



ML Strategies Alert

Baker Administration and Legislature Debate Range of Health Care Proposals

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Massachusetts policymakers are currently engaged in a robust debate over several proposals aimed at lowering health care costs in the Commonwealth. The House of Representatives rejected a set of MassHealth reforms that the Baker Administration submitted to the legislature along with an employer assessment as part of a package aimed at lowering costs in the state's Medicaid program. The Baker Administration also submitted an amendment to the state's federal Medicaid waiver seeking approval from the Trump Administration for a set of MassHealth reforms. At the same time, Governor Charlie Baker filed separate legislation increasing the minimum premium differential for tiered networks, expanding the scope of practice for certain providers, and requiring payers to submit to the Center for Health Information and Analysis (CHIA) information on payment rates to specific providers. Debate also continued on pharmaceutical drug pricing, with the Baker Administration including pharmacy benefit reforms as part of the MassHealth waiver and the Health Care Financing Committee holding a hearing on July 11 on the multiple bills that have been introduced this session.

Legislature Rejects Governor's Proposed MassHealth Reforms

On July 26, the House rejected the MassHealth reforms the Baker Administration had added into the [FY2018 budget](#) through an amendment. The House turned down the reforms on a vote of 116-41, with seven Democrats joining all but one Republican in supporting Governor Baker's amendment one day after the Joint Committees on Health Care Financing and Ways and Means held a hearing on the proposals. These reforms included shifting 140,000 non-disabled adults with incomes above the federal poverty line from MassHealth to subsidized private insurance through the Connector, shifting 230,000 MassHealth members from standard MassHealth coverage into CarePlus, and disallowing MassHealth coverage for non-disabled adults who have access to employer health insurance.

At the same time, the House approved the increases to the Employer Medical Assistance Contribution (EMAC) and the reduction in unemployment insurance rates that the Administration had originally packaged together with the MassHealth reforms. Governor Baker will have to choose whether or not to accept the EMAC rate increases without the MassHealth reforms. Accepting the increase would risk alienating business groups, who agreed to the assessments only on the condition that they were paired with the MassHealth reforms. Should Governor Baker reject the assessment, the legislature could override the veto with a two-thirds vote in both branches. Rejecting the assessment would also lead to the loss of \$200 million in revenue used to balance the FY2018 spending plan, however, and require budget writers to find a different source of revenues or trim spending from other accounts.

The proposal to shift 140,000 individuals from MassHealth to subsidized private insurance through the Connector generated significant pushback from Democrats. They expressed concern over the impact of the change on these low-income residents, who they said may be forced to pay more in out-of-pocket expenses and receive less comprehensive benefits under the commercial plans. The Administration has argued that the switch is necessary

to preserve the state's commitment to universal coverage while holding down MassHealth costs.

At the July 25 hearing, Secretary of Administration and Finance Kristen Lepore, Secretary of Health and Human Services Marylou Sudders, and Secretary of Labor and Workforce Development Rosalin Acosta spent over two hours testifying in support of the proposed reforms. They explained that the reforms were the result of extensive talks with health care stakeholders, and are a necessary first step in the direction of substantively reforming MassHealth.

The cabinet secretaries repeatedly stressed that individuals who would be transferred from MassHealth to ConnectorCare plans would not lose any of their benefits. They argued that the only major changes to benefits for those placed on the ConnectorCare plans would be a choice between either paying \$29 per month for dental coverage, or receiving it for free at community health centers with the cost covered by the health safety net. They also spoke of the Governor's plan to create a new class of dental therapists, emphasizing the role that they would play in increasing low-income people's access to dental care.

