

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
HEALTH INSURANCE COMMITTEE
SAN ANTONIO, TX
FEBRUARY 27, 2004
DRAFT MINUTES

The Health Insurance Committee of the National Conference of Insurance Legislators met at the Hyatt Regency in San Antonio, Texas, February 27, 2004, at 10:00 a.m.

Rep. Kathleen Keenan of Vermont, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Jay Bradford, AR
Sen. Alan Sanborn, MI
Rep. Fulton Sheen, MI
Sen. Bob Dearing, MS
Sen. Carroll Leavell, NM
Sen. William Larkin, Jr., NY
Rep. George Keiser, ND
Rep. Brian Kennedy, RI
Rep. Gene Seaman, TX
Rep. Larry Taylor, TX
Rep. Virginia Milkey, VT

Other legislators present were:

Rep. Frank Wald, ND
Assem. Nancy Calhoun, NY
Rep. Anthony Melio, PA
Rep. Robert Dostis, VT
Rep. Robert Godshall, PA
Rep. Craig Eiland, TX

Others present were:

Susan Nolan, Mackin & Company, NCOIL Deputy Executive Director
Fran Liebich, NCOIL Director of Legislative Affairs & Education for Health Insurance

MINUTES

Upon a motion by Rep. Kennedy, the Committee voted unanimously to approve, as submitted, the minutes of its November 20, 2003, Committee meeting in Santa Fe, New Mexico.

UPDATE ON ASSOCIATION HEALTH PLAN (AHP) LEGISLATION

Ralph Scott, representing Blue Cross Blue Shield Association (BCBSA), addressed the Committee on AHP legislation in Congress. He distributed reports on California AHP legislation. He said that the report's details might have application in other states. He added that the U.S. Senate Finance Committee will hold a hearing on health insurance fraud, as a result of a

GAO report titled, "Private Health Insurance: Unauthorized or Bogus Entities Have Exploited Employers and Individuals Seeking Affordable Coverage."

Mr. Scott asked the Committee to renew its February 4, 2003, AHP opposition letter to Congress in opposition of AHPs.

Upon a motion moved and seconded, the Committee voted unanimously to renew the AHP opposition letter.

REPORT ON ISSUES RELATED TO THE MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003 (MMA)

Scott Kipper, representing Health Insurance Association of America (HIAA) and American Association of Health Plans (AAHP), reported that the Center for Medicaid and Medicare Services (CMMS) would review applications for prescription drug card vendors under the new Medicare program created by MMA. He said the NAIC had released a model draft, "Medicare Supplement Insurance Minimum Standards Model Act," with proposed changes to the plan which would operate under Medi-Gap. He said that the NAIC planned to meet in March to review the model and intended to complete its work on the model by September 2004.

Jim O'Conner, of Milliman USA, representing American Academy of Actuaries, addressed the Committee. He said Health Savings Accounts (HSAs) are a feature of MMA. He explained that HSAs are individual contributing accounts which work toward medical services. He said that persons with qualifying medical plans can deposit into a HSA up to the minimum of their deductible.

Mr. Conner said, in regards to HSA's, that amounts contributed, interest build-up, and funds withdrawn for qualified medical expenses are qualified tax-free withdrawals. Mr. O'Conner said that persons age 65 and older can withdraw funds from the accounts, for purposes other for qualified medical expenses, subject to regular taxation. He explained that insurance plans that offer HSAs are consumer-directed, high-deductible plans. He said that the Treasury Department would release rules on how companies will manage HSAs. In response to Sen. Larkin, as to whether or not the Treasury would set a minimum number of employee rules, he said that there would be no requirements.

Sen. Larkin reported that he and Sen. Seward had introduced a bill in New York that focuses on small business health care options. He said that anyone interested in a copy of the bill should contact Sen. Seward.

Rep. Sheen noted differences between HSAs and MSAs. He said that MSAs are open to companies of 50 employees or less, and that HSAs are open to anyone. He explained MSA contributions are tax-deductible, and HSAs are pre-federal, pre-state, and pre-unemployment taxed accounts.

George Kelemen, Director of Advocacy & Grassroots for AARP, addressed the Committee regarding MMA and its impact on states. He said that MMA benefits persons with moderate prescription drug costs. He said that it has built-in support for public and private

retiree health plans. He mentioned that the provisions in the bill would not lead toward privatization of Medicare.

