

NADP Leadership Conference

Session Summary by Merit Smith of the Robert E. Nolan Company

On Jan. 25, NADP held two 90-minute health care reform (HCR) sessions for attendees of the Leadership Conference. The sessions consisted of a presentation by a panel of experts followed by question and answers; first by the facilitator and then from the audience. The panelists brought perspectives of lobbying, corporate benefit design and program management, and strategic and operational experience with implementing state-level exchanges.

This document gives a short summary of the presentations, describes the topics and questions that were of most interest in the question-and-answer sessions, as well as other comments frequently heard outside the sessions. Panelists were asked to answer the question: “What three things should carriers be doing now?”

The document concludes with selected references. The references are not exhaustive but give a sense of the range of approaches being taken by different states as they implement their roles in health care reform.

Presenters

- » **Jonathan Renfrew, Director of Government Law and Strategies, Brown Rudnick**
One of NADP’s voices in Washington with extensive experience in leadership roles with legislative staffs in the U.S. House and as a lobbyist. Jonathan helps create and implement legislative strategies for NADP.
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- » **Jack Towarnicky, Employee Benefits Attorney, Willis Group Holdings**
Brings decades of experience in benefit strategy and design gained from serving in corporate benefit leadership roles in major corporations. Jack has benefit law and tax expertise.
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- » **Cindy Gillespie, Managing Director, McKenna Long & Aldridge, LLP**
Cindy is a national expert on Insurance Exchanges. She played a leadership role in the development of the Massachusetts Exchange, and works with other states implementing exchanges, trade groups, as well as think tanks and legislators involved with exchanges.
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- » **Merit Smith, VP Health Care, Robert E. Nolan Company**
Merit leads a specialized managed care practice that helps national and regional health plans and systems integrate strategy and operations. Merit moderated the panel of experts and prepared this summary. *This summary is paraphrased from discussion in the sessions. Errors in the summary are the sole responsibility of the moderator; brilliant insights and useful information are correctly attributed to the panelists.*
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Key Notes from Presentations

Jack Towarnicky – Willis Group Holdings

Jack's presentation worked from slides included on NADP's eCommunity.

- Key Survey Results of 1,400 Employers
 - Most (55%) plan to maintain current plan
 - Most will continue coverage but take actions such as:
 - Reduce benefits (77%)
 - Increase employee share of costs (49%)
 - Decrease ancillary benefits (vision, dental) (51%)
 - Most (52%) expect higher employee enrollment following auto-enrollment
 - Plans are about equally split on if they expect to offer "Cadillac" benefits, (31% yes, 38% no, 31% unsure)
 - A significant number (46%) do not plan to use superior benefits to attract, retain, and engage top talent
- Health Care Reform as Dental Opportunity
 - 2011 Actions
 - Use same eligibility provision as medical
 - Increase preventative focus. Example: Dental Health Assessment
 - Add bronze-level benefits to avoid excise tax
 - 2012 and Beyond
 - Incentives for regular dental treatment
 - Continue / expand HDHP/HSAs
 - Increase orthodontia maximum to offset change in FSA caps
- Review of SibsonSegal HCR Insights
 - Insured dental not subject to ACA
 - Self-insured dental not subject to ACA if separate certificate / policy or not integral – separate elections or contribution features
 - "Reasonable judgment" on interpretation of "essential benefits" until regulations are published
 - Lack of definition of "pediatric services, including oral and vision services"

Cindy Gillespie - McKenna Long and Aldridge, LLP

Cindy's presentation worked from slides included on NADP's eCommunity.

Key points of her presentation included:

- There is a low level of awareness of Exchanges among state regulators, legislators, and carriers.
- Carriers don't have an adequate understanding of what states need to design and implement in the next 21 months. The states don't really understand the issues that carriers have with Exchanges. And for dental benefits, these understanding gaps are even larger.
- States are designing two types of exchange capabilities:
 - American Health Benefit Exchanges, which focus on individual coverages and where premium subsidies may be available.
 - SHOP Exchanges, which focus on small employers and do not involve subsidies.

- There are dozens of specific design issues that must be resolved before Exchanges can be technologically created and deployed. And resolution of these issues is hampered by lack of specific federal regulation and enabling state laws and regulation.
- As a result, there are a wide range of potential Exchanges emerging. Some may combine the two Exchanges and have it administered by an existing state agency. In other cases, new state entities are being created solely for Exchanges.
- Some will be funded directly by the state, and some will assess fees, etc.
- Generally, conversations involve discussion about either the Massachusetts experience or the Utah experience.

Variable / Design Element	Massachusetts	Utah
Individual / Small Group	Individual	Small Group
Scope	135k out of 200k eligible	100+ small groups
State Organization	Specific single purpose entity	Inside Economic Development Agency
Purchase Model	Subsidized active purchaser	Defined contribution from employer, employee choice of carrier
Which carriers can offer?	Selected by exchange; rates negotiated	Any licensed carrier can offer

- Other exchanges of interest are commercial Exchanges in:
 - Connecticut: CBIA
 - New York: Health Pass
 - California: Cal Choice
- There is long-term (10+ years or more) history of successful Exchange type entities.

Jonathan Renfrew - Brown Rudnick

- General model for understanding current state of play in Washington relative to reform is to think in terms of “offense” and “defense” and to recognize that roles are dynamic and may reverse. Last year, to pass ACA, the Democrats were on offense; now, they are very much on defense. Similarly, the House was on offense to get the bill passed while under Democrat control but now, with change in control, the House remains on offense but with an objective of repeal or substantial modification. In this analysis, the Democratically-controlled Senate behaves defensively to protect the ACA, the President, and Party’s legacy accomplishment.
- It is unrealistic to assume, with Democratic control of Senate and Presidential veto, that the reform law will be repealed. It is not prudent for carriers to “wait and see” or to hope for a very unlikely event. Carriers must act on their best knowledge and judgment about how to comply with the law even as it is changed and subject to court decisions.
- Republican efforts to modify individual components of ACA or engage in selective defunding of individual components may have unintended consequences and may result in a more difficult and expensive implementation.

- Expect much action in the committees of jurisdiction who will use hearings as a method of focusing public and stakeholder attention of efforts to repeal or modify individual components.
- Expect courts to be another venue for offense and defense. Any estimates of timeline for court system to resolve cases or specific issues are guesses and should not be relied on.

The key challenge for the Association and its community of interest is to obtain regulatory clarity about Exchanges and dental benefits offered in or outside of Exchanges. This clarity must occur at both the state and federal level.

Session Buzz

Topics and issues that were of interest in the sessions

The topic with the greatest buzz (general interest) was **the Exchange**.

Frequent reactions or questions involved:

- The lack of clarity within the ACA available to the to explain design and implementation of the law to the public. . Some saw lack of guidance as a possible opportunity to influence their state Exchanges. A few attendees thought that the lack of guidance or regulations might be opportunities.
- The **problem of small multi-state buyers and Exchanges**. A 45 life group in Iowa with handfuls of employees in California, Florida, and New York was used in several discussions to explore the practical problems the carriers and employers will face with Exchanges. Key unresolved issues that attracted attention were:
 - “Which Exchange will my Florida employees use to buy benefits?”
 - “How will the Exchanges exchange data and funds between themselves?”
 - “Doesn’t this design force a carrier to have to be able to interact with nearly all Exchanges?”
 - “What rates and subsidies will apply in out-of-state situations?”
- Cindy Gillespie emphasized two themes in her answering of Exchange questions.
 - “If you have seen one Exchange, you have seen one Exchange. Anticipate some general patterns of design similarities in how states implement Exchanges, but not much. You need to be flexible and, more importantly, involved in communicating with states in their Exchange implementation.” (See Cindy’s presentation for differences in Exchange design approaches.)
 - “December 2012 is a key date. At that point HHS will assess each state’s Exchange design and implementation and make a determination if they will be able to be ready by January 2014. If it is not, then HHS will implement the Exchange for the state. This means the key date for the state is the end of 2012, not the beginning of 2014.” (All panelists agreed that states, with Alaska being the sole exception, do not want HHS Exchange implementation. A federal Exchange would give too much control over Medicaid enrollment procedures and processing to HHS and weaken states ability to control Medicaid enrollment and costs.)