Their remarks and the Governor's overall package were met with mixed reactions from both legislators and subsequent presenters at the hearing. Some organizations, including the Retailers Association of Massachusetts, the Massachusetts Nonprofit Network, and the Massachusetts Restaurant Association spoke in support of the proposal and encouraged the committee members to adopt the changes. These groups maintained that Governor Baker's proposal was a necessary first step in addressing the rising costs of MassHealth. Others, like the Home Care Aid Counsel, the Disability Law Center, Health Care For All, and several legislators testified in strong opposition to the proposal. They argued these changes would increase the cost of health care for many and render it inaccessible to some of Massachusetts's most vulnerable populations.

Federal Waiver Submitted

While the legislature is considering its reform proposals, the Baker Administration has begun seeking approval for Medicaid changes from the Trump Administration. On July 20 the Executive Office of Health and Human Services (EOHHS) submitted [an amendment to the state's Medicaid Waiver](#) to the Centers for Medicare and Medicaid Services (CMS) seeking federal approval for certain MassHealth reforms. The waiver requests federal approval for the Baker Administration's plans aligning coverage for non-disabled adults with commercial plans, adopting tools intended to obtain lower prescription drug prices, and implementing narrower networks in MassHealth's Primary Care Clinician Plan, among other provisions. The waiver says these reforms will ensure the sustainability of the MassHealth program while retaining access for vulnerable populations. Several of these changes require approval from the state legislature, and the body's rejection of the Governor's MassHealth reform proposals may impact how CMS receives the waiver.

The Baker Administration said that it is submitting the waiver amendment now because the federal approval process is lengthy. MassHealth and the Connector will be holding joint public meetings on August 4 in Boston and August 16 in Chicopee on the requests.

Governor Submits HB3829

The Governor also filed separate legislation – An Act Promoting Affordable Health Care Options ([HB3829](#)) – which provides additional reforms to the public and commercial health care markets. The bill proposes to increase the minimum premium differential for tiered networks to 28 percent from the current 14 percent in order to incentivize participation in these products. To increase access to lower-cost providers and lower costs, the proposal expands the scope of practice for optometrists, podiatrists, nurse practitioners, and nurse anesthetists. Finally, the bill directs CHIA to develop a list of the most common procedures and services and requires public and private payers to submit to CHIA their payment rates for these services at a provider-specific level.

The Joint Committee on Health Care Financing, which is now chaired by Representative Peter Kocot on the House-side after Representative Sanchez was named Chairman of the Ways and Means Committee, held a hearing on July 25 to receive testimony on the bill. The Retailers Association of Massachusetts argued that the scope of practice expansion will positively impact consumers by increasing competition, and tiered networks will be priced more fairly under the bill's provisions. The Massachusetts Association of Health Plans (MAHP) objected to the tiered network change, saying that their plans will be unable to meet the differential without imposing

substantial cost-sharing provisions.

Optometry, podiatry, nurse practitioner, and nurse anesthetist representatives all testified in support of expanding their scopes of practice. Optometry groups, including the Mass Society of Optometrists and the New England College of Optometry, said that the bill, which expands their scope of practice to allow them to treat glaucoma, would align Massachusetts with every other state in the country and encourage optometry students to remain in the state by allowing them to practice the full scope of their training. While optometrists say that these changes would not compromise patient safety, ophthalmologists objected, saying that they are better trained to treat glaucoma than optometrists.

The Mass Coalition of Nurse Practitioners endorsed the legislation, which allows nurse practitioners to practice independent of a supervising physician. The bill similarly allows nurse anesthetists independent practicing authority for ordering tests and therapeutics if they meet certain qualifications. The Mass Association of Nurse Anesthetists and the American Association of Nurse Anesthetists supported this provision, but anesthesiologists were opposed. Representatives of the Mass Society of Anesthesiologists said that allowing anesthetists greater independent practice would have negative impacts on safety and effectiveness. They also said that the change would not lower the cost of health care because Medicare, Medicaid, and commercial payments for these services to providers are the same whether or not anesthetists practice alone.

Drug Pricing

The Baker Administration has also proposed policies aimed at reigning in rising prescription drug costs, which policymakers are seeking to reduce as part of their overall efforts to lower health care costs. As mentioned earlier, the amendment to the state's Medicaid Waiver that EOHHS recently submitted for CMS approval includes measures intended to lower drug prices. The waiver requests that the federal government authorize MassHealth to select preferred and covered drugs through a closed formulary (similar to commercial insurance and Medicare) and procure a selective and more cost-effective specialty pharmacy network.

The Administration sought legislative approval for these changes as part of the amendment it returned to the legislature with the package of MassHealth reforms. The legislature rejected this request, but the Administration may still pursue these reforms if the federal waiver is accepted.

While the Baker Administration pursues these measures, the legislature has been debating its own proposals to bring down prescription drug costs. On July 11, the Joint Committee on Health Care Financing heard testimony from lawmakers, insurers, public health groups, and the pharmaceutical industry on the several bills introduced in the legislature this session aimed at increasing transparency around drug pricing. Senator Mark Montigny filed legislation requiring the Health Policy Commission (HPC) and CHIA to collect data on the most expensive drugs the state is paying for and any new medicines that cost more than \$10,000. Senator Linda Dorcea Fory and Representative Christine Barber introduced legislation that calls for a review of drug pricing that increased 50 percent or more over the past five years, or by 15 percent in the last year, and requires drug manufacturers to justify decisions to raise prices by more than 10 percent in filings with the HPC. Representative Jen Benson and Senator Joseph Boncore have filed legislation calling for drug companies to make pricing information public if a drug's price exceeds 15 percent in a year and requiring insurers and pharmacy benefit managers that purchase drugs in bulk to disclose rebates and discounts they negotiate.

Public health groups, including the American College of Physicians, Partners in Health, the Greater Boston Interfaith Organization, Health Care for All, MassPIRG, and Health Law Advocates, among others, testified in favor of the different bills. They claimed that transparency will lead to a better understanding of drug pricing and a more informed debate on public policies aimed at curbing rising prescription drug prices.

Bob Coughlin of MassBio testified in opposition to the bills, saying that they would not do anything to decrease out-of-pocket costs for consumers. He argued that interest in these bills is driven by concerns that no action is being taken to bring down the cost of pharmaceuticals, but in reality several developments are happening outside of the legislative process. He cited a partnership between MassBio, MAHP, Blue Cross Blue Shield, and the Network for Excellence in Health Innovation to pilot value-based contracting in Massachusetts, announcements by biopharma companies that they are limiting price increases to single digits, and the recent introduction of policies by the Food

and Drug Administration (FDA) allowing more generics on the market.

Eric Linzer of MAHP testified in favor of the bills introduced by Senator Montigny, Representative Barber, and Senator Dorcea Forry. They also argued that value-based contracting is at best a complement to solutions lowering drug prices, saying that the practice is not effective when applied to a drug that has no market competition. Representative Sanchez expressed frustration to Linzer that more progress has not been made in the marketplace over the last few years on this issue, saying that “I feel like we’re still at Point 1” and asking why the industry is still just talking about value-based contracting.

Conclusion

The health care discussions promise to continue at a fever pitch throughout the rest of the year. Democrats in the legislature have pledged to continue debating proposals to lower MassHealth costs, with Representative Sanchez saying, “This is not the end of our health care debate.” Secretary Sudders suggested across the board cuts to rates paid by MassHealth to providers would be necessary if reforms are not eventually passed. Senate President Stan Rosenberg’s office has targeted early in the fall for producing a health care bill.

Looming over the state’s debate is the prospect of significant health care policy changes coming from the federal government, which is currently debating proposals to repeal and/or replace the Affordable Care Act. Governor Baker has opposed many of the proposals considered by Congressional Republicans. Most recently, he signed onto a letter along with nine other governors urging senators to reject a “skinny repeal” proposal to roll back the law.

ML Strategies will continue to monitor and periodically report on discussions among political and industry leaders as they work to curb health care costs in the Commonwealth.

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