



DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

JUDYANN BIGBY, M.D.  
Secretary

*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
One Ashburton Place, Room 1109  
Boston, MA 02108*

Tel.: 617-573-1600  
Fax: 617-573-1890  
[www.mass.gov/eohhs](http://www.mass.gov/eohhs)

December 12, 2007

Speaker Salvatore F. DiMasi, Massachusetts House of Representatives  
President Therese Murray, Massachusetts Senate  
Chairwoman Patricia A. Walrath, Joint Committee on Health Care Financing  
Chairman Richard T. Moore, Joint Committee on Health Care Financing  
Chairman Robert A. DeLeo, House Committee on Ways and Means  
Chairman Steven C. Panagiotakos, Senate Committee on Ways and Means

Dear Senators and Representatives:

Pursuant to section 132 of Chapter 58 of the Acts of 2006, I am pleased to provide the General Court with the latest 60-day report of the Patrick Administration's progress in implementing Chapter 58. As with every update, the last two months have brought significant advancement in the implementation of chapter 58 as we continue to meet the deadlines for implementing various provisions of the law and continue to enroll people in health insurance at historic and heartening rates.

The last two months of health reform implementation were most notable for the cross-departmental preparation for the individual mandate deadline of December 31<sup>st</sup>. Extensive outreach efforts continue across the administration, supplemented by recipients of MassHealth outreach and enrollment grants, awarded on December 1<sup>st</sup>, as discussed in Section 1. The Department of Revenue has finalized the necessary tax forms, incorporating feedback from consumer advocates and other stakeholders, as discussed in Section 3.

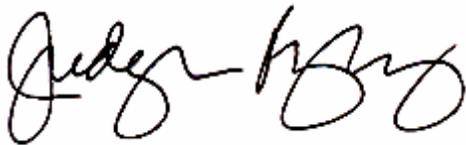
The last two months are also notable for employers' participation in filing Fair Share Contribution reports under the Fair Share Contribution and Health Insurance Responsibility provisions, as discussed in Section 7. Thus far, on December 1<sup>st</sup>, over seventy-one percent, or nearly 49,000 thousand, of the employers required to file with the Division of Unemployment Assistance have submitted reports. Of those reporting, we anticipate 570 employers to make a total fair share contribution of \$5.3 million. We look

forward to working with all employers to reach full compliance and will be tracking the data to fully understand the impact of the statutory mandate on employers.

Looking ahead to the next 60 day period, we in the Patrick Administration will continue to focus on preparing for the December 31<sup>st</sup> deadline. In addition to our current outreach initiatives, the Department of Revenue is continuing its dialogue with the Connector, consumer groups, advocates and tax practitioners to finalize user-friendly tax reporting and appeal processes, as discussed in Section 3. Our partnership with stakeholders is a vital component of health care reform and we will continue to develop these important relationships.

If you would like additional information on the activities summarized in this report, please do not hesitate to contact me or my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "JudyAnn Bigby". The signature is fluid and cursive, with the first name "JudyAnn" and last name "Bigby" clearly distinguishable.

JudyAnn Bigby, M.D.

cc: Senator Richard R. Tisei  
Representative Bradley H. Jones  
Representative Ronald Mariano  
Representative Robert S. Hargraves

# **Chapter 58 Implementation Report Update No. 10**

Governor Deval L. Patrick

Lieutenant Governor Timothy P. Murray

Secretary of Health and Human Services  
JudyAnn Bigby, M.D.

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## **Section 1: MassHealth Update**

The Office of Medicaid reports the following progress on Chapter 58 initiatives:

### **Insurance Partnership**

MassHealth successfully implemented an increase in the income limit for eligibility in the Insurance Partnership from 200% to 300% of the federal poverty level (FPL), on October 1, 2006. This expansion allowed a greater number of low-income Massachusetts residents who work for small employers to participate in the IP program. As of November 2007, there are over 8,000 policies through the Insurance Partnership with close to 18,000 covered lives. More than 6,400 employers participate in the program.

### **Children's Expansion up to 300% FPL**

On July 1, 2006, MassHealth implemented expansion of MassHealth Family Assistance coverage to children in families with income greater than 200%, and up to 300% of the FPL. As of August 2007, there were 54,900 children enrolled in Family Assistance, up from 31,000 in June 2006. More than 16,800 of those children are new members and/or converted Children's Medical Security Plan members enrolled as a result of the income expansion.

### **MassHealth Essential**

Effective July 1, 2006 the enrollment cap for MassHealth Essential was increased from 44,000 to 60,000. This allowed MassHealth to enroll more than 12,000 applicants who were on a waiting list at that time. As of September 2007, Essential enrollment was 54,000. Given the amount of additional enrollment capacity for the program, MassHealth does not anticipate having to reinstate the waiting list for Essential.

### **Wellness Program**

Section 54 of Chapter 58 requires that MassHealth collaborate with the Massachusetts Department of Public Health (DPH) to implement a wellness program for MassHealth members. It specifies five clinical domains: diabetes and cancer screening for early detection, stroke education, smoking cessation, and teen pregnancy prevention. The law mandates co-payment and premium reduction for members who meet wellness goals. However, since members do not pay significant copayments or premiums, alternative incentives have been recommended.

