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Florida Health Insurance Advisory Board

Patient Protection and Affordable Health Care Act

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Health Care Reform Enacted

- **On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act of 2010 (H.R. 3590)**
  - This is the legislation adopted by the Senate on December 24, 2009, and adopted without amendment by the House on March 21, 2010.
- **On March 30, 2010, President Obama signed the Reconciliation Act of 2010 (H.R. 4872)**
  - This legislation amends the Patient Protection Act to: increase subsidies for low-income persons and penalties on employers; phase-out the "doughnut hole" in Medicare Prescription Drug coverage; modify tax provisions; amend federal student loan programs; and implement several other changes to the underlying law.

Key Reforms – Early Implementation

- **High Risk Pool Grants** ($5 billion – 2010-2013)
  - For individuals who currently do not have coverage and have a pre-existing condition
  - Supposed to be up and running July 1, 2010
  - Secretary can discharge obligation:
    - Contract with State
    - Contract with private nonprofit
    - Directly
  - Secretary requested statement of intent from states by April 30
  - Applications to be sent out early May; due early June; approved late June; allotments made (FL has $356 million allotted)
  - Supposed to be up and running July 1, 2010

Key Reforms – Early Implementation (cont'd)

- **Health Plan Reforms** (Plan years 6 mos. after enactment)
  - No lifetime limits
  - Restricted annual limits
  - First-dollar coverage for preventive services
  - No rescissions
  - Appeals process (includes external review)
  - Dependent coverage up to 26 years of age
  - No Pre-existing Condition Exclusions for Children (under 19)

Key Reforms – Early Implementation (cont'd)

- Ob/gyn access – no preauthorization required
- If PCP designation is required – must allow pediatrician
- Additional reporting for plans
  - Enrollment
  - Disenrollment
  - Claims
  - Rating practices
  - Cost-sharing

Key Reforms – Early Implementation (cont'd)

- **Grants for State Ombudsman**
- **National Web Portal**
- **Medical Loss Ratios** (2011)
  - Large Group Market – 85%
  - Small Group Market – 80%
  - Individual Market – 80%

Key Reforms – 2014 Implementation

- **Market Reforms:**
  - Guaranteed Issue and no Pre-existing Condition Exclusions in all markets
  - Rating Reforms limiting factors to age (3:1), geography, tobacco use (1.5:1) and family composition
  - Coverage Tiers based on coverage categories and cost-sharing (precious metals)
  - No annual limits
- **State-Based Exchanges** for Individual and Small Group markets that will provide standardized information on insurance choices and help consumers enroll in plans

Grandfathering of Health Insurance Coverage

- Enrolled in plan as of March 23, 2010
- Additional family members may enroll
- Additional employees and families may enroll

Grandfathered plans – specific sections apply

- Section 2708 (relating to excessive waiting periods);
- Provisions of section 2711 relating to lifetime limits (but not those dealing with annual limits);
- Section 2712 (relating to rescissions);
- Section 2714 (relating to extension of dependent coverage)
- Bringing down the cost of health care coverage (§2718 – loss ratio requirements)

Applies to group grandfathered plans only

- Provisions of section 2711 relating to annual limits;
- Section 2704 (relating to pre-existing condition exclusions); and
- Section 2714 (relating to coverage of adult children) only if the adult child is not eligible for their own employer-sponsored coverage.

Grandfathered plans not subject to immediate reforms

- First-dollar coverage of preventive health benefits (§2713)
- Utilization of uniform explanation of coverage documents and standardized definitions (§2715)
- Provision of additional information (§2715A)
- Prohibition of discrimination based upon salary (§2716)

Grandfathered plans not subject to immediate reforms (cont'd)

- Internal and external appeals (§2719)
- Patient protections (§2719A)
- Health insurance consumer information (§2793)
- Ensuring that patients get value for their dollars (§2794)

Grandfathered plans not subject to 2014 reforms

- Fair health insurance premiums (§2701)
- Guaranteed availability of coverage (§2702)
- Guaranteed renewability of coverage (§2703)
- Prohibition on discrimination based upon health status (§2705)
- Nondiscrimination in health care (§2706)
- Comprehensive health insurance coverage (§2707)
- Coverage for individuals participating in approved clinical trials (§2709)

Grandfathered plans

- What plans are "grandfathered"?
- What if changes are made at renewal?
- Will grandfathering result in sicker pool in reformed market?

