Health Care Reform in Massachusetts

Presentation to members of:

American Benefits Council

June 28, 2007

By:
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Associated Industries of Massachusetts

Agenda

- Brief background
- Concept of Shared Responsibility
  - Individuals
  - Government
  - Employers
- Closer exploration of the employer’s role and obligations and status of regulations
Factors Impacting Passage

- Federal Medicaid waiver expiring on July 1, 2006
  - Potential loss of $385 M
- Two pending ballot initiatives
  - Constitutional amendment guaranteeing access
  - New employer payroll tax
- Commitment of Governor, Senate President & House Speaker to expanding health care coverage

The Uninsured in Massachusetts

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Commonwealth Population</td>
<td>6,200,000</td>
</tr>
<tr>
<td>Insured (94%)</td>
<td>5,830,000</td>
</tr>
<tr>
<td>Uninsured (6%)</td>
<td>370,000</td>
</tr>
<tr>
<td>&lt;100% FPL Medicaid Eligible but Not Enrolled</td>
<td>70,000</td>
</tr>
<tr>
<td>0-300% FPL Eligible for Subsidized Insurance</td>
<td>140,000</td>
</tr>
<tr>
<td>&gt;300% FPL Affordable Private Insurance</td>
<td>160,000</td>
</tr>
</tbody>
</table>
New Law Focuses on “Shared Responsibility”

- **Individuals**
  - Effective July 1, 2007, all Mass. residents age 18 or more are required to have health insurance – no period of more than 63 days without coverage
    - For 2007 only, coverage on or before Dec. 31 results in compliance for the year
    - As of January 1, 2009 coverage must meet “minimum creditable coverage” standards
  - Mandate is contingent on availability of “affordable products”
  - Penalties for non-compliance — loss of personal tax exemption in first year; financial penalties increase significantly in subsequent years

Individual Mandate - Overview (cont.)

- Generally, individuals who are offered coverage through an employer are expected to enroll in that coverage. Some Exceptions:
  - Those who are granted a waiver based on the “affordability” of the employer plan
  - Those whose employer contribute less than 33% of the cost of individual coverage.
  - Those whose employer plan fails to meet the minimum creditable coverage standard
Health Care Reform in Massachusetts

Individual Mandate

- Employers are not responsible for enforcement of the individual mandate.

Minimum Creditable Coverage

- Prior to January 1, 2009 = virtually any coverage that is legal in Massachusetts

- On and after January 1, 2009 = Comprehensive Insurance, including Rx (plan anniversary dates starting 2/1/08 for employer-sponsored plans)
  - Rx coverage
  - No higher than $2,000/$4,000 annual deductible
  - No higher than $5,000/$10,000 annual out-of-pocket
  - Some preventive visits not subject to deductible
  - No annual, per illness & fee schedule limits
  - Federally qualified plans with HSA will meet MCC requirements
  - Split-funded plans will meet MCC provided the net impact on employees is no less favorable than MCC guidelines.
### Affordability Schedule and Regulations

- **Flexible enforcement**
  - Accounting for individual circumstances
  - Robust appeals process

- **Require Participation in Commonwealth Care**

- **For the rest, keep it simple**
  - Excuse lower-income brackets
  - Assume affordability for upper-income brackets
  - Progressive sliding scale of premium contributions

Regulations finalized on June 5, 2007 - Affordability now based on adjusted gross income to be more reflective of disposable income.

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### 2007 Affordability Schedule - Individuals

<table>
<thead>
<tr>
<th>Annual Adjusted Gross Income Range</th>
<th>Monthly Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Starting Point</strong></td>
<td><strong>End Point</strong></td>
</tr>
<tr>
<td>$0</td>
<td>$15,315 (150% FPL)</td>
</tr>
<tr>
<td>$15,316</td>
<td>$20,420</td>
</tr>
<tr>
<td>$20,421</td>
<td>$25,525</td>
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<tr>
<td>$25,526</td>
<td>$30,630</td>
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<tr>
<td>$30,631</td>
<td>$35,000</td>
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<tr>
<td>$35,001</td>
<td>$40,000</td>
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<tr>
<td>$40,001</td>
<td>$50,000</td>
</tr>
<tr>
<td>&gt;$50,000</td>
<td>Affordable</td>
</tr>
</tbody>
</table>
# Health Care Reform in Massachusetts