The Wellness Program has completed research and data analysis to set a baseline for accurate tracking of MassHealth members' wellness behaviors. This work is essential for effective measurement and evaluation of the success of the Wellness project.

In February the Wellness Program project management team developed a two-phase implementation process in order to permit the development of a flexible and sustainable incentive program and to ensure that MassHealth members and providers support and buy-in to the idea of wellness. Phase one focuses on promoting and educating MassHealth members about the concept of wellness and healthy lifestyle activities. This education is coordinated with the MassHealth providers and with support from the Department of Public Health. Phase two of the Wellness Program, the incentive system, is in the planning phase to be implemented following research about the best way to track wellness activities and provide incentives to MassHealth members. Implementing the Wellness program incentive system requires surveying the marketplace which will be accomplished with a formal Request for Information (RFI) to vendors throughout the state.

MassHealth has met as scheduled with the Wellness Program External Advisory Group to discuss outreach and education ideas and incentive options for members. Additionally the Wellness Program management staff has met with MassHealth executives and CMS to discuss federal support for the member incentive system being investigated through the RFI. A draft of the RFI has been completed and is in the process of receiving final revisions from the Wellness program legal staffs prior to distributing it to MassHealth executives for sign-off and distribution to the public.

Since early April, the Wellness Program team has completed the design, review, finalization, and distribution of an English and Spanish wellness brochure, as well as an all-provider bulletin to educate providers about the program. In June the brochure was mailed to over 600,000 MassHealth member households. In September the brochure was added to the PCC plan materials catalog and the MassHealth customer service team has a supply to distribute to providers and members. The MassHealth Wellness Program Manager continues to present at regional MassHealth provider trainings about the Program, with a focus on opportunities to use the brochure to educate new and current MassHealth members. In October the annual MassHealth Pharmacy Program Information Sessions includes a presentation on the Wellness Program and the tobacco cessation benefit.

The project is on the following implementation time track:

- Creation of overall program structure: May through August 2006 (complete)
- Research and program design: September 2006 through February 2007 (complete)
- Phase 1 & 2 implementation planning: January through May 2007 (complete)
- Phase 1 outreach and education implementation: June 2007 (complete)
- Phase 1 and 2 program activities and development and subsequent evaluation: July 2007 and ongoing (on schedule)

As previously reported, the copayment/premium reduction requirement in the law in Chapter 58, as originally passed, proved problematic. Most MassHealth members pay no premiums, and those who do generally pay negligible amounts. Consequently, MassHealth and DPH concluded that such an incentive structure would have little impact on member compliance, and therefore recommended changes to the legislation to allow for alternative wellness incentives. The legislature endorsed this approach in the FY 08 budget in line 4000-0700, "...that the executive office may reduce MassHealth premiums or copayments or offer other incentives to encourage enrollees to comply with wellness goals".

### **Outreach Grants**

In the FY08 budget, \$3.5 million was appropriated for the MassHealth, Commonwealth Care and Commonwealth Choice grant project to award grants to community and consumer-focused public and private non-profit organizations for activities directed at reaching and enrolling eligible Commonwealth residents in MassHealth and Connector Authority programs.

The Request for Responses (RFR) solicited grant proposals from community and consumer-focused public and private nonprofit organizations for activities directed at reaching and enrolling Massachusetts residents in MassHealth, Commonwealth Care and Commonwealth Choice. Grant activities will also be directed at disseminating information about the health care reform law to potential applicants to any of these programs, including but not limited to the individual mandate, minimal creditable coverage policies, and assistance with understanding affordability regulations and the Connector's affordability tool on the [www.MAhealthconnector.org](http://www.MAhealthconnector.org) website.

Advance Notice was posted to Comm-Pass on August 8, 2007 and the RFR was posted to Comm-Pass on September 29, 2007. Grant proposals were due on Wednesday, September 26, 2007. There were 87 grant proposals submitted by organizations.

On November 15, 2007, 45 organizations were informed that they would be receiving grant funding. MassHealth is working with organizations to sign contracts.

Another round of Request for Responses (RFR) is scheduled that will solicit grant proposals from community and consumer-focused public and private nonprofit organizations to serve as lead organizations to a network of organizations working to reach and enroll potentially eligible people in state-subsidized and non-subsidized health insurance programs. The lead organizations will be responsible for establishing or expanding its network of organizations, and for ensuring coordination and collaboration of outreach and enrollment efforts among the participating network organizations. Examples of participating network organizations may include typical health care enrollment sites such as hospitals and community health centers, enrollment assistance organizations, and social

service organizations. EOHHS encourages the inclusion of organizations not commonly or exclusively used for health care outreach efforts, such as local community colleges/universities, local business associations, and other civic organizations. Outreach and enrollment activities will include reaching, educating, informing potentially eligible residents of Massachusetts in state-subsidized and non-subsidized programs, thus ensuring that every individual in the Commonwealth who would be eligible for MassHealth or Commonwealth Care is enrolled in these health insurance programs, and that those who are not eligible are aware of the options approved by Commonwealth Choice. Grant activities will include development and execution of a strategic plan for conducting efficient, non-duplicative outreach and enrollment activities within the lead organization's network. MassHealth has plans to post the Network RFR by December 12, 2007.