Exchanges

- Operational by January 1, 2014
- If state does not create, Secretary will
- Secretary to determine by 1/1/2013 if state intends to set up qualified exchange
- Start-up grants one year after enactment
- Two exchanges: individual and small group; can be operated within a single exchange at state option
- Guaranteed issue
- Eliminate preexisting condition exclusions

Exchanges (cont'd)

- Sell qualified health plans only
- Certify qualified health plans:
  - Essential benefits
  - Marketing requirements
  - Network adequacy
  - Contract with essential community providers
  - Contract with navigators
  - Require quality accreditation
- Standardized enrollment form
- Standardized comparative information

Exchanges (cont'd)

- Maintain a website
- Provide for Initial, Annual and Special open enrollment periods
- Maintain a toll-free number
- Create a rating system for plans and perform satisfaction survey
- Determine eligibility for other state/federal health insurance programs
- Provide a calculator to determine enrollee premiums and subsidies

Exchanges (cont'd)

- Identify those individuals exempt from the individual mandate and notify Treasury
- Work with navigators
- Require participating plans to provide justification for rate increases
- Report to the Secretary and Government Accountability Office (GAO) on use of funds
- Provide employee choice of plan in the small group Exchange

Key Reforms (cont'd)

- **Individual Mandate** to ensure consumers do not wait until they are sick to seek coverage
- **Employer Responsibility** through a fine if employers with 50 or more employees do not offer coverage and an employee receives subsidies through the Exchange
- **Subsidies** for lower-income persons and **Medicaid Expansion** (with enhanced federal match) to help make coverage truly available to everyone
- Limited provisions to address **Quality, Cost-Containment,** and **Fraud**