## 2007 Affordability Schedule – Married Couples With No Dependents

<table>
<thead>
<tr>
<th>Annual Adjusted Gross Family Income Range</th>
<th>Monthly Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Starting Point</strong></td>
<td><strong>End Point</strong></td>
</tr>
<tr>
<td>$0</td>
<td>$20,535</td>
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<tr>
<td>$20,536</td>
<td>$27,380</td>
</tr>
<tr>
<td>$27,381</td>
<td>$34,225</td>
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<tr>
<td>$34,226</td>
<td>$41,070</td>
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<td>$41,071</td>
<td>$50,000</td>
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<td>$50,001</td>
<td>$60,000</td>
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<tr>
<td>$60,001</td>
<td>$80,000</td>
</tr>
<tr>
<td>&gt;$80,000</td>
<td>Affordable</td>
</tr>
</tbody>
</table>

## 2007 Affordability Schedule – Includes Single Head of Household or Married Couple with Dependent(s)

<table>
<thead>
<tr>
<th>Annual Adjusted Gross Family Income Range</th>
<th>Monthly Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Starting Point</strong></td>
<td><strong>End Point</strong></td>
</tr>
<tr>
<td>$0</td>
<td>$25,755</td>
</tr>
<tr>
<td>$25,756</td>
<td>$34,340</td>
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<tr>
<td>$34,341</td>
<td>$42,925</td>
</tr>
<tr>
<td>$42,926</td>
<td>$51,510</td>
</tr>
<tr>
<td>$51,511</td>
<td>$70,000</td>
</tr>
<tr>
<td>$70,001</td>
<td>$90,000</td>
</tr>
<tr>
<td>$90,001</td>
<td>$110,000</td>
</tr>
<tr>
<td>&gt;$110,000</td>
<td>Affordable</td>
</tr>
</tbody>
</table>
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Affordability Waivers

- Process not yet fully defined
  - Triggered through Department of Revenue – state income tax return info.
  - Waiver decisions rest with Connector
  - Will consider individual circumstances as well as income
  - Decisions can be appealed

New Law Focuses on “Shared Responsibility”

- Government
  - Expanded Medicaid for children up to 300% of Federal poverty level (FPL)
  - Increased Medicaid reimbursement rates for hospitals and doctors;
  - Subsidies to purchase health insurance for individuals below 300% of the federal poverty level
  - Collect and publish cost and quality information on providers
New Law Focuses on “Shared Responsibility”

**The government: Commonwealth Health Insurance Connector**

**REGULATORY**
- Commonwealth Care benefits & premiums
- S. 125 Regulations
- MCC Regulations
- Affordability Schedule
- Waivers & Appeals

**ENTERPRISE**
- Enroll for Commonwealth Care
- Seal of Approval for Commonwealth Choice
- Sell CommChoice health insurance to:
  - Individuals
  - Non-group employees
  - Small employers – 50 or fewer employees

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**Commonwealth Choice**

- Young Adults
- Non-Group Individuals
- Small Businesses
- Sect. 125 Plans
- Blue Cross Blue Shield
- Harvard Pilgrim
- Tufts
- Fallon
- NHP
- Health New England

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**The Connector**
New Law Focuses on “Shared Responsibility”

- Employers – 11 or more FTEs – Insured and Self-insured – Primary Responsibilities
  - Make a “fair and reasonable” contribution toward health insurance for employees or pay “Fair Share Assessment” of up to $295 per employee per year
  - Mandatory offer of Section 125 Premium Only Plan, or risk paying “Free Rider” surcharge – could be $$$$$$$
  - Administration of Health Insurance Responsibility Disclosure (HIRD) forms
  - “Health 1099s” – reporting to Department of Revenue names and dates of coverage during tax year – copy to employees

Insured Plans Written in Massachusetts Only

- Effective January 1, 2007, all insured group health plans must cover eligible dependents to age 26 or until Dec. 31st two years following loss of IRS dependent status – whichever comes first.

- Effective July 1, 2007, carriers are prohibited from entering into a group health insurance contract with an employer who:
  - Does not offer the plan to all full-time employees who live in Mass., or
  - Discriminates in favor of higher-paid employees in contributions toward the cost of coverage.

Self-insured plans are not subject to these requirements. Insured plans written in other states are not subject to these requirements.
Employer of 11 or more FTE employees must provide “fair and reasonable” premium contribution or owe a Fair Share Assessment of up to $295 per employee, per year. Compliance is determined by passing one of two tests:

1. At least 25% of full-time employees are enrolled in employer-sponsored health insurance, or

OR

2. Employer offers to contribute at least 33% toward the cost of an individual health plan for its full-time employees who have been employed more than 90 days in the year.

Fair Share determination period 10/1/06 – 9/30/07, and every Oct. 1st – Sept. 30th thereafter

Online process for verifying compliance

• Currently being developed by Division of Unemployment Assistance
• Penalties collected through the Unemployment system

An A.I.M. concern – potential requirement to conduct Primary Test before being allowed to conduct the Secondary Test.

