**Minutes of Meeting**

Protecting Health Coverage in Louisiana Task Force

Thursday, August 15, 2019

1:30 PM

House Committee Room 3

Louisiana State Capitol Baton Rouge

CALL TO ORDER

Chair Matthew Block, Governor’s executive counsel, called the meeting of the Protecting Health Coverage in Louisiana Task Force to order at 1:37 PM on August 15, 2019, in House Committee Room 3 at the Louisiana State Capitol.

ROLL CALL

The roll was called by Ms. Valencia Burton. A quorum was established.

**Members Present**

Lance Barbour*, Louisiana Government Relations Director for the American Cancer Society Action Network (At-large appointee representing a consumer health group)*

Stephen Barnes, PhD*, Director, Kathleen Babineaux Blanco Public Policy Center, University of Louisiana at Lafayette (At-large appointee with expertise in economics)*

Matthew Block, *Governor’s Executive Counsel (Governor’s designee)*

Jeanie Donovan, *Policy Director at Louisiana Department of Health (Secretary of Health’s designee)*

Jeff Drozda, *CEO at the Louisiana Association of Health Plans (At-large appointee representing the insurance industry)*

Korey Harvey, *Vice President and Deputy General Counsel at Blue Cross and Blue Shield of Louisiana (At-large appointee representing the insurance industry)*

Beverly Haydel, *President/CEO, Sequitur Consulting (Attorney General’s designee)*

Brenda Lefebure, *Administrative Director, Rural Hospital Coalition (At-large appointee representing health care providers)*

Christina Lord, MD, *Physician (At-large appointee representing health care providers)*

Tiffany Netters, *Executive Director of 504HealthNet (At-large appointee representing a consumer health group)*

Frank Opelka, *Deputy Commissioner of Health, Life, & Annuity at Louisiana Department of Insurance (Commissioner of Insurance’s designee)*

Rep. Joe Stagni, *(House Health & Welfare designee)*

**Members Absent**

Sen. Regina Barrow*, (Senate Health & Welfare Committee designee)*

INTRODUCTIONS

Chair Matthew Block introduced himself. Announced we are here upon the directive of Executive Order Number JBE 19-4 issued on May 21st, 2019 and Executive Order Number JBE 19-11 issued on August 9th, 2019.

REVIEW OF EXECUTIVE ORDER NUMBER JBE 19-4

Chair Block discussed intentions of executive order.

Section 3, the task force should consider:

1. Develop policy proposals to maintain healthcare coverage for Louisianians at risk of losing health insurance or health protections due to the litigation (Texas v. Azar).
2. Study and develop policy proposals to mitigate the impact of loss of pre-existing condition protections including but not limited to: 1) guaranteed issue; 2) preexisting condition exclusion prohibition; 3) prohibition of lifetime and annual limits on coverage; 4) essential health benefits, 5) nondiscrimination.
3. Study and develop policy proposals to mitigate the impact of more than 465,000 Louisianians losing Medicaid coverage due to the litigation (*Texas v. Azar*).
4. Study and develop policy proposals to determine the aggregate funding needed and financing options for the health coverage and health protections afforded by the ACA.
5. Study and develop policy proposals to maximize insurance coverage and minimize out-of-pocket medical costs in Louisiana.

Chair Block continued to discuss and summarize the intentions of executive order 19-4. Stated that if the ACA is overturned, not only would there be a loss of protections for preexisting conditions, but also a gap in the funding that provides for Medicaid expansion coverage in the state. The task force will discuss what realistic options the state has, if Louisiana were to lose the protections guaranteed under the ACA; what are the realistic costs, how will the individuals that lose coverage under Medicaid expansion be protected.

PROGRESS UPDATE ON LOUISIANA GUARANTEED BENEFITS POOL

Chair Block called Frank Opelka, Deputy Commissioner of Health, Life, and Annuity for the Louisiana Department of Insurance, to discuss what work is being done or planned by LDI (Louisiana Department of Insurance) through Act 412.

Mr. Opelka introduced himself and then discussed the Guaranteed Benefits Pool Act, one of the components of Act 412. This act had two components. The act put some Affordable Care Act protections into law but predicated the protections’ effectiveness on the occurrence of two events. 1) The overturning of the ACA by the courts and 2) the existence of available funding. The second component tried to provide a mechanism for evaluating whether a Guaranteed Benefits Pool (Invisible High Risk Pool) would be a sufficient or partial component of providing that finding. The LDI is tasked with developing the pool, conducting an actuarial analysis of how much it would cost to fund the pool, and to identify funding mechanisms. As of Aug. 1, LDI contracted with an actuary (Lewis and Ellis) to perform the actuarial analysis going forward. Aug. 21 is the rate review deadline. LDI will be sending out a solicitation for input, which is one of the components of the bill. LDI will create a report to lay out options for the design and funding of the pool. Discusses and explains the Maine model (Maine’s invisible high risk pool). Talked about what is and is not feasible about this model for the state of Louisiana. This model could be something that Louisiana could look at when trying to create a Guaranteed Benefits Pool. Explained age rating ratios. Benefit of risk pools in tandem with an expanded ratio: the purpose of the risk pool is to de-risk the most risky parts of the population. When the state pays an insurance claim, it doesn’t have to pay what the commercial insurer pays- this is something that needs to be addressed in the Task Force. All of this will be further researched by the LDI and by the TF for the report which is due on March 1. The report will be presented to JLCB who will also provide feedback. Based on what comes out of the report, it is possible that additional legislation will be needed to address fees proposed in the bill.

Chair Block posed the following questions to Mr. Opelka: What additional legislation would be needed, if any, to create the risk pool to begin with, or was this already created? Beyond the fee structures, are there any other changes which would require legislative action?

Mr. Opelka replied and said that in terms of creating the risk pool, the statute is probably sufficient “as is” but in terms of funding the risk pool, it is possible that additional fees are needed. So, for example, if it is determined that a provider fee is necessary, that would need to be brought up as a bill. The purpose of the report is to see what needs to be done regarding these issues.

Chair Block asked for clarification. Louisiana previously had a high risk pool that provided coverage to about 1% of eligible individuals. First part of Act 412 was to put into statute the same protections which were in the ACA; Chair Block asked Mr. Opelka what is the trigger for that in the statute. What is sufficient funding so the state will know which protections are in place?

Mr. Opelka explained that this is the reason for the 90 day delay; all of these questions are things that the LDI will examine in the report.

Chair Block once again asked how the determination for “sufficient funding” is made and what is the trigger that would put that in place, and is additional legislation or action necessary.

Mr. Opelka explained the “trigger”, if the tax does not survive. Either the federal government or the state will have to appropriate funding.

Chair Block asked for an estimate for what the ballpark cost would be.

Mr. Opelka responded that in the most recent year, $554 million was the subsidy, but this is based on a population that is now smaller. But it also depends on what happens with the expansion. Every state that has recently done an expansion has seen a loss of people from the marketplace. If Medicaid expansion is part of what is struck down, there will be a return to the individual market that is much more significant. This cost could go up to $1 billion.

Chair Block asked if the loss of expansion would mean that many people would go uninsured and would lose things like preexisting condