Draft Pending Adoption

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Regulatory Framework (B) Task Force
Washington, District of Columbia
November 16, 2014

The Regulatory Framework (B) Task Force met in Washington, DC, Nov. 16, 2014. The following Task Force members participated: Ted Nickel, Chair, represented by J.P. Wieske (WI); Todd E. Kiser, Vice Chair, represented by Tanji Northrup and Nancy ASkerlund (UT); Germaine L. Marks (AZ); Dave Jones represented by Tyler McKinney (CA); Marguerite Salazar represented by Peg Brown (CO); Thomas B. Leonard represented by Mary Ellen Breault (CT); Karen Weldin Stewart represented by Gene Reed (DE); Kevin M. McCarty represented by Jack McDermott (FL); William W. Deal represented by Kathy McGill (ID); Andrew Boron represented by Yvonne Clearwater (IL); Stephen W. Robertson represented by Karl Knable (IN); Sandy Praeger represented by Linda Sheppard (KS); Sharon P. Clark represented by Maggie Woods (KY); Eric A. Cioppa represented by Robert Wake (ME); Mike Rothman represented by Alyssa Von Ruden (MN); John M. Huff represented by Mary Mealer (MO); Monica J. Lindeen represented by Christina Goe (MT); Bruce R. Ramge represented by Martin Swanson (NE); Kenneth E. Kobylowski represented by Steve Kerner (NJ); Scott J. Kipper represented by Glenn Shippey (NV); Mary Taylor represented by Matt Elston (OH); John D. Doak represented by Julie Meaders (OK); Laura N. Cali represented by Gayle Woods (OR); Michael F. Consedine represented by Peter Camacci (PA); Merle D. Scheiber represented by Melissa Klemann (SD); Julie Mix McPeak represented by Chlora Lindley-Myers and Michael Humphreys (TN); and Michael D. Riley represented by Andrew Pauley (WV).

1. Adopted its Sept. 30 Minutes

Mr. Swanson made a motion, seconded by Ms. Lindley-Myers, to adopt the Task Force’s Sept. 30 minutes (Attachment One). The motion passed unanimously.

2. Adopted the Individual Market Regulation and Small Group Market Regulation Drafts

Jolie Matthews (NAIC) said revised drafts of the proposed Individual Market Health Insurance Coverage Model Regulation (Individual Market Regulation) and the Small Group Market Health Insurance Coverage Model Regulation (Small Group Market Regulation) were reviewed and exposed Sept. 30 for public comment period ending Oct. 17. Ms. Matthews said more than 40 comment letters were received, most of which expressed concerns with Section 14B of the Individual Market Regulation draft and Section 15B of the Small Group Market Regulation draft. She said those provisions related to the annual maximum limitation on cost-sharing for out-of-network benefits.

Ms. Matthews highlighted the major changes from the previous drafts for both the Individual Market Regulation draft and the Small Group Market Regulation draft. Mr. Wieske asked for comments. Stephanie Mohl (American Heart Association) said the NAIC consumer representatives would support amending Section 14B of the Individual Market Regulation draft and Section 15B of the Small Group Market Regulation draft to make it clear that health carriers may count out-of-network cost-sharing to the annual cost-sharing limitation. Thair Phillips (RetireSafe) also expressed support for revising those sections, as suggested by Ms. Mohl.

After Task Force discussion of possible revisions to those provisions, Mr. Wake suggested revising Section 14B of the Individual Market Regulation draft and Section 15B of the Small Group Market Regulation draft to add language at the end of the sentence stating: “other than benefits provided on an appeal or exceptions basis because medically necessary services were not reasonably accessible within the network.” After discussion of his suggested language, Ms. Goe made a motion, seconded by Mr. Wake, to adopt Mr. Wake’s suggested revision to both drafts. The motion passed unanimously.

Mr. Wake also suggested clarifying the drafting note for those sections by adding a sentence stating: “Federal law does not prevent states from establishing lower cost-sharing limits, or establishing limits that apply to out-of-network benefits.” After additional discussion, Ms. Goe made a motion, seconded by Ms. Woods, to adopt Mr. Wake’s suggested language for the drafting note. The motion passed unanimously.