UPDATE ON MANAGED CARE ISSUES

Mr. Kipper reported that expanded health care regulations have not been a priority in states due to emphasis on Homeland security and state budgets. He said that it was his sense that legislators recognize expanding mandate and that expanded benefits would have negative impacts on consumers. Mr. Kipper said that current trends are focusing on costs drivers of health care, high-deductible and consumer directed plans, and mandate-light benefits in states.

In response to a question posed by Rep. Keenan, Mr. Kipper said that he was not aware of states or regions within states where costs are rising disproportionately to other states, and said that costs for managed care plans are not rising faster than indemnity plans.

DIRECT-TO-CONSUMER (DTC) DRUG ADVERTISING

Merrill Matthews, director of the Council for Affordable Health Insurance (CAHI), addressed the Committee. He said that DTC drug advertising does not raise costs of prescription drugs, due to competition within the market. Mr. Matthews indicated that the system of health care is changing from doctor-directed to patient-directed. He said that DTC drug advertising reminds patients to take their medications. He said that consumers are not aware of costs due to co-pays. In response to a question posed by Rep. Milkey, in relation to the high costs of new drugs, he said that competition would eventually increase in the market, but that patent protected drugs cannot be copied and thus they are more expensive.

Mr. Kelemen said that costs of prescription drugs are increasing by 18 percent a year and that percentage increases should be analyzed. He said that DTC advertising leads patients to diagnosis themselves and he indicated that patients should contact their doctors before they try to access new medication. He said that legislators should explore consumer outreach efforts. Assem. Calhoun said that listing costs on prescriptions would lead to consumer awareness.

PRESCRIPTION DRUG IMPORTATION

Mr. Kelemen said AARP views drug importation as an avenue in accessing lower cost drugs. He said that cost containment is a weakness of the new Medicare bill due to the above noted increasing costs of prescription drugs. He added that the Medicare program should be allowed to harness bulk purchasing power to negotiate lower prices, but that this is not allowed under the Act.

UPDATE ON FRAUD ISSUES AND LEGISLATION

Howard Goldblatt, representing the Coalition Against Insurance Fraud reported that the U.S. Senate Finance Committee would be looking into health insurance fraud issues. He said that fraud cross over state borders. He said that the Senate Finance Committee is reviewing options for state-based and regional efforts to target the people running scams.

OTHER BUSINESS

UNIFORM ACCIDENT AND SICKNESS POLICY PROVISION LAW (UPPL)

Ms. Nolan reported that UPPL was adopted by the NAIC 50 years ago and that an outdated provision in the model act allow insurers the right to deny coverage if any alcohol is found in an accident victim's blood level. She said that NCOIL supported repeal of the provision. She said the NAIC sent out an amended model to the states.

Ms. Nolan said that the study in conjunction with the Robert Wood Johnson Foundation will examine attitudes of policymakers regarding alcohol and tracks the progress of repeal in states. She asked legislators who had not completed the UPPL survey to do so.

Rep. Eiland reported that he introduced a bill to repeal the UPPL in Texas, which did not pass. He said that repeal of the provision denying coverage to trauma victims with blood alcohol levels is important, and that it is supported by Mothers Against Drunk Drivers (MADD) and many national medical associations.

MENTAL HEALTH PARITY ACT

Per NCOIL Bylaws the Committee reviewed the Mental Health Parity Model Act. Ms. Nolan overviewed the Mental Health Parity Act, explaining that the model provides legislators with a template on which they can draft legislation specific to the concerns of their respective states, and that it provides coverage for mental illness that is at least equal to the coverage provided for physical injury or illness. She said the model offers four major options:

- coverage under either an individual, small group, or large group policy
- mandate or an optional mandate (services are made available, but not mandated)
- broad-based or a biologically-based definition of mental illness
- coverage or non-coverage of alcoholism and substance abuse services

Upon a motion moved and seconded, the Committee readopted the Insurance Mental Health Parity Model Act unanimously.

INSTITUTE OF MEDICINE, REPORT ON UNINSURANCE IN AMERICA

Ms. Nolan gave a brief description of the book *Insuring America's Health: Principles and Recommendations*. She said that the report is the sixth and last in a series on the consequences of uninsurance. She said staff would try to make arrangements for a representative from the Institute of Medicine to speak to the group regarding the report findings.

ADJOURNMENT

There being no further business, the Committee adjourned at 11:10 a.m.