MassHealth is also in the process of hiring positions for a Health Care Reform Outreach and Education unit, as required in line item 4000-0300 of the FY08 budget, to coordinate statewide activities in marketing, outreach, and dissemination of educational materials related to Health Care Reform and to collaborate with the executive office of administration and finance, the department of revenue, the division of insurance, and the Commonwealth Health Insurance Connector Authority to develop common strategies and guidelines for providing informational support and assistance to consumers, employers, and businesses.

## **Section 2: Connector Authority Update**

The Connector continues to make significant progress in implementing many of the important initiatives contained in the landmark health care reform legislation.

### **Commonwealth Care**

As of December 1<sup>st</sup>, 158,177 people have enrolled in Commonwealth Care, 36,150 of whom are in premium-paying plan types (22.9% of total enrollment).

Open enrollment began on November 1<sup>st</sup> and runs through December 15<sup>th</sup>. During this period, Commonwealth Care members have the ability to change plans for any reason. Any changes that are made via this process will be in effect as of January 1, 2008.

To address the large increases in call volume at the Commonwealth Care call centers, the Connector has taken strong measures to improve customer service. These include bringing on more customer service representatives, upgrading the phone system to enable more calls to go to the overflow call center, and simplifying options for callers who dial in.

The Connector received good marks in an annual audit conducted in October by the accounting firm KPMG. One area of concern was noted in Commonwealth Care's premium billing system, where automated reports needed continuous manual fixes. The Connector is working to implement a plan to rectify this issue. An Independent Verification and Validation (IV&V) analysis of the system has been completed, and the Connector is developing a work plan around many of the recommendations that were made as a result of that analysis. In addition, the Connector has released a Request for Information for call center, premium billing, and technology. This process will allow the Connector to better develop the Commonwealth Care customer service contract Request for Responses (RFR), which will be released in early 2008.

### **Commonwealth Choice**

As of December 1<sup>st</sup>, over 16,000 individuals have obtained coverage through Commonwealth Choice.

Preparations for the Commonwealth Choice health plan renewal process have begun. Renewal specifications were discussed at the November 16<sup>th</sup> Connector Board meeting. It is anticipated that a final set of specifications will be issued to the carriers later this month, following a vote by the Connector Board. These specifications were issued to the carriers on December 7<sup>th</sup>, with responses due back to the Connector from the carriers by January 18, 2008.

The Connector continues to work on the Contributory Plan product for small employers. A number of employer and employee focus groups have been held in recent months to help inform the development of the Contributory Plan. The Benchmark Plan design received overall positive remarks from the employer and employee focus groups and from discussions with several brokers. The design was presented to the Board for review in November, and the Board agreed with the approach.

### **Website**

Heavy traffic on the Connector website continues. Total daily visits reached a record high of 10,776 on Wednesday, November 14<sup>th</sup>. Approximately 80% of all Commonwealth Choice enrollments take place online.

The site was recently named a recipient of the InfoWorld 100 award, which annually honors IT projects that demonstrate the most creative use of cutting-edge technologies to further their business goals.

### **Marketing and Outreach**

In October, the Connector launched a series of community-based *Connect to Health* events – in partnership with area legislators' offices and local grassroots organizations – that allow individuals and businesses to learn about insurance options, obtain guidance on how the health care reform law works and apply for coverage. These events have already been held in Southbridge, Hyannis, New Bedford, Worcester, Lynn, Chicopee, Somerville, Plymouth and East Boston. A final round of events for 2007 was held in Pittsfield, Greenfield and Dorchester on December 8<sup>th</sup>.

At a December 5<sup>th</sup> event with the Lieutenant Governor, legislative leaders and representatives of many of the Connector's corporate and civic partners, the Connector announced updated enrollment figures as well as new deadlines for individuals to obtain coverage by December 31<sup>st</sup> and hence avoid the 2007 penalty.

### **Additional updates**

The Certificate of Exemption (COE) application and hearing processes have been implemented. Through December 6<sup>th</sup>, 42 COE applications have been received, and 18 have been approved.

The Connector issued Administrative Information Bulletin 04-07, "Guidance regarding the implementation of minimum creditable coverage standards," on November 15<sup>th</sup>. This bulletin clarifies that for calendar years 2007 and 2008, insurance policies from health plans licensed in states other than Massachusetts shall be deemed to be health benefit plans providing minimum creditable coverage. In addition, Veterans Administration plans shall also be deemed to provide minimum creditable coverage during any period of time.

