

Minutes

January 5, 2011

Members Present: Delegate Robert H. Brink
Delegate David L. Bulova
Delegate Benjamin L. Cline
Delegate Rosalyn R. Dance
Delegate T. Scott Garrett (conference call)
Delegate Algie T. Howell
Delegate Harvey B. Morgan
Delegate Christopher K. Peace
Senator George L. Barker
Senator Harry B. Blevins
Senator L. Louise Lucas

Call to Order

The Joint Commission meeting was called to order by Chairman, Delegate Benjamin L. Cline.

Presentations

The Honorable Kenneth T. Cuccinelli, II, Attorney General of Virginia

Attorney General Cuccinelli provided an update regarding lawsuits brought by Virginia and other states related to federal health care. The Attorney General stated the United States District Court Eastern District of Virginia ruled that the specific mandate requiring individuals to purchase health insurance is unconstitutional. To reach this conclusion the court had to answer two questions, in favor of Virginia. First, whether or not Congress has the power to require individuals to buy health insurance under the U.S. Constitution's Commerce Clause. Second, if a required individual does not purchase the government-approved health insurance, whether the penalty is a tax.

Attorney General Cuccinelli explained that the final decision from the federal 4th Circuit Court will likely happen in the middle part of 2011 and the Supreme Court decision by June 2012. Seven additional states have filed cases on the constitutionality of the individual mandate: Arizona, Georgia, Louisiana, Missouri, North Dakota, Oklahoma, and Utah. Florida has filed four claims against the federal government while Virginia filed only one regarding the individual mandate. There is a possibility of 25 other states signing onto Florida's case.

Attorney General Cuccinelli stated that since the federal health bill does not have a severability clause, the bill if found unconstitutional only loses the presumption of severability. The Supreme Court does not have to overturn any law to rule in favor for Virginia. In the 1940s, Congress gave states the ability to create and regulate their own health insurance markets, which means a Virginia resident cannot purchase a health insurance policy in any of the other 49 states which the Attorney General indicated is unfortunate because it denies access and raises cost.

Attorney General Cuccinelli stated that preparing for implementation of the Patient Protection and Affordable Care Act (PPACA) will cost Virginia between \$10 and \$30 million – not counting Medicare/Medicaid costs.

Furthermore, there are innumerable permutations that PPACA could take if the individual mandate is found to be unconstitutional, including:

- Only take out the individual mandate
- Strike the whole bill
- Somewhere in between – the federal government has conceded in briefs that some insurance pieces of the bill do not work if the individual mandate is found to be unconstitutional.

Cindi B. Jones, Director, Virginia Health Reform Initiative (VHRI)

Ms. Jones reported on the VHRI Strategic Plan to reform the health care delivery system in Virginia. The VHRI Advisory Council created task forces that focused on six areas of concern and included 27 recommendations in its 2010 report:

- Delivery/Payment (7 recommendations)
- Capacity (4 recommendations)
- Insurance (4 recommendations)
- Technology (5 recommendations)
- Medicaid Reform (6 recommendations)
- Purchasers (1 recommendation)

Karen Remley, MD, MBA, FAAP, State Health Commissioner

Commissioner Karen Remley provided an update on the AIDS Drug Assistance Program which served approximately 4,200 individuals in 2010. Commissioner Remley reported that the demand for ADAP services has increased significantly over the past several years, and for the first time in its 20-year history, ADAP will be unable to serve all who need assistance. In response, VDH has redirected funding, restricted enrollment, and decided not to provide medications for related conditions such as high blood pressure and depression. Clients who are no longer receiving medications through ADAP will be assisted with referral to other sources of medications, generally prescription assistance programs.

Discussion

Kim Snead presented for member discussion, some changes in the 2011 legislation and budget amendments that had been approved by JCHC in November 2010.

Adjournment

There being no further business, the meeting was adjourned.

Prepared by: Sylvia A. Reid
Date: February 2, 2011