

Mickey Herbert's CBIA

Health Insurance Exchange Conference Remarks

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When I first became aware that CBIA was going to be holding a conference on health insurance exchanges, I thought I would sign up myself, until Eric asked me to be a panel participant. So my disclaimer right up front is that like nearly all of us in this room, I have a lot to learn about health insurance exchanges, especially as we may well have a functioning quasi-governmental exchange here within another couple years.

As you may have surmised in Eric's introduction, I am not new to any discussion of insurance exchanges, or of health care reform in general, in CT and nationally. Back in the 90's, I chaired two national managed care organizations that were closely involved in health reform matters during the Clinton Administration. And when I returned to the managed care industry in 2005 after my minor league baseball sabbatical with the Bridgeport Bluefish, I immediately jumped back into the fray, if you will, as a board member of America's Health Insurance Plans, or AHIP, the nation's influential managed care trade association in Washington, DC. I also co-chaired a private study effort here in 2006 to advise the CT legislature on how to provide health care coverage to all CT citizens. I was appointed to CT's Health First Authority which was a quasi-public entity also charged with advising the CT legislature on how to effect health care reform in CT, and AHIP appointed me to its Executive Strategy Committee which was heavily engaged for a year and a half before the Patient Protection and Affordable Care Act (PPACA) became law in March a year ago. And I've actually been engaged in health care reform issues in this country going all the way back to 1971. All that said, I can tell that I don't have the brightest crystal ball about the future of health care reform either here in CT, or nationally.

I do some work for Harris Associates, the national polling company, and whereas we know that over half of the polled electorate wants PPACA repealed, and believe that that law is bad for the country, the poll results vary widely by party with 80% of Republicans favoring repeal, but only 12% of Democrats. That's a huge divide. And, of course, we know that CT is historically a very "blue" state. And remember that most of PPACA will go into effect in 2014 or beyond, after we have another Presidential, Congressional, and State legislature election.

Nationally, there are at least four plausible different scenarios with respect to the 2012 elections. The Democrats could win everything: the Presidency, the Senate and reclaim control of the House. The second scenario: Republicans could win everything. Third, the Democrats could win the presidency, but the Republicans both houses of Congress, or, fourth, we could end up with the current status quo.

Let me spend a moment on what I consider the two most likely scenarios: that is, the Republicans win everything: and the scenario where Obama wins, but the Republicans win both the Senate and the House. If the Republicans win everything, then PPACA gets repealed, there are significant federal spending cuts, no new taxes, and there is a modest substitute proposal in place of PPACA where maybe 3-6 million uninsured get covered, and the government promotes private sector markets and competition. There is little new regulation, and little new federal spending. In the alternate scenario with Obama winning re-election but the Republicans capturing both houses of Congress, we can expect a major compromise with respect to PPACA, with the law reduced in size, scope, breadth of coverage, regulation, and overall federal expenditures, but the law itself,

survives, with the individual mandate becoming an elective option for the states. Now, let me add that there are also three great wild cards in this equation: First, how are we as a nation going to address our country's debt and deficit, beginning with Congress's Super Committee which has to report out nearly \$2 trillion in federal savings over the next ten years? Secondly, what about the overall state of the economy over the next 14 months? And, finally, what about the Supreme Court's decision on PPACA, including especially the individual mandate, which I submit is absolutely critical for health care reform, at least as proposed in PPACA. On this final wild card, by the way, there are four sure votes (Bader-Ginsburg, Breyer, Sotomayor, and Kagan) for upholding the individual mandate and the law itself, and three pretty sure votes (Scalia, Alito and Thomas) for declaring at least the mandate unconstitutional. That leaves Anthony Kennedy and Supreme Court Chief Justice John Roberts. Most pundits feel Kennedy is the swing vote, but I think that even if he votes with Scalia, Alito and Thomas, that the really key vote will be Roberts who, though he was appointed by President George W. Bush, generally supports the power of Congress to pass laws which he believes are necessary and proper to run the country. In any event, it is highly likely that the Supreme Court decision will be made by next summer, at least several weeks before the 2012 elections. So next year promises to be a riveting year for the future of health care reform in America.

All of this, of course, is an interesting backdrop to what is going on here in CT. And even if PPACA gets repealed or shredded by Congress, or declared unconstitutional by the Supreme Court, there is an increasing likelihood that we are going to move ahead in CT with our own version of substantive health care reform, just as our neighbor to the north, Massachusetts has done. Which brings us back to the health insurance exchanges.

Connecticut is one of 16 states to receive a federal planning and implementation grant for the health insurance exchange, a \$6.7 million grant announced just last month. That grant compares, by the way, with \$19.5 million that Massachusetts spent back in 2006, in its first year implementing its exchange (and \$29.9 million in its second year for about twice as many people as we have here in CT). So our own CT Health Insurance Exchange Board had its first meeting last Thursday at the State Capitol. It's a 14-member board with only 11 of us actually having voting privileges. The Board has no one on it who is currently working for a health insurer, no current hospital executives, no currently-practicing medical doctors, and no one from the insurance broker, or producer, community. That's because the law has a specific conflict-of-interest clause that precludes any of these individuals from serving on the Exchange Board.

Our primary initial responsibility is to oversee the recruitment of a CEO to run the Exchange. The time frame is to have the CEO recruited and beginning work by next February, which leaves that individual with 23 months to bootstrap an organization together in time for the exchange's "go-live" date of January 1, 2014. We did appoint a search committee for the exchange CEO, although we are only empowered to select the top three candidates, with Governor Malloy then having the authority to select the CEO from those top three. When I asked about the compensation package for this critical position, I was told that we would have to go into Executive Session to discuss that, and we didn't. Anyway, it appears to me that the position is going to pay at a level of compensation that may make it difficult to get the top-flight executive that will be needed to create a new organization. A new organization capable of overseeing and enabling the enrollment of several hundred thousand CT citizens who currently do not have health insurance coverage.