## **Section 3: Individual Mandate Preparations**

The Department of Revenue (DOR) reports the following progress on Chapter 58 initiatives:

### **MA 1099-HC (for health care)**

Most taxpayers with private health insurance, either purchased on their own or obtained through an employer, will receive a MA 1099-HC form from their insurance carrier or their employer if the employer is self-insured. This form will contain the information that taxpayers will need to complete their 2007 tax return. DOR will verify an individual's coverage, by matching the information reported on the tax return with the information provided by insurance carriers or employers on the MA 1099-HC. DOR continues to work closely with insurance carriers and employers who are responsible for sending these forms. For more information about this process, including a copy of the MA 1099-HC form and the electronic reporting requirements, please visit DOR's website at:

[www.mass.gov/dor/hcinfo](http://www.mass.gov/dor/hcinfo).

### **2007 Tax Forms**

DOR finalized the Schedule HC which taxpayers will file with their 2007 income tax return to show either proof of health insurance coverage or that no affordable health insurance was available to them. The final version of the Schedule HC along with the instructions and worksheets are available for review on DOR's website at: [www.mass.gov/dor/hcinfo](http://www.mass.gov/dor/hcinfo).

### **Appeals Process**

DOR and the Connector continue to make progress on the process by which taxpayers may file an appeal claiming that a hardship prevented their purchase of affordable health insurance coverage in tax year 2007. The Connector will review and issue determinations on these appeals. The appeals process involves three steps. First, the taxpayer must complete Schedule HC-A, Health Care Appeals, and include it with his or her income tax return. Second, the taxpayer will receive a follow-up letter and form, which must be completed, stating the grounds, and providing documentation to substantiate the claim for hardship, within a specified timeframe. Failure to submit the form and provide documentation in the required time frame will result in a dismissal, and the taxpayer will be issued a bill based on the loss of the personal exemption. Third, the Connector will review the claim and documentation. The taxpayer may be required to attend a hearing to review his or her case. The Connector will notify the taxpayer directly as to the outcome of the requested appeal. A denial by the Connector may be appealed only to the Superior Court. If the Connector denies the taxpayer's appeal, he or she will be issued a bill based on the loss of the personal exemption for tax year 2007.

## **Outreach**

DOR has been working diligently over the past several months to spread the word about the new health care reform law to taxpayers, employers and tax professionals. Below is a list of our outreach efforts so far and a preview of some of the items we are working on to prepare for the launch of the tax filing season.

### **Outreach to Taxpayers:**

- Distributed postcards to taxpayers encouraging enrollment in health insurance by December 31, 2007, and reminding them of increased penalties starting in 2008.
- DOR Auditors and Collectors are distributing one page hand-outs informing taxpayers and employers of key obligations and responsibilities under the individual mandate. This handout is also available in DOR District Offices.
- DOR District Offices have computer terminals available for taxpayers to access DOR's website and obtain all information with regard to their taxes and the individual mandate, as well as obtain general guidance with completing the health care forms and accompanying worksheets.
- DOR distributed a letter on behalf of the Connector to Massachusetts employers notifying them of the minimum creditable coverage requirements for employer-sponsored plans. These requirements go into effect beginning January 1, 2009.

### **Website:**

- DOR's website [www.mass.gov/dor](http://www.mass.gov/dor) will have a user-friendly online tool available in January that will guide taxpayers through the process of completing the Schedule HC and the accompanying affordability worksheets.
- General Health Care information is currently available on DOR's site at [www.mass.gov/dor/hcinfo](http://www.mass.gov/dor/hcinfo). This site is continuously updated with new information and guidance.
- Prior to the official launch of filing season, DOR's homepage will also contain a "Top 10 List" of items that taxpayers will need in order to complete their 2007 filing (e.g. 1099HC if insured, HIRD form if not insured, et cetera).

### **Video Tutorials**

- For the launch of filing season, DOR will release a video tutorial that will be available at [www.mass.dor.gov](http://www.mass.dor.gov), which will walk taxpayers step by step through completing the Schedule HC. The video will also be made available to various advocacy and tax professional organizations via CD.

### **Outreach to Tax Professionals**

- In January DOR will release its annual filing season video presentation for tax professionals, which highlights all current filing season items of importance and will have a dedicated section to the individual mandate.
- DOR and the Connector held a joint meeting with practitioners on Oct. 4 to discuss the new Schedule HC and instructions. A summary of the meeting was forwarded to a listserve, which includes various CPA groups and other external stakeholders.

- DOR will participate in the University of Massachusetts Tax School, a number of two day workshops on Federal and State taxes designed to provided updates on the latest tax laws and regulations, starting in November 2007.
- DOR is exploring outreach opportunities with Boston EITC, IRS/VITA Programs and MASSCAP to conduct train-the-trainer sessions for volunteer tax preparers.

### **Posters**

- DOR is exploring the feasibility and cost of producing posters to be displayed on the MBTA, RTA facilities and in DOR District Offices that will assist in getting the word out and providing “brand recognition” with regard to the HC insert in the tax booklets and information that will be needed to complete the Schedule HC.