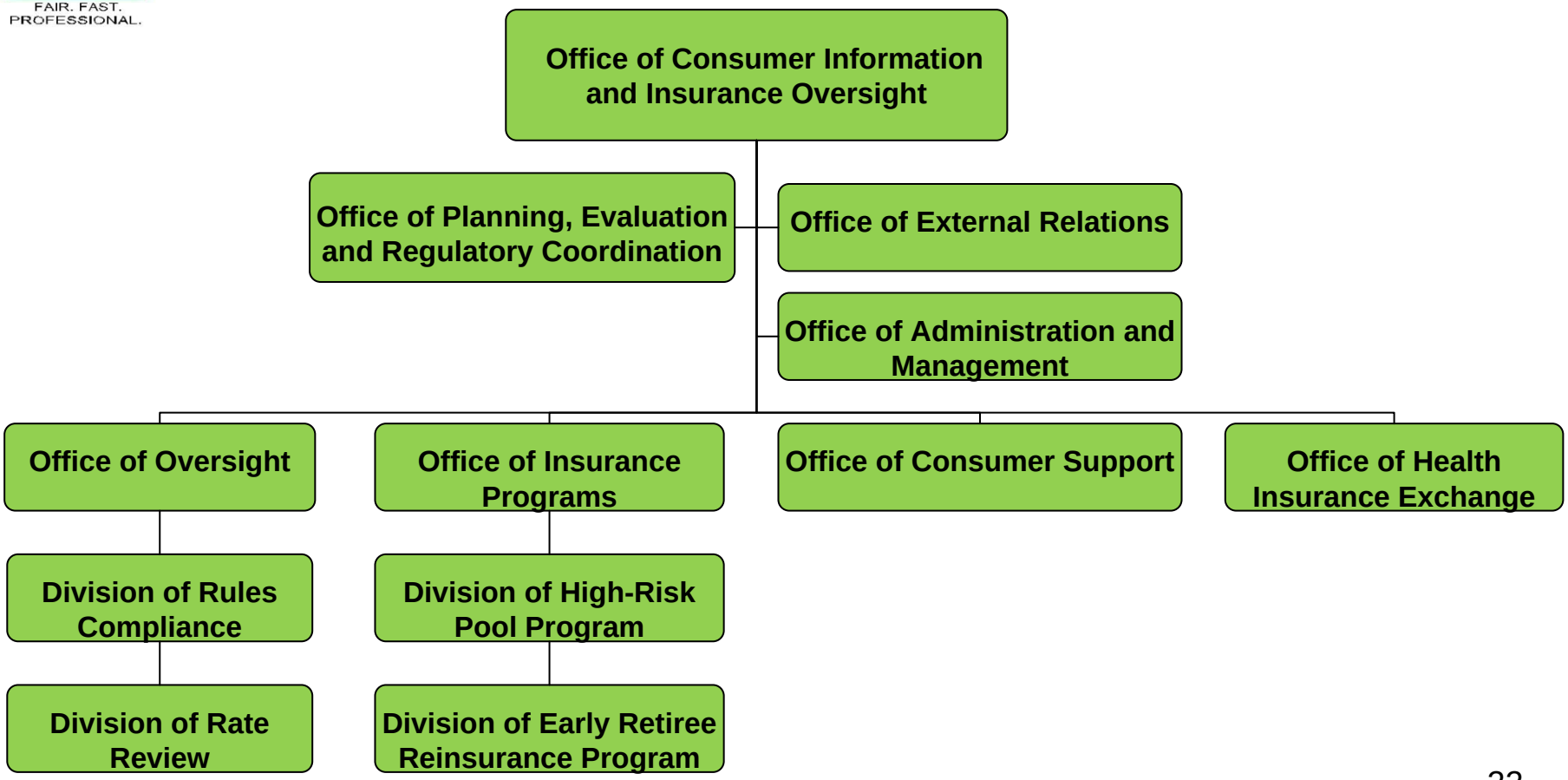
State Implementation

- States will need to act quickly to implement the reforms by 2014 – and very quickly to access high risk pool and ombudsman funds
  - Federal agencies will need to publish regulations
  - NAIC will develop model acts and regulations that comply with the federal regulations
  - State legislatures will adopt laws and state agencies will publish regulations and create new programs
  - Insurers will submit new forms and rates that comply with the new regulations, which must be approved by the states before they can be marketed
  - Insurers will market new plans that will become effective 2014

Questions for the State

1. Apply for grant funds to create Office of Health Insurance Consumer Assistance or Ombudsman?
2. High risk pool program – apply for contract funding?
3. Exchange – use existing Health Care Choices Corporation, form new one?
4. Premium reviews – apply for grant funds?
5. Small group (and large group) size (1-50 or 1-100?)
6. What to do about mandated benefits?
7. Since we are revising the code, add mental health parity provisions?
8. Merge small group and individual markets?
9. Whether to create a standard health plan for persons between 133% and 200% FPL?
10. Medical malpractice alternatives – apply for a grant?

Federal Implementation



NAIC Responsibilities

- Consult on **Summary of Benefits** and **Coverage Disclosure** documents
- Develop **Uniform Enrollment Plan** for the exchanges
- Consult on **Standards for Exchanges** – including, **qualified plan; risk-adjustment; reinsurance; marketing rules**
- Consult on **Standards for Interstate Compacts**
- Consult on **Interim Reinsurance** rules – assessments based on NAIC estimates
- Revise **Medigap** to add cost-sharing in Plans C &F
- Develop standards and forms for **Reporting Fraud and Abuse**
- Develop standard methodology for **Medical Loss Ratio**
- NAIC **External Review** model must be adopted by plans

NAIC and Implementation

- The NAIC has already begun the implementation process
  - Discussions at national meeting in Denver, March 2010
  - Talking with federal agencies to coordinate efforts
  - Will use existing Committees, Task Forces, and Working Groups to draft model acts and regulations
  - Executive Committee will determine whether additional working groups or subgroups are necessary.
- The NAIC encourages all stakeholders to participate fully in our drafting process

Keys to Successful Implementation

- **Public Education –** need to manage public expectations and provide accurate explanation of the reforms
- **Resources –** significant resources will need to be diverted to ensure timely implementation – developing new services and programs; approving new rates and forms; new oversight; public education, etc
- **Priority –** there are many other issues facing federal and state governments – reform needs to remain a priority

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