• Pilot group of 20 A.I.M. members will “test-run” the process
  ❖ A few openings remain – contact if interested

Fair Share determination period 10/1/06 – 9/30/07, and every Oct. 1st – Sept. 30th thereafter
**Health Care Reform in Massachusetts**

**Fair Share Contribution**

**The Primary Test**

10/1 - 9/30

Total Payroll Hours for all ENROLLED FT Employees

= 

Total Payroll Hours for ALL FT Employees

“Payroll Hours” includes all hours paid, including regular, overtime, vacation and holidays, paid FMLA or other leave, STD, LTD, jury duty, etc.

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**Section 125 Plan / Free Rider Surcharge**

- Employers of 11 or more FTEs must establish a Section 125 Premium Only Plan by July 1, 2007.
  - Must cover all employees – those who are eligible for group coverage and those who are not
  - Employer will process pre-tax deductions for employees who purchase coverage outside the employer’s plan(s).
  - May amend existing Sect. 125 document
  - Some attorneys recommend having separate plans
  - Plan documents must be filed with Connector – guidelines not yet issued

- Employers that fail to comply, face risk of “Free Rider Surcharge”
  - Potentially liable for $$$$$$$$$$$ for use of uncompensated care pool by employees and/or dependents
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**Processing of Pre-tax Deductions**

*...What we know at this point*

- Importance, and implications of, “naming” the covered health plan
- Sub-Connector administrative processes
- Web site: www.MAhealthconnector.org

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**Health Insurance Responsibility Disclosure (HIRD) Forms**

- The *Employer* HIRD form must be filed annually with the Division of Health Care Finance and Policy.
  - Expected to be online process – at same time as Fair Share testing is done
  - Collects variety of info. about employer
  - Verifies compliance with Sect. 125 requirement
  - Captures info. about cost of plan(s) offered by employer

Regulations adopted June 20, 2007 on emergency basis – subject to change following public hearing and comment period.
Health Insurance Responsibility Disclosure (HIRD) Forms (cont.)

- The Employee HIRD form must be maintained by the employer for 3 years.
  - Employees who waive group health insurance
  - Employees who waive participation in a Section 125 plan
  - If no signed waivers for decisions made prior to July 1 for coverage in 2007, must get HIRD forms signed retroactively
    - Otherwise, required for all waivers on/after July 1, 2007
  - Captures information on “affordability” of employee contribution requirement – used for waiver requests based on affordability
  - Copy of signed form must be given to the employee
  - Employee doesn’t complete and return the form – employer must document good faith efforts to obtain and keep documentation for three years.

Self-Insured Plans: “Health 1099”

- Department of Revenue must receive information on who has coverage during year and dates of coverage
- Employer responsibility according to the statute
  - Insured plans written in Massachusetts – carriers have agreed to issue “Health 1099” forms
  - Insured plans written outside Mass. – employer responsibility
  - Self-insured plans – employer responsibility
Employer Obligations and Status of Regulations

- Fair Share Contribution - regulations finalized September 2006
  - Complementary DUA regulations not yet finalized
- Section 125 Plans – finalized June 5, 2007
- Free Rider Surcharge – adopted on emergency basis June 20, 2007
- Health Insurance Responsibility Disclosure (HIRD) – adopted on emergency basis June 20, 2007
- Health 1099s
  - No regulations or administrative guidance at this point
- Mass. insured Plans Only
  - Expanded dependent eligibility – DOI bulletin finalized January 2007
  - Nondiscrimination in offer of coverage and premium contribution – DOI bulletin finalized April 2007

Potential Impact

- Financial
  - Additional employees may enroll in your plan(s).
- Administrative
  - HIRD forms
  - Section 125 implementation
  - Fair Share Contribution – annual testing process
  - Processing of pre-tax deductions for non-group-eligible employees
- Employee education – not an obligation under the law
  - Some obligation comes through offer of Sect. 125 Plan
  - What role do you want, or need, to have?
How to Stay Informed

- Connector Web Site: www.MAhealthconnector.org
  - News
  - FAQs – updated regularly
    - Employers
    - Individuals
    - Brokers
    - General Information
  - Links to other sources of information
  - Downloadable resources
    - Sect. 125 Employers’ Handbook
    - Employer Brochure
    - Others

How to Stay Informed - Everyone

- Division of Health Care Finance and Policy Web site
  www.mass.gov/dhcfp
  - News
  - Regulation documents – Fair Share, Free Rider, HIRD
  - Health Care Quality and Cost Information
- Division of Insurance Web site
  www.state.ma.us/doi/
  - Regulatory bulletins
For more information, please contact:

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