### **Articles**

- Articles have and will continue to be distributed to various trade association and Chamber of Commerce newsletters, as well as, DLS' City and Town (e.g. MA Retailers, MA Restaurant, AIM, et cetera) regarding the new health care law and the various responsibilities and where to get information.

## **Section 4: Health Safety Net Trust Fund and Essential Community Provider Trust Fund Grants**

### **Health Safety Net Trust Fund Regulations**

The Division of Health Care Finance and Policy was required to propose regulations implementing the Health Safety Net Trust Fund for October 1, 2007. Chapter 58 requires that the regulations address eligibility criteria for reimbursable services, the scope of health services eligible for reimbursement from the fund, the standards for medical hardship, the standards for reasonable efforts to collect payments for the cost of emergency care and the conditions and methods by which hospitals and Community Health Centers will be paid by the fund. In advance of this regulatory proposal, the Division conducted a consultative session on June 19, 2007. The purpose of the session was to solicit input from interested parties and stakeholders in order to inform the process of formulating policy options regarding services and eligibility under the new Health Safety Net Regulations.

After considering the input received the Division issued proposed regulation 114.6 CMR 13.00 Health Safety Net Eligible Services. A public hearing was held on this proposal on August 22, 2007. The public hearing was very well attended and many interested parties offered oral and written testimony on various components of the proposed regulations. After careful consideration of the testimony, the Division modified some of the elements of the proposal and adopted the regulation on September 21, 2007. The regulation became effective October 1, 2007, and can be found on the Division's web site, [www.mass.gov/dhcfp](http://www.mass.gov/dhcfp) under regulations, 114.6 CMR 13.00.

The Division also conducted a public hearing on the proposed regulation 114.6 CMR 14:00 Health Safety Net Payments and Funding. This regulation sets out the conditions and methods by which acute hospitals and Community Health Centers can file claims for services and receive payments from the Health Safety Net Trust Fund. The regulation implements the requirements of Chapter 58 to pay hospitals based upon claims using a Medicare based payment method. The proposed regulation also implements the requirement that the Health safety Net trust Fund pay Community Health Centers using the Federally Qualified Health Center visit rate. After considering the public hearing testimony, the Division adjusted some elements of it proposal and adopted the regulation on September 21, 2007. The regulation went into effect October 1, 2007 and can be found on the Division's web site, [www.mass.gov/dhcfp](http://www.mass.gov/dhcfp) under regulations, 114.6 CMR 14.00.

## **Essential Community Provider Trust Fund**

Another responsibility of the Health Safety Net Office under Chapter 58 and as amended by Chapter 118G Section 35 (b)(6) is to administer the Essential Community Provider Trust Fund. The purpose of this fund is to improve and enhance the ability of hospitals and community health centers to serve populations in need more efficiently and effectively including but not limited to the ability to provide community-based care, clinical support, care coordination services, disease management services, primary care services and pharmacy management services. The criteria for selection includes the institution's financial performance; the services they provide for mental health or substance abuse disorders, the chronically ill, elderly, or disabled; and the pace, payer mix, prior years awards, cultural and linguistic challenges, information technology, twenty-four hour emergency services and extreme financial distress.

The Division of Health Care Finance and Policy, working with the Executive Office of Health and Human Services, developed a grant application process and scoring/review system, similar to the process employed last year. This process considered applicants financial and essential characteristics in order to determine grant allocation amounts from the \$28 million dollar fund. A cover letter, grant application and instructions were sent to providers and posted on EOHHS/DHCFP websites on July 13, 2007. Hospital and Community Health Center applications were due on July 31, 2007. Over 80 hospitals and community health centers have applied and have requested over \$108 million in funding. DHCFP and EOHHS staff have reviewed and scored these applications based upon the criteria specified.

The supplemental budget appropriation recently passed by the legislature and approved by the Governor included additional funding of \$9.5 million for the Essential Community Provider Trust Fund. This action brought the total available funding to \$37.5 million.

On Thursday October 11, the EOHHS announced that 69 providers would receive grants from the Essential Community Provider Trust Fund. The distribution of grants awards include:

- Twenty-five acute care hospitals received a total of \$26.7 million from the ECPTF representing approximately 72% of the funding available. The average grant award was \$1.1 million
- One non-acute care hospital received a \$2 million grant from the ECPTF. This represents approximately 5% of the total funding available.

- Forty-three community health centers received a total of \$8.8 million from the ECPTF. The average grant award is \$205,000 representing approximately 24% of the funding available.

The Division has contracted with 62 hospitals and CHCs and has distributed approximately \$25 million of the total \$37.5 million in funding as of December 10, 2007. The 7 outstanding providers have been contacted and their contracts are in process. All providers will be required to complete a standard report on the use of the funds by February 15, 2008. These reports will be reviewed by the Division and used to determine the timing of any additional payments to providers from the ECPTF.

## **Section 5: Public Health Implementation**

### **Community Health Workers (CHWs)**

Section 110 of Chapter 58 requires the Massachusetts Department of Public Health (MDPH) to make an “investigation relative to a) using and funding of community health workers by public and private entities, b) increasing access to health care, particularly Medicaid-funded health and public health services, and c) eliminating health disparities among vulnerable populations.”