Our Exchange Board will now be meeting once a month for 60 to 90 minutes over the next three months. I have every intention of being a team player, and remain committed to seeing all Connecticut citizens gain and keep access to quality, affordable health care, but, we are talking

about a heavy lift here. Just last week, the national Blue Cross and Blue Shield Association, which represents 39 Blues' plans and 98 million Americans, issued a release calling on the federal government to issue all its regulations with respect to PPACA by the end of this year. This is a law, you understand, that was signed by the President 1 ½ years ago. As the Blues' association pointed out in its release, with respect to insurance exchanges, insurers need to build benefit structures and create complex health information technology systems for products that the exchanges will sell in the various state or federal-state exchanges. And, these systems are supposed to be ready for testing by the end of 2012. Also, the feds have issued a preliminary regulation regarding the process called risk adjusting, a procedure to help health plans that enroll a disproportionate number of sick members. This complicated process involves a transfer of funds among health plans to account for the health differences of the people who sign up for insurance through the exchange. Despite this plea from the Blues' plans, if there is one thing I am certain about, it is that the federal government will not have finished issuing all of PPACA's regulations by the end of this year.

You may know that there are many members of our state legislature that question why we are even moving ahead with this exchange with so much uncertainty hanging over health care reform. In Missouri last week, state officials were all set to accept \$21 million in federal grant money to prepare for its state-run exchange by establishing a Health Insurance Exchange unit, designating a project manager and allocating \$13.7 million for consultants to work on the technical aspects of the exchange. However, the effort was halted when some state senators complained that the legislature hadn't even authorized the state exchange. Incredibly, Business Week magazine reported that the Missouri governor's project director for the "potential" health insurance exchange had said that Missouri could spend the federal grant money to begin developing the state exchange, and then halt the project later without having to return the money to the federal government. Here's what one Missouri senator said about that: "The constitution is out the window, the republic is dissolved and we're just going to have dictatorship by fiat if they're going to do this". Anyway, that's all very interesting out there in Missouri, but we're not faced with that impasse here in CT. We do have exchange-enabling legislation, and remember that if CT (or Missouri for that matter) doesn't move ahead with a state exchange that the default position built into PPACA is that the federal government will come in and administer its own health insurance exchange (even though there's precious little federal money to provide for federal health insurance exchanges). Just this week, the feds began discussing how it may allow a joint federal-state exchange that somehow may split the overall duties of an exchange. Who knows how that may turn out?

So I would characterize our future with health insurance exchanges in CT as akin to tiptoeing through a minefield. There are big mine fields in Washington I have already discussed with the 2012 federal elections, and the Supreme Court consideration of PPACA and its individual mandate. And there are plenty of smaller minefields such as new benefit mandates once the feds define what the Act's "essential benefits" must be. There are new restrictive age rating bands which will raise rates for younger people, many new taxes such as premium taxes, a new tax on wealth, medical device taxes, pharmaceutical taxes, an increased Medicare payroll tax, and a hidden tax that will surely result from increased cost-shifting from government-financed health care to the private insurance industry. As for this hidden tax, I would remind you that PPACA calls for reducing the rate of growth in Medicare expenditures in the next ten years by \$500 billion, without reducing the level of Medicare benefits. The federal government's tried and true way to do that is simply to reduce what it pays to doctors and hospitals to treat Medicare beneficiaries. I'm sure CHA's Stephen Frayne will have more to say about this in a few moments, but suffice it to

say that this tactic results in hospitals and doctors negotiating higher and higher payments from private health insurers who really have little recourse but to pass those increases on to its individual members and group purchasers. That's you folks out there. And just this week, the president is proposing even more reductions in Medicare and Medicaid which could exacerbate this problem even further.

In face of all the minefields, it is hard to be particularly optimistic about the future of health care reform. The health care industry is in a tremendous state of flux right now, and we'd certainly rather there be a little more certainty going forward. I'm bothered by the rate of consolidation in our industry, ironically driven by the federal act, and we do have to build new provider reimbursement models to reduce our dependence on fee-for-service (FFS) reimbursement. PPACA has provided for Accountable Care Organizations, or 'ACOs', that don't rely as much on FFS reimbursement, but as a consultant friend has noted: "an ACO is like a unicorn. It's a beautiful animal, but no one has ever seen one.

We also need meaningful medical malpractice reform, and as I'm sure ConnectiCare's Michelle Zettergren will attest, we need to give our existing health plans time and support to digest all the change that is being thrust upon them.

One final point: we actually have an extremely viable private exchange here in Connecticut that has been functioning well since 1995 with 6,000-odd small businesses participating in it. My guess is that many of you in this room participate in it. It is, of course, CBIA's Health Connections. In its 17th year of operations, Health Connections has endured many "trials by fire" over this lengthy period, and has succeeded because it is run as a business, employing established insurance and actuarial principles. Whoever is chosen as Connecticut's Health Insurance Exchange CEO would be well-served to spend a lot of time with Phil Vogel of CBIA to learn all about Health Connections.

As the Connecticut Health Insurance Exchange really gets cranking, I look forward to coming back to talk to you about our progress, and to provide you with much more detail regarding what we're all about, and how you can relate to what we're trying to accomplish which is to provide high quality affordable health care to all the citizens of CT.

Thank you.