Analysis of ABX1-1 to Reform Healthcare in CA

by Bill Robinson - CAHU V-P of Legislation - written 12-17-08
IEAHU@aol.com

The California's State Assembly approved "The Health Care Security and Cost Reduction Act" (ABX1-1) on Monday. Proponents claim this massive health care reform plan would expand coverage to nearly 70 percent of the state's uninsured and require most Californians to buy health insurance. Assembly lawmakers approved the $14.4 billion plan on a party-line, 45-31 vote.

This bill does currently include a role for agents in the sale of individual health insurance plans in the state-run pool, as well as in the existing individual health insurance marketplace. But it makes many changes to the individual marketplace - some of which we can live with, and some of which will likely have very negative effects on our clients and on us.

It also goes back to making a few significant changes to the group health insurance marketplace, none of which "appear" at this time to produce any negative effects (only the same 85% Medical Loss ratio rule which will apply- across the board to all lines of health insurance for each carrier or HMO.

[following is a partial, not complete, summary of this bill, which I have "culled" from parts of a document prepared today by Steven Lindsay, one of CAHU's Legislative Advocates]

It does have a mandate for all individuals to buy health insurance (if their ERs do not provide it), and allows exemptions if the individual's cost of insurance exceeds certain low % share of their income.But there is no discernable enforcement mechanism for individuals who do not have and do not buy health insurance. This is a big problem, in CAHU's view.

The bill does require guaranteed issue of all individual health plans beginning July 2010, and thereafter prohibits any recession of coverage. No Pre-X Clauses after 3-1-2011.

On individual health plans, RAF's will be applied for the first 4 years that G.I rule applies (2010 - 2014). Then just "modified community rates" (based only on age, family size & geography).

Carriers must offer plan designs that meet one of "5 Health Plan Benefit Levels," as defined by MRMIB. It is doubtful that any individual health plan designs NOT conforming to one of the defined 5 Benefit Levels can be sold after 7-1-2010. However, all those individuals enrolled in "other" health plans prior to 3-30-2010 can keep those plans, even though most such plans may not be allowed for new sales thereafter.

In the group marketplace, there will be G.I. for all groups from 2 to 100 EEs, with groups of 51 to 100 EEs allowed to have access to a different selection of health plans than for groups of 2 - 50 EEs. And the RAF range for mid-size groups will be slightly wider than for small group: ranging from .85 to 1.15.

There is a hidden mandate via taxation on ERs...for all ERs to offer and pay for group health insurance for their EEs (and I think- their dependents, except for employed spouses who would get their coverage at their ER). Failure to offer such benefits, meeting at least the minimum credible coverage as defined by MRMIP, would mean the ER does not get a refund of the new payroll taxes all ERs will have paid during each year - when they file their tax returns. (this is how the legislators think they can get around the "ERISA exemption" roadblock. ..well maybe not....).

And EEs who work for ERs who do not provide health insurance benefits but instead will have paid the new payroll tax instead, then such EEs will get (only) a 20% subsidy when they go to the state pool to buy their individual health insurance. I suggest EEs, who once were paying 50% or less of their ER's group health insurance premiums, will not think kindly of their ERs who drop group medical benefits and send their EEs to the state pool - where they will have to pay 80% of the pool plan's premiums. So this rule could nicely limit "crowd-out."

The bill also contains modest attempts to initiate incentive programs for insureds to live a more healthy lifestyle. And it attempts to promote transparency in disclosure of health care costs and quality, as well as Electronic Health records at all providers' offices.

Funding the subsidies and tax credits for individuals below 400% of poverty, who need to buy their own health insurance, is one of the biggest challenges in this bill...which actually does not have any funding mechanisms in it. These will be handled in a ballot initiative in 11/08. (see below)

Meanwhile, Senate President Pro Tem Don Perata asked the legislative analyst on Monday to study the impact of any health overhaul on the states general fund. The move indicates to many that Perata does not intend to tackle health legislation until early 2008 and only then after determining its effect on the states dismal finances.

Perata issued a statement last week saying it would be imprudent and impolitic to expand health care without considering the budget deficit.

If the bill is passed by the Senate AND signed by the Governor, the intended funding language for this bill will appear as a massive funding initiative on the November 2008 ballot...AND must be approved OR no parts of this bill will take effect. (there is no "severability clause"). Getting such a new tax funding bill approved by the voters in 11/08 is now thought to be very challenging. Time will tell.

CAHU's focus now will be on stopping this bill in the State Senate - and we can hope that Sen Perata's own priorities and concerns accomplish that goal for us entirely...maybe.

Stay tuned, as there is much more to come. Operation Drumbeat will be operational again soon ...as this bill is taken up for consideration by the Senate - either in the next very few days (but unlikely) or surely in January.