The MDPH Community Health Worker Advisory Council, chaired by Commissioner Auerbach and composed of over 40 representatives from CHW organizations, government, academic institutions, and health care providers, held its second full meeting on November 14<sup>th</sup> in Shrewsbury. Additional meetings of the full Advisory Council are planned for February and May. In addition, the Council’s four subcommittees have continued working on research, survey development, training and certification, and financial policy. Each subcommittee has met at least monthly, and most are meeting more frequently and holding additional conference calls.

Highlights of recent activities include:

- Adoption of a detailed work plan for the Advisory Council’s activities, with a report to the legislature and the administration scheduled for June 2008;
- Development of a web-based survey to be administered to about 1,000 confirmed or expected employers of community health workers (CHWs), in cooperation with researchers at MDPH and the University of Massachusetts. The survey instrument is complete and being prepared for field testing in December. Full distribution is planned for January. Plans for holding a statewide series of focus groups with CHWs are also underway to help fulfill the Council’s responsibility to describe the CHW workforce in Massachusetts.
- Cooperation with MassHealth officials in an effort to increase federally reimbursable CHW services under the state’s 1115 waiver renewal proposal;
- Revision of the standard definition of CHWs developed in 2005 by MDPH, in cooperation with the Mass. Association of Community Health Workers and other Advisory Council partners;
- Comprehensive review of the national literature on CHW practice scope and efficacy, and drafting of a preliminary summary of the literature;
- Research about other state models of CHW training, certification, reimbursement, and utilization;
- Development of a draft comprehensive list of recommendations to increase financial stability of the CHW workforce.

**Health Care Reform Information Sessions**

In collaboration with Commonwealth Connector, MDPH continues to organize health care reform trainings for staff and contracted agencies. These trainings provide insight into: the health care reform legislation; the role of Connector; Commonwealth Care and Commonwealth Choice; and avenues to obtain additional information. Moreover, MDPH has recently started providing information sessions, led by the Division of Health Care Finance and Policy, on the Health Safety Net Trust Fund for staff and providers.

**Outreach and Educational Materials**

MDPH has posted Commonwealth Connector flyers and PowerPoint presentations on its share drive. Employees use these materials in different settings with providers and members of the general public.

**Assessment of Programs**

MDPH is currently assessing certain internal programs to ensure that the services offered by the Department are appropriate, cost-effective, and compatible with health care reform.

## **Section 6: Insurance Market Update**

### **Health Access Bureau**

The Division of Insurance has been interviewing for the actuary and research analyst positions within the newly formed Health Access Bureau. The Division has chosen candidates for these positions and is completing the paperwork to offer the positions to the candidates. The financial analyst position has been posted. To complete some of the duties required by the Health Access Bureau prior to filling the internal positions, the Division has contracted with outside actuaries to develop targeted reports.

### **Minimum Standards and Guidelines**

Chapter 58 of the Acts of 2006 directs the Division of Insurance, in consultation with the Connector, to establish and publish minimum standards and guidelines at least annually for each type of health benefit plan provided by insurers and health maintenance organizations doing business in the Commonwealth. The DOI is working with the Connector to review the ways in which minimum standards will be communicated.

### **Dependent Age**

Chapter 205 of the Acts of 2007 changed M.G.L. cc. 175, 176A, 176B, 176G to require a broadening of dependent coverage from those dependents claimed on a parent's federal income tax return to persons qualified as dependents under the IRC. The Division of Insurance is developing a Bulletin to amend the previously issued Bulletin on dependent age.

## **Section 7: Employer Provisions**

### **Division of Health Care Finance and Policy**

Division of Health Care Finance and Policy (DHCFP) reports the following progress on implementation of the requirements imposed on employers by Chapter 58.

#### Employer Fair Share Contribution

The Division of Health Care Finance and Policy adopted 114.5 CMR 16.00: Employer Fair Share Contribution on September 8, 2006. This regulation governs the determination of whether an employer makes a fair and reasonable premium contribution to the health costs of its employees, as required by Chapter 58. The Division has determined that Section 16.03 (2) (a), "Employee Leasing Companies," requires clarification. Under that section, employee leasing companies will be required to perform the fair share contribution tests separately for each client company. Although the employee leasing company is responsible for collecting and remitting the Fair Share Contribution on behalf of its client companies, the client company is responsible for any Fair Share Contribution liability.

The Division of Unemployment Assistance held a public hearing on its proposed regulations governing the administration and collection of the Employer Fair Share Contribution. The regulations were subsequently adopted.

#### Employer Surcharge for State-Funded Health Costs

The Division of Health Care Finance and Policy initially adopted Regulation 114.5 CMR 17.00: Employer Surcharge for State Funded Health Costs on December 22, 2006, with an effective date of January 1, 2007. This regulation implemented the provisions of M.G.L. c. 118G, § 18B. Following enactment of Chapter 450 of the Acts of 2006 on January 3, 2007, the Division repealed this regulation. Chapter 450 changed the effective date of M.G.L. c. 118G, § 18B from January 1, 2007 to July 1, 2007.