- From the presentations and questions-and-answers, a theme emerged that the state organizations designing and implementing Exchanges have a number of key design questions they need to answer. For example, “Will the Exchange offer all licensed carriers? Or will they RFP and selected a sub-set of carriers for offer?” (Refer to Cindy’s document linked in the NADP resources section below.) Understanding the design questions they are dealing with appears to be an essential step in a carrier preparing its point of view and strategies and products for use in a post-Exchange environment.
- Many specific questions evolved into a panelist Q&A dialog with follow-on comments or additional questions. Frequently, these dialogs had a common answer of “it depends...” with the specific answer being contingent on actions by state-level regulators or perhaps depending on as-of-yet unavailable regulations. In some cases, an appropriate answer revolves around a company’s product strategy. A single state plan that has not been involved in Medicaid and CHIP may have a different issue and set of options than a national carrier with experience in different Medicaid plans. There may have been a sense of frustration or vagueness at the start of these discussions; however, by the end of the sessions many participants appeared more comfortable with the current level of uncertainty and had a stronger appreciation of company-specific issues in determining the “correct” answer to a problem.

“If you were a carrier, what three things would you make sure you do?” (Paraphrased by facilitator)

Jonathan Renfrew

- Reform will not go away. Be realistic about this. Do not defer action based on hope.
- Although the uncertainty of reform is disturbing, you can also see uncertainty or ambiguity as “undefined opportunity.”
- Pay attention to state Department’s of Insurance, assess your relations and influence on them, and understand they will be critical for some parts of reform implementation.

Jack Towarnicky

- Recognize that all organizations – yours included – need to review and revise their benefit strategy to reflect reform. Engage the CFO in this process.
- Think in terms of total pay. “Bronze Level” benefits may quickly become norm.
- No matter what your role in health care reform, do not be passive. Assume a leadership role.

Cindy Gillespie

- Expect the Exchanges to cause upheaval in your markets and organization. Most of this will happen in 2011 through 2014. This stress is happening now, not in the future. Get active now.
- Look at your data. Know your members and their use of benefits and your channels. Understand what you are doing today.
- Know what you want and tell states how you want the Exchange to operate. Have an informed point of view, talk about it.

Hallway Buzz

Things we heard outside of the formal sessions...

- “Didn’t realize there are two different types of Exchanges...” These comments refer to the fact the reform law includes the American Health Benefit Exchange (ABHE) and the SHOP or Small Business Health Options Program. The ABHE is where low-income individuals can qualify for subsidy; the SHOP Exchange is designed to help small employers purchase health benefits but does not involve subsidy.
- “We need to survey employers to see how many will drop dental...maybe it will be a trade down rather than dropping it entirely.”
- “Early retirees may be a potential market but not sure what to offer or how to get to it. Hard to tell if we can sell during a retirement event or COBRA situation. Some will keep coverage, but guess most retiring would not.”
- “Exchanges might create a new regulator...” This is a problem that is a current concern in the California market, and much commented on within the regional trade group, California Association of Health Plans. In the resources section, there is an article containing an interview of the executive responsible for the Tennessee Exchange. As he describes the functions of the Exchange, he mentions in passing that the Exchange will regulate carriers. This may be a duplication or creation of a new regulator and an example of this problem.

General Resources

- 1) Example of State Implementing Reform – Illinois:
<http://www2.illinois.gov/healthcarereform/Documents/IL-HRIC%20Report.pdf>
- 2) Health Insurance Exchange Still in Works – Tennessee:
<http://www.commercialappeal.com/news/2011/feb/09/health-exchange-still-in-works/>
- 3) Senate Bill – No. 900: California Exchange:
http://www.renolan.com/healthcare/nadp_session/California%20Exchange%20Bill.pdf
- 4) Presentation – McKenna Long & Aldridge – Exchange Planning and Implementation in the States:
http://www.renolan.com/healthcare/nadp_session/NADP%20Session%20Presentation-McKena%20Long%20Aldridge.pdf
- 5) Presentation – Willis Group – Health Care Reform Survey 2010:
http://www.renolan.com/healthcare/nadp_session/NADP%20Leadership%20Conf-Willis%20Group%20Presentation.pdf

(In addition, presentations are linked on NADP’s HCR Open Forum eCommunity)