Wilkin's Walk through Legislation – April 4, 2017

Last week the conference committee on the Reinsurance bill passed the final conference report and put it on Governor Dayton's Desk. The bill uses the MCHA board plus two additional members representing hospitals and healthcare providers to run the program. In a victory for MAHU, the bill does not go back to the failing MCHA assessment because the base of that tax has shrunk significantly since the 1990s and would have created an unfair funding burden on the fully insured market. Instead the program will be funded by $271,000,000 per year in 2018 and 2019 as a bridge to the anticipated federal high risk pool funding.

Funding Summary
The legislation says funds must be used in the following order:
Any available federal funds
MCHA reserves $35 (which are currently involved in pending litigation with the carriers)
Health Care Access funds ($200 per year)
General Fund ($71 per year from the dedication of the HMO tax)

Any carrier offering individual health plans is eligible to participate in the program.

Legislative Mandate to MCHA
The legislation sets out the following "prime directive" for the MCHA board as follows:
The board must design and adjust the payment parameters to ensure the payment parameters:
(1) will stabilize or reduce premium rates in the individual market;
(2) will increase participation in the individual market;
(3) will improve access to health care providers and services for those in the individual market;
(4) mitigate the impact high-risk individuals have on premium rates in the individual market;
(5) take into account any federal funding available for the plan; and
(6) take into account the total amount available to fund the plan

Program Structure
The program will cover 80% of all claims over $50,000 up to the $250,000 reinsurance cap, but the board has flexibility to meet the requirements set forth by the federal government in order to get approved for a federal waiver. The legislation then sets up a legislative working group to advise the board of the Minnesota Comprehensive Health Association on the adoption of payment parameters and other elements of a reinsurance plan for benefit year 2019.

Contingent
It must be noted that the whole plan is contingent upon the state getting a federal waiver to maximize federal funding, meaning that we don't lose funding to the basic health plan as a result of passing a reinsurance program that buys down rates for the benchmark plan. If this waiver is not approved, the reinsurance plan will not go into effect.

Governor Dayton
After promising to support a reinsurance plan if the legislature quickly passed the one-time rate buy-down for 2017, the Governor decided that his "support" would be to not veto the bill. Instead, he is letting the bill pass into law without his signature. In his letter to legislators (see attached), Governor Dayton incorrectly called the bill a $542 million subsidy to insurance companies. In fact, the legislation only allows payments to insurance companies for actual claims that meet the criteria of the program

structure noted above. Additionally, based on current law, the carriers must file rates that contemplate payments from the program. Assumedly, the Department of Commerce would not approve rates that are not actuarially justified given the reinsurance program. The Governor cited three major objections. First that they Health Care Access Fund was used to fund the program. Second that the legislature did not include his MinnesotaCare Buy-In option, which would have put the state MinnesotaCare program in direct competition with private sector carriers. Finally, he sought written commitments from the carriers to offer product next year AND that the product be LOWER in premiums than they are offering today. Based on the fact that the carriers just announced losses of $275 million in the individual market for 2016 and the fact that trend continues to go higher, the carriers were not in a position to agree to this demand.

The bill becomes law at midnight on April 4th, 2017, but will continue to be a political football through the next election.

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