The Division adopted regulation 114.5 CMR 17.00 on an emergency basis on July 1, 2007. The regulation reflects the amended legislation, clarifying that a "non-providing employer" subject to surcharge is an employer that does not comply with the requirement in M.G.L. c. 151F to offer a Section 125 cafeteria plan in accordance with the rules of the Connector. The effective date of the regulation is consistent with the July 1, 2007 effective date of the Section 125 cafeteria plan requirement implemented by the Connector. The Division conducted a public hearing on the emergency regulation on September 6, 2007 and has subsequently certified the regulation.

## Health Insurance Responsibility Disclosure

The Division of Health Care Finance and Policy initially adopted 114.5 CMR 18.00: Health Insurance Responsibility Disclosure as an emergency regulation effective January 1, 2007, but subsequently repealed the regulation. The regulation implemented M.G.L. c. 118G, § 6C, which was previously effective on January 1, 2007. Chapter 450 of the Acts of 2007, which became effective on January 3, 2007, changed the effective date of M.G.L. c. 118G, § 6C from January 1, 2007 to July 1, 2007.

The Division adopted regulation 114.5 CMR 18.00 Health Insurance Responsibility Disclosure on an emergency basis on July 1, 2007. The regulation incorporates the provisions of Chapter 324 which significantly reduce the amount of information the Division is required to collect from employers. In addition, only employees that have declined to enroll in employer sponsored insurance or to participate in a Section 125 cafeteria plan are required to sign an Employee HIRD form. Employers will retain Employee HIRD forms and will submit them upon request by either the Division of Health Care Finance and Policy or the Department of Revenue. The Division has posted a copy of the Employee HIRD on its website at:

[http://www.mass.gov/Eeohhs2/docs/dhcfp/g/regs/employee\\_hird\\_form.pdf](http://www.mass.gov/Eeohhs2/docs/dhcfp/g/regs/employee_hird_form.pdf)

The Division conducted a public hearing on the emergency regulation on September 5, 2007 and subsequently certified the regulation.

## **Division of Unemployment Assistance**

The Division of Unemployment Assistance at the Executive Office of Workforce and Labor Development reports the following progress on the implementation of the provisions of chapter 58 affecting employers.

### Employer Fair Share Contribution (FSC)

The first year of employer subjectivity to the Fair Share Contribution law ended on September 30, 2007, and the first annual reporting period began on October 1, 2007. As of early December 2007, employers are continuing to file their Fair Share Contribution reports with the Division of Unemployment Assistance (DUA) (report due on November 15, 2007).

Nearly 49,000 employers have reported to date (over 71% of the employers requested to file). Many other employers are in the process of filing, using DUA's "on line" filing system. To date, more than half of the filers had fewer than 11 full-time equivalent (FTE) positions. Of the employers with 11 or more FTE's, the majority met the standard set in DHCFP regulation for making a "fair and

reasonable contribution” to their employees’ health insurance. Thus far, 570 employers have a combined liability of over \$5.3 million, the majority of which is payable in 4 quarterly installments, as allowed by statute. DUA will continue to pursue the remaining non-filers by issuing additional delinquency notices and estimated tax assessments, and utilizing additional tools to promote full compliance to the FSC reporting and/or payment requirements.

## **Section 8: Health Care Quality and Cost Council**

The Health Care Quality and Cost Council has continued meeting regularly to make progress on the statutory goal of reducing cost while improving quality of care for the Commonwealth.

### Statewide Goals for the Commonwealth

The Council's four Committees are making progress developing recommendations in the areas of Communications and Transparency, Chronic Disease Prevention and Management, End of Life Care, and Patient Safety. Each Committee will focus on one of the statewide goals established by the Council, as well as reduction in disparities and cost containment in their focus area. The Committees are charged with conducting the analysis mandated by the Council's statute. For each goal, the committees are developing recommendations to:

- “identify the steps needed to achieve the goal;
- estimate the cost of implementation;
- project the anticipated short-term or long-term financial savings achievable to the health care industry and the commonwealth, and
- estimate the expected improvements in the health status of health care consumers in the commonwealth.” [MGL c.6A s.16L(a)] and
- “... develop performance measurement benchmarks for its goals and publish such benchmarks annually, after consultation with lead agencies and organizations and the council's advisory committee.” MGL c.6A, s16L(g)

The Council will include these recommendations in its Annual Report to the legislature in the next 60 day period.

### Website Development

The Council has taken several steps toward creating a website that will provide comparative cost and quality information about health care services in a user friendly format, as required by M.G.L. c.6A, s.16L.

- Massachusetts health insurance carriers began working with the Council's vendor, the Maine Health Information Center (MHIC) to submit historical health care claims and eligibility data. The MHIC plans to make this dataset ready to be used for analysis by the end of the next 60 day period.
- The Council's Communications and Web Design vendor, Solomon McCown, Inc., began developing methods to communicate health care quality and cost information in an easily understood format. The

Communications vendor conducted a consumer telephone survey, developed design options, and tested these options with focus groups.

