] Funding through the additional Level One grant and cooperative agreement was received on May 15, 2013.[7]

The state Human Services Department is obligated to transfer federal exchange-related funding to NMHIX for its planning, implementation, and operation of the state's health insurance marketplace.[8] Outreach, education, and enrollment activities funded with these federal grants are for NMHIX activities only. All outreach, education, and enrollment activities for the state's Medicaid expansion are funded and conducted by the New Mexico Human Services Department and its partnering organizations and are not funded by these exchange grants. As such, Medicaid applicants approaching the NMHIX for coverage will be referred to the Department of Human Services.

The state does not anticipate requesting additional funds for implementation of the health insurance exchange in November 2013.[9]

Stakeholder input was invited throughout the process of developing and setting up the exchange.[10] Mechanisms for securing input included the establishment of the NMHIX Advisory Committee, a Native American Advisory Committee, and a Transition Advisory Committee for the New Mexico Medical Insurance Pool and the New Mexico Health Insurance Alliance. Listening sessions were held with stakeholders in several locations, including Albuquerque, Las Cruces, and in tribal nations across New Mexico, to provide feedback to the Advisory Committee.[11]

2.2 Outreach and Consumer Education

New Mexico has 345,794 residents ages eighteen to sixty-four who don't have health insurance, according to the New Mexico Primary Care Association. Of these, 187,674 earn more than 138 percent of the federal poverty level (FPL), potentially making them eligible to buy insurance through the exchange. The rest are likely eligible for the state's Medicaid expansion.

The NMHIX Board decided to spend nearly $7 million on outreach to help residents enroll in health plans offered on the exchange. The exchange estimates that as many as 83,000 people might enroll in exchange-based health plans in 2014. The outreach and enrollment effort is conducted in all thirty-three counties and will involve up to 290 people trained to help residents sign up for insurance.

The outreach campaign will feature thirty-four billboards across the state and radio spots on various stations, including nine Spanish-language stations and three Native American stations. "Be Well New Mexico," a song performed by six Albuquerque-area musicians, is featured in the outreach.

The Board has also agreed to spend $1 million to have Chambers of Commerce, universities, and faith-based organizations enroll residents though the exchange.

About 200 New Mexicans signed up for health insurance plans through the federal online marketplace during its first month of operation, reflecting the slow start across the nation in places using the federal system. This number drew heavy criticism from members of the exchange governing board, who blamed the technical glitches of the federal online system for low enrollment.

Marketing

In August, the exchange Board contracted with BVK, a Milwaukee firm, to develop various communications campaigns.[12] BVK was chosen because the marketing and evaluation committee cited its "very good insight to the Hispanic and Native American cultures. They understood New Mexican demographics," including older and younger populations.

BVK's working partners are Albuquerque-based Cooney Watson and Associates. BVK will rely on a team of ten to twelve people to develop messages for segmented portions of the population. The firm created a campaign called "Be Well New Mexico" and the Board adopted the name for the health insurance exchange Web site. The Web site content is available in Spanish and English. The site contains the toll-free number for the call center (1-855-99-NMHIX); information about available health plans; guidance on how to locate and get assistance from health care guides (navigators and assistors), agents, or brokers; and Medicaid referral to the Department of Human Services for those who may qualify for the program.

The Be Well New Mexico ad campaign was launched in mid-September 2013 to great fanfare.[13] The message encourages enrollment in health insurance for "security, family, and doing the right thing for yourself and your loved ones." Market segmentation is key to BVK's strategy. Thus, the firm also will produce tailored messages to the Native American communities through Native American partners. The "Be Well New Mexico" campaign includes radio, print, and TV ads; billboards; a Web site; and social media, with the first radio spots appearing in mid-September and TV ads airing starting on October 1, 2013.

2.3 Navigational Assistance

New Mexicans will be assisted in identifying the plan that works best for them by navigators and assistors (called health care guides by the NMHIX),[14] trained and certified by the state Office of the Superintendent of Insurance and CMS. Insurance brokers and agents also will assist with this process, though brokers need to be certified by each carrier and by the exchange.

The exchange Board issued contracts to two entities to serve as Healthcare Guide Overarching Entities and Outreach (e.g., navigators and assistors). The New Mexico Primary Care Association

(NMPCA) and the Native American Professional Parenting Resources (NAPRR) were hired to provide initial outreach and assistance with enrollment efforts in every county of the state. These organizations were chosen after twenty responses were received from June 2013 Request for Information.

The NMPCA is a nonprofit with 160 affiliated delivery sites, ten years of Medicaid experience, and affiliates in thirty-one counties. NMPCA has twenty-four subcontracted organizations and federally qualified health centers. The NMHIX plans to build on the association's Medicaid enrollment experience, targeting approximately 60,000 individuals. NMPCA has a structure for training in place and communicating information across the state.

The Native American Professional Parenting Resources has been in existence for thirty years, providing childhood home-based services in Native American communities, primarily in Bernalillo, Sandoval, Cibola, and Valencia counties. The NAPPR also has provided services to other Native Americans across the state. It is estimated that about 26,000 Native Americans will be eligible for the exchange. NAPPR will develop outreach and educational campaigns with Native American communities statewide that take into consideration the different needs of these communities, the varying perspectives of these communities regarding "concepts of insurance," and perceptions about the benefits of having coverage and increased access to providers and facilities outside of their tribal communities. NAPPR is subcontracting with tribes, tribal consortiums, and Native American nonprofits to hire and educate navigators and assistors.

Call Center

The New Mexico Health Insurance Exchange issued a Request for Proposals for a call center to be operated by an experienced firm.[15] Nine comprehensive proposals were received from:

- Advanced Call Center Technology
- Altivus
- Broad Path
- Faneuil
- Geninsured
- LiveOps
- Maximus
- Oak Hill
- Xerox

After an extensive evaluation and review, the exchange Board hired Xerox to be the call center vendor with a contract in place by September 6, 2013.[16]

The contract with Xerox includes designing and implementing a center that can handle all calls that come in through the

NMHIX's toll free 1-855-99-NMHIX number. The staff connects callers to one of five entities:

1. The Medicaid program's call center for Medicaid-related issues (assistance and/or complaints);
2. Contracted health care guide entities and/or certified health care guides;
3. The federal call center;
4. NMHIX SHOP; or
5. Brokers and agents as requested.

The call center is available twenty-four hours a day, seven days a week.

Native American Considerations

The ACA includes the permanent reauthorization of the Indian Health Care Improvement Act (IHCIA). The IHCIA significantly expands the authority of the Indian Health Service (HIS) and tribes in areas such as long-term care, behavioral health, and suicide prevention. The ACA also contains specific provisions regarding Native Americans:

- Members of American Indian and Alaska Native tribes are exempt from individual responsibility assessments.
- American Indians and Alaska Natives who purchase health insurance in the individual market through an exchange do not have copays or other cost-sharing if their income does not exceed 300 percent of the federal poverty level, roughly $66,000 for a family of four in 2010 ($83,000 in Alaska).
- The value of health services/benefits from IHS-funded programs or tribal programs will be excluded from an individual's gross income so it cannot be taxed.
- For individuals who have Medicare drug coverage (Part D coverage), spending with IHS, Indian tribe or tribal organizations, or urban Indian organizations will be counted toward the annual out-of-pocket threshold in the donut hole as of January 1, 2011.

These Native American-specific policies are important in New Mexico. About 10 percent of the population is made up of Native American tribal members who, under the ACA, are accorded wide latitude regarding health coverage options and participation in the health insurance exchange, Medicaid, HS, and tribally operated health programs.

New Mexico is required by the State-Tribal Collaboration Act to consult and collaborate with tribes on all state policy issues. The state is also required by the ACA to consult with tribes in the development of the state health insurance exchange. As noted earlier in the report, the New exico Human Services Department

created a Native American Workgroup (also known as the Native American Advisory Committee) of tribal leaders to make recommendations on the implementation of the NMHIX. The exchange relied upon an Indian Affairs Department staff person to serve as liaison with tribal communities until August 2013.

In August, the Board began to implement some of the recommendations of the Workgroup.[17] The Board hired a Native American coordinator and engaged Poston & Associates to work with Pueblo, Navajo, and Apache nations. Poston & Associates, working with the Indian Affairs Department, revived the Native American Workgroup to work though collaboration and communications in Indian Country. Additional tribal consultation meetings may be convened on other issues, including the establishment of Native American liaisons, advisory committee appointments, Indian blood verification, and education efforts.

Medicaid Expansion

The Supreme Court's ruling on Medicaid provisions is complicated. Basically, it says:

1. Congress acted constitutionally in offering states funds to expand Medicaid coverage.
2. Thus, states can expand coverage in exchange for these new funds.
3. If states accept the expansion money, they must abide by the new rules and expand coverage.
4. States, however, can elect not to participate in the expansion without losing all of their Medicaid funding. Instead, they have the option to continue their current Medicaid programs unaffected by the ACA.

In New Mexico, a significant expansion population is comprised of persons who do not have health insurance and will become eligible for Medicaid.[18] The ACA expands Medicaid to persons with incomes at or below 138 percent of the federal poverty level, including childless adults, starting on January 1, 2014. New Mexico's citizens and government will benefit greatly from the Medicaid expansion, as projections suggest as many as 170,000 low-income New Mexicans could be covered through this expansion.

More than 20 percent of New Mexicans live under the federal poverty level,[19] and the state's uninsured rate is among the highest in the nation. Furthermore, more New Mexicans lived in poverty in 2012 than in 2000. The Medicaid expansion will extend coverage to single adults and a sizeable number of adults are likely to be new Medicaid beneficiaries as a result. Estimates indicate that statewide about 50 percent (between 38-57 percent in each of the state's counties) of adults will be eligible for Medicaid. The financial implications of this expansion are huge in a state with high poverty rates and low resources. New Mexico currently

receives about 69 percent federal funding for Medicaid. Starting in 2014, this will increase to 100 percent for the Medicaid expansion population until 2016, reducing incrementally to 90 percent in 2020 and beyond.

In New Mexico, Medicaid outreach is conducted by the Department of Human Services, rather than combined with the NMHIX outreach and enrollment effort. However, the call center and BeWellNM.com Web site both refer potential expansion enrollees to the Medicaid call center for assistance and applications. Yet, the Department of Human Services representative indicated to the NMHIX board that Medicaid expansion applications would be denied if received before January 2014 when the state will open Medicaid enrollment.

2.4 QHP Availability and Program Articulation

The NMHIX had adopted a clearinghouse approach, allowing all plans meeting minimum criteria to participate in the exchange. Each participating plan must provide at least two metal plan offerings — silver and gold. The NMHIX does not selectively contract with insurers or manage plan choices. Also, the state prohibits an insurer from entering the exchange for up to two years if the insurer does not participate in 2014.

Five insurance companies are approved by the Office of the Superintendent of Insurance to sell policies through New Mexico's exchange.[20] They include health maintenance organizations (HMO), preferred provider organizations (PPO), a point-of-service plan (POS), and a consumer cooperative plan (CO-OP). Each insurer offers several "metal" offerings:

- Blue Cross Blue Shield, through its PPO, offers BCBS Bronze, BCBS Silver, and BCBS Gold, which are individual multistate plan programs;
- Blue Cross Blue Shield offers PPO individual catastrophic plans in bronze, silver, and gold;
- Blue Cross Blue Shield offers additional PPO products that are individual PPO plans in bronze, silver, and gold;
- Blue Cross Blue Shield offers individual HMO products in bronze, silver, and gold;
- Lovelace Health System, Inc., offers its individual HMO plan in bronze, silver, gold, platinum, and platinum plus;
- Lovelace Health System, Inc., also offers its individual point-of-service plans in bronze, silver, gold, platinum, and platinum plus;
- Molina Healthcare of New Mexico offers its individual HMO plan in bronze, silver, and gold;
- New Mexico Health Connections offers an individual HMO product in bronze, silver, gold, and catastrophic;
- New Mexico Health Connections offers individual PPO products in bronze, silver, gold, and catastrophic;

- Presbyterian Health Plan offers its PHP individual and HMO exchange products in bronze, silver, gold, and catastrophic.

2.5 Changes in Insurance Markets

In mid-November, Blue Cross Blue Shield of New Mexico announced that it would be acquiring Lovelace Health Plan in a deal both companies said should give Lovelace's 108,000 members access to a larger network of providers. At this time, it is unclear how this will impact the ability of these members to participate in the exchange.

New Mexico Health Connections (NMHC) is a nonprofit start-up CO-OP serving New Mexico. Co-Ops, known as Consumer Operated and Oriented Plans, were formed under the Affordable Care Act and funded with nearly $2 billion and $70.4 million in start-up and long-term solvency loans from HHS. They are designed to offer consumers more health care choices and to provide coordinated care models that are expected to reduce costs and improve patient outcomes. According to the Office of the Inspector General of the U.S. Department of Health and Human Services, the CO-OPs have five years to repay the start-up loans and fifteen years to repay the solvency loans.

NMHC is one of the first CO-Ops in the nation. To date, NMHC and others have met 90 percent of required milestones, according to a report issued by the OIG:

> Our review of the early implementation of the CO-OP program found that CO-OPs have made progress and met 90 percent of their milestones. All 18 CO-OPs we reviewed planned to have consumer-controlled governing boards, and eight CO-OPs described additional ways they plan to involve customers. In addition, CO-OPs are working toward program goals related to integrated care, improved health care quality and reduced costs.[21]

Transition of State-Administered Insurance Pools

New Mexico has operated health insurance pools for medically risky individuals through the New Mexico Medical Insurance Pool (NMMIP). The NMMIP was established by the state legislature in 1987 to provide access to health insurance for New Mexicans who were denied coverage and considered uninsurable due to pre-existing conditions. NMMIP also provides health benefit coverage for people who have exhausted Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) benefits and have no other portability options available to them. Blue Cross and Blue Shield of New Mexico administers NMMIP.

The NMHIX Board plans to transition several pools over the course of the next quarter to the exchange marketplace, starting with the "federal pool" of approximately 1,500 critically ill New Mexicans.[22] Individuals received notice in September and again in October 2013 that their Pre-Existing Condition Insurance Plan

(PCIP) coverage will end on December 31, 2013. On October 1, 2013, both the exchange marketplace and Medicaid began accepting applications for coverage from this group.

The NMHIX Board plans to start the transition of approximately 10,000 people in the "state pool" after January 2014, probably at midyear. State pool members received a letter that outlines several changes, including new rates for January 1, 2014-June 30, 2014, elimination of $7,500 and $10,000 deductible plans, and deductible changes.

Endnotes

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