Ms. Northrup made a motion, seconded by Director Marks, to adopt the Individual Market Health Insurance Coverage Model Regulation, as revised (Attachment Two). The motion passed unanimously. Ms. Northrup made a motion, seconded by Ms. Brown, to adopt the Small Group Market Health Insurance Coverage Model Regulation, as revised (Attachment Three). The motion passed unanimously.
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3. Discussed Comments Received on Model #170 and Model #171

Mr. Wieske said that, during its Sept. 30 conference call, the Task Force asked for additional comments on possible revisions to the Accident and Sickness Insurance Minimum Standards Model Act (#170). He said the Task Force also asked for comments on its companion regulation, the Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171).

Ms. Matthews said that, based on the comments received, there appears to be consensus that provisions in Model #170 and Model #171 related to major medical coverage be removed from the models because the Individual Market Health Insurance Coverage Model Act (#36) and the proposed model regulation implementing Model #36 include provisions related to such coverage. As such, these provisions are no longer necessary in Model #170 and Model #171. She said other comments suggest that Model #170’s and Model #171’s remaining provisions related to excepted benefits should be revised and that additional disclosures be added to Model #171 to alert consumers that excepted benefits coverage would not satisfy the federal Affordable Care Act (ACA) requirement to have minimum essential coverage. Ms. Matthews noted that in their comments, the NAIC consumer representatives suggest removing the provisions in Model #170 and Model #171 on disability income protection coverage and including them in a new NAIC model. However, other comments suggest retaining those provisions in the models.

Mr. Wieske suggested the Task Force request NAIC staff to prepare a discussion draft for both Model #170 and Model #171 that reflects where there is agreement on suggested revisions for the Task Force’s review and discussion early next year. He said the Task Force would discuss whether to retain provisions related to disability income protection coverage in more detail via conference call early next year. The Task Force agreed to his suggestion.

4. Received Update on Group Health Insurance Standards Model Act (#100) Revisions

Ms. Matthews said she anticipated developing a draft of revisions to the Group Health Insurance Standards Model Act (#100) for the Task Force’s review and discussion via conference call early next year. The Task Force agreed to this new timeframe.

5. Adopted the Report of the Network Adequacy Model Review (B) Subgroup

Mr. Wieske said the Network Adequacy Model Review (B) Subgroup will be meeting Nov. 17. He said that during the meeting the Subgroup will adopt its Nov. 6, Nov. 3, Oct. 30, Oct. 27, Oct. 23, Oct. 20, Oct. 16, Oct. 14, Oct. 9, Oct. 2, Sept. 25, Sept. 18, Sept. 11, Aug. 28 and Aug. 21 minutes. He said the Subgroup also plans to review and discuss an initial draft of revisions to the Managed Care Plan Network Adequacy Model Act (#74).

Mr. Wieske made a motion, seconded by Ms. Goe, to adopt the report of the Network Adequacy Model Review (B) Subgroup (Attachment Four). The motion passed unanimously.

6. Adopted the Report of the ERISA (B) Working Group

Ms. Goe said the ERISA (B) Working Group met Nov. 16. During this meeting, the Working Group discussed the Nov. 13 draft of the Stop Loss Insurance, Self-Funding and the ACA white paper. Ms. Goe said the Working Group exposed the draft white paper for a public comment period ending Dec. 17 and anticipates meeting via conference call in January 2015 to discuss any comments received. She said additional drafts will be exposed and conference calls will be scheduled as needed prior to the 2015 Spring National Meeting.

Ms. Goe said the Working Group voted to adjourn into regulator-to-regulator session pursuant to paragraph 2 (pending investigations which may involve either the NAIC or any member in any capacity), paragraph 3 (specific companies, entities or individuals) and paragraph 8 (consideration of strategic planning issues relating to federal legislative and regulatory matters or international regulatory matters) of the NAIC Policy Statement on Open Meetings. Ms. Goe made a motion, seconded by Mr. Camacci, to adopt the report of the ERISA (B) Working Group (Attachment Five). The motion passed unanimously.

Having no further business, the Regulatory Framework (B) Task Force adjourned.