- The Council developed a set of principles for selecting quality measures for display on its website that are meaningful, reliable, and valid.
- The Council issued an RFP for a Health Care Analysis Consultant to provide technical assistance to the Council and to develop a plan for reporting comparative health care cost and quality measures through the Council's consumer friendly website and other media.
- The Council plans to contract with two more entities, one to calculate cost and quality measures using the health care claims and eligibility dataset, and the other to build the website application.

## **Section 9: Recommended Changes to Chapter 58**

Since the enactment of Chapter 58, the Legislature has enacted three “technical amendment” bills making changes to the health care reform law. The most recent technical amendment bill to become law is Chapter 205 of the Acts of 2007. The Administration would like to thank the Legislature for enacting these technical corrections, which assist the timely and sensible implementation of Chapter 58. The changes included in Chapter 205 aim to ensure that health care reform works as intended and to address some operational challenges encountered or anticipated by state and independent agencies charged with implementing various aspects of reform, including provisions that:

- Enable the Health Care Quality and Cost Council to protect the confidentiality of health care claims and other data submitted to the Council, while also allowing it to release some data through a carefully controlled process in furtherance of a public purpose (Section 1)
- Expand the membership and clarify the mission of the Health Disparities Council within EOHHS (Section 2)
- Permit information-sharing between state agencies that is vital to effective implementation of health reform (Sections 3, 7 and 8)
- Correct statutory references to the Health Safety Net Office, which was transferred from M.G.L. c. 118E to M.G.L. c. 118G in the FY08 budget (Sections 4, 9, 10, 11, 18, 25)
- Clarify the definition of "dependent" for purposes of existing requirement that insured health plans offering family policies provide coverage to dependents under the age of 26 or for 2 years following the loss of dependent status under the IRS, whichever occurs first. The law also excludes imputed income resulting from this requirement from Massachusetts gross income for state tax purposes (Sections 5, 6, 31-38, 46)
- Clarify that S-CHIP coverage satisfies the individual mandate (Section 12)
- Clarify the operation of the individual mandate and its application to every adult who files "or is required to file" an individual tax return (Section 13-16)
- Clarify that requirements to offer a Section 125 plan (pre-tax health insurance) and complete the Health Insurance Responsibility Disclosure (HIRD) form apply to employers with "11 or more full-time equivalent employees" (conforming statutory language to existing regulations and the statutory "fair share" requirement) (Sections 22, 23 and 30)

- Require the Health Safety Net Office to enter into an ISA with the Office of Medicaid to enhance oversight and improve operations of the Health Safety Net Trust Fund (Section 26)
- Clarify the definition of an employer covered by the "fair share" requirement (Section 27)
- Eliminate requirements for employers to automatically file Section 125 plan documents with the Connector, though the Connector can still secure copies of plan documents on request (Section 30)
- Expand eligibility for Young Adult Plans offered through the Connector to eighteen year-olds (eligibility was previously reserved only for those ages 19-26) (Section 40)
- Create a special commission to investigate and study the role of Connector in providing access to health insurance, including its use of private sector entities (Section 41)
- Extend the deadline for Health Care Quality and Cost Council to post detailed comparative cost and quality information on its website (Section 42)
- Direct the Connector to report on implementation of M.G.L. c. 118H sec. 3(b) (Section 43)

Though Chapter 205 makes many necessary changes to Chapter 58, the law does not include some of the Administration's requested amendments, as well as contains other changes which may require future correction.

The Administration-requested changes that remain to be implemented:

- 1) Authorization to share tax return information between the Department of Revenue and the Connector is not included. This prevents DOR from conducting outreach to uninsured taxpayers and to process appeals of potential tax penalties under the individual mandate
- 2) A deadline extension for the filing of the MassHealth Primary Caregiver Study is not included. The study was due July 1, 2007; however, EOHHS needs until January 31, 2008 to complete the study.

The following provisions of Chapter 205 which may require future amendment:

- 1) Section 24 is intended to extend the timeframe for the Department of health Care Finance and Policy (DHCFP) to inform employers of their liability under the "free rider" surcharge for employers who do not offer Section 125 plans. However, the law changed the time period by which employers may pay in response to a DHCFP assessment.
- 2) Section 27 of the law clarifies the definition of an employer covered by the "fair share" requirement, which requires employers with "11 or more full-time equivalent employees" who do not make a fair and reasonable contribution to their employees health insurance to pay an assessment to the state. The Division of Unemployment Assistance (DUA), however, has suggested that one impact will be to cover religious organizations not to date subject to the "fair share requirement." This issue should be monitored to assess (i) impact on newly covered employers and employer reactions, and (ii) DUA implementation challenges and any fiscal implications.
- 3) Section 43 requires the Connector to report the implementation of any waivers of Commonwealth Care eligibility restrictions for individuals with access to certain levels of employer-sponsored insurance. The report is to be filed with the legislature by January 1, 2008; however, financial feasibility has thus prevented the Connector from implementing any such waivers.

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