HEALTH INSURANCE ALIGNMENT PROJECT

KELCH POLICY GROUP

Framework for Evaluating Progress on Health Insurance Oversight in California

BACKGROUND

The federal Affordable Care Act (ACA) of 2010 enacted sweeping changes to the way health care services will be purchased, delivered and regulated starting in 2014. The ACA seeks to reshape health insurance markets and to make health insurance more accessible for individuals and families, many of whom could not previously afford or get health coverage. The ACA is meant to establish a federal floor that ensures individuals in every state have basic protections in common with respect to the availability, affordability, comparability and transparency of health coverage. A central theme of the ACA is to organize markets and products in ways that both protect consumers and make it easier for them to compare and choose among their coverage options. To further this goal, a cornerstone of the ACA is the establishment of state-level health insurance exchanges that will serve as new marketplaces to support consumers in comparing coverage options and provide federal assistance to help low-income individuals and families purchase coverage.

California comes to the new paradigm of federal health reform with its own unique history, market characteristics and challenges. For nearly forty years, two state agencies have held responsibility for regulating health insurance in California, the Department of Managed Health Care (DMHC), which regulates Health Maintenance Organizations (HMOs) and some Preferred Provider Organization (PPOs), and the California Department of Insurance (CDI), which regulates PPOs and traditional indemnity coverage. In recent decades, state policymakers increasingly embraced the strategy of enacting similar or identical laws applicable to health plans under both departments, but legacy differences remain and parallel statutes have not always resulted in parallel regulations or enforcement.

The ACA, and its goals of increased consumer protection, informed consumer decision-making, and competitive markets amplify the need for enhanced coordination, consistency and accountability in the oversight and regulation of health coverage in California. Through the lens of ACA reforms, California has the opportunity and the challenge to navigate the historical differences between the two regulatory frameworks and to bridge those differences when necessary to guarantee the basic consumer protections envisioned in the ACA regardless of the department regulating the coverage. Accomplishing these goals requires rigorous analysis and examination of existing state law and practice in light of the new expectations of the ACA. It requires a willingness to challenge the assumptions underpinning the historical and legacy differences and a collective effort to identify the most effective strategies for aligning the two regulatory frameworks in the best interests of consumers.

This progress framework is intended to be a tool for policymakers, health plans, consumer representatives and other stakeholders to assess and track California's progress over time in implementing ACA health insurance market changes. Through initial concentration on specific policy "focus areas," the framework is meant to serve as an illustrative guide for evaluating that progress.

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GOALS	Initial Focus Area(s)	Measurement /Indicators	Review Timing	Data Sources (To the extent publicly available)
A. Uniform State-level implementation of the federal Affordable Care Act (ACA) regardless of regulatory agency	▪ Insurance market reforms in the individual market ▪ Essential health benefits	1. Consistent state statutory ACA implementation changes 2. Uniform related state regulations and program guidance 3. Clarity and consistency of terminology and definitions in state statute, regulations and guidance 4. Consistent enforcement and interpretation	Annual	▪ Federal ACA statute, rules and guidelines ▪ State legislation enacted ▪ Regulations and standards promulgated by DMHC, CDI or the California Health Benefits Exchange (CHBE) for its qualified health plans (QHPs) ▪ Guidance from DMHC, CDI and CHBE ▪ Interagency agreements or memorandum of understanding between the CHBE and CDI/DMHC ▪ DMHC Director's letters and opinions ▪ CDI decisions and rulings ▪ Enforcement actions and implementation processes, required filings, etc.
B. Transparent and accessible consumer information and assistance regarding new coverage options, health care reform provisions and consumer assistance options	▪ State communications about health reform and coverage options ▪ State consumer assistance programs, referral protocols and processes ▪ Consumer notices and mandatory disclosure requirements	1. Consistent, timely and non-conflicting information targeted to consumers regarding coverage options and health care reform 2. Coordinated consumer assistance options 3. Meaningful and accurate consumer notices and disclosure	Annual	▪ Federal and state laws and regulations ▪ Departmental web sites of DMHC, CDI and CHBE, as well as California Health and Human Services Agency and the State Attorney General (as appropriate) ▪ Consumer-oriented printed communications and materials ▪ Press releases /public communications ▪ Carrier documents (Evidence of coverage, marketing materials, etc.)

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GOALS	Initial Focus Area(s)	Measurement /Indicators	Review Timing	Data Sources (To the extent publicly available)
. **Uniform statutory and regulatory requirements by product type regardless of regulatory agency** (where there are no specific federal ACA standards)	▪ Marketing standards and guidelines ▪ Network adequacy and timely access	1. Consistent state statutory standards in key areas 2. Uniform state regulations and program guidance in key areas 3. Clarity and consistency of terminology	Annual	▪ Statute and regulations ▪ Departmental guidance issued by DMHC, CDI ▪ DMHC Director's letters and opinions ▪ CDI Decisions and Rulings ▪ Enforcement actions Identifiable implementation processes
D. Streamlined and cost-effective standards and requirements regardless of regulatory agency	Exchange qualified health plan certification standards and contract requirements	1. No duplicative or conflicting standards 2. Consistent standards for all QHPs 3. Standards meaningful for enrolled consumers	Annual	▪ Exchange solicitation and certification documents ▪ DMHC and CDI certification processing requirements and procedures for Exchange QHPs

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