A Legislator's Perspective on Health Care Reform-Implications for States

.
Delegate Addie C. Eckardt
Maryland House of Delegates

Presented to the House Republican Forum July 15, 2010

As Dicken's stated years ago" These are the best and worst of times." Well here we are trying to do our very best in the worst of times. This discussion will highlight some of the obvious issues and changes facing our state. While there has been quite a commitment in Maryland to affordable, accessible, quality care for our citizens, I have concern that while we in Maryland faced the largest tax increase in our history on the eve of the recession and while our economic recovery is still shaky, the challenge to implement the Patient Protection and Affordable Care Act with minimal revenue will result in increased taxes for our citizens. I believe first and for most to do no wrong and from my years of experience, many laws are passed with out full awareness of the implications for the most local level- our citizens. The changes we will experience in the coming years will have significant implications for years to come and impact all those involved with health care and it's delivery.

Maryland has been anticipating the changes presented in the Federal Health Care Reform law passed earlier this year. As Maryland is considered to be one of the most regulated states in the county and is the only all payor state, we face unique challenges. Several pieces of legislation were passed during the legislative session that will begin the framework in which the changes will occur. Keep in mind Maryland has the Maryland Health Services Cost Review Commission that regulates hospital rates, the Maryland Health Care Commission that looks at small group and high risk populations, the Maryland Insurance Commission, the Medicaid division in the Department of Health and Mental Hygiene and the Community Health Resources Commission.

In May, the Governor established the Maryland Health Care Reform Coordinating Council, to facilitate multi-agency collaboration to identify state actions, and obtain broad input that will form key policy decisions necessary to implement the Federal Law. Authorization was given for the Maryland Health Insurance Plan to administer the federal high risk pool for the state. Other activities include review of how the Partnership subsidy for small low-wage businesses interacts with the new federal tax credits to small businesses as the federal provisions differ from the existing offering. Other changes will need legislation to be consistent with the federal changes for payment reform.

As an example the Heritage Report states, "In 1993 the state of Maryland imposed on its small-group health insurance market a minimum package of standardized benefits, annually updated by a state commission—a design similar to that in the new federal law. One result was that competition has declined to the point where the same two carriers have now covered more than 90 percent of all individuals in Maryland's small-group market for years."

Within the next two years legislation is required to reform our existing small group and individual markets to establish the structure, functions and governance. Since the federal law requires certain design elements, many questions arise and dynamics result in the transition from an underwritten individual market to modified community rating, weak penalties may contribute to adverse risk selection in both markets. Is the exchange primarily a method to get subsidized coverage or should the exchange be designed to re-structure the individual and small group markets for greater transparency and efficiency, potentially lower costs?

Specific concerns are apparent regarding the Patient Protection and Affordable Care Act (PPACA). The savings rely on substantial reductions in Medicare spending. The Medicare savings will probably lead to cost shifting that then poses unique problems in Maryland. The weak penalties enforcing the individual mandate, the sudden infusion of high risk pool participants and the ability of businesses with 50 -100 employees to chose the exchange of self insurance with stop loss will result in adverse selection within the individual and small group markets followed by rising premiums. Businesses ,if penalties are present for too much coverage and too little coverage , will it be simpler and cost the same to not provide health coverage and let the government do it.

Currently there are not enough health care providers in many Rural Areas and although there are new demonstration projects included in the law, I have concerns about the cost and the ability to provide all of the care necessary without additional caregivers. Traditionally community caregivers are not adequately compensated and the competition for dollars to implement the law could result in less accessibility in certain areas or to certain populations.

There are other implications that I am concerned about- the cost of Medicaid expansion. We in Maryland just increased eligibility to parents and partial benefits to childless adults to 116%FPL. The new law requires coverage for those groups up to 133% FPL. According to the Heritage Report- Obamacare Impact to the States "Maryland will still face $515 million in new costs (through 2020) in order to accommodate the federally-mandated Medicaid expansion.  This is because states will have to foot up to 10% of the bill for the expansion population, as well as an additional 5.5% in administrative costs. Not to mention the fact that under the new federal law, states will lose much administrative control over their Medicaid programs in favor of a new federal standard; that a proposed Medicaid "doc fix" could cost Maryland $40 million in 2015; and that states will lose a percentage of DSH money." Will decisions be made thorough the regulatory process to limit existing benefits or modify eligibility to be able to pay for the adjustment? There will be changes required regarding medication coverage and costs and reimbursements. Recovery audits with prescribed elements are required. All of these changes have significant cost implications.

In conclusion I tend to agree with the Heritage report that "Obamacare creates significant fiscal and policy challenges for states. The broad effects of the legislation, if implemented as enacted, will be to impose significant new Medicaid costs on state taxpayers, disrupt state health insurance markets and the current coverage of tens of millions of Americans, and usurp state authority. The new federal insurance regulations, particularly the provisions setting new, uniform federal benefit requirements, will reduce coverage options for individuals and employers and will likely drive up health insurance premiums. They are also likely to result in greater concentration in health insurance markets, leaving only a few large insurers operating as public utilities with a regulated low rate of return selling undifferentiated products to customers with no other options." With this in mind states must proceed with vigilance and be aware of the implications and make the necessary decisions and establish policy to protect our citizens and our states.

References:

"ObamaCare: Impact on the States"
(http://www.heritage.org/Research/Reports/2010/07/Obamacare-Impact-on-States)

* "ObamaCare: Three Months of Broken Promises"
(http://republicanleader.house.gov/UploadedFiles/ObamaCare3MonthsBrokenPromises.pdf)

* "Bad Medicine: A Check-Up on the New Federal Health Law"
(http://coburn.senate.gov/public//index.cfm?a=Files.Serve&File_id=722faf8b-a5be-40fd-a52b-9a98826c1592) )

"Health Care Reform: The Patient protection and Affordable Care Act(PPACA) Impact on Medicaid " presentation to the Joint Committee on Health Care Delivery and Financing, Maryland General Assembly by John G. Folkemer Deputy Secretary, Health Care Financing DHMH, June 15, 2010

"Briefing on Health Care Reform" presented to the Joint Committee on Health Care Delivery and Financing by Rex Cowdry, Execuitve Director, Maryland Health Care Commission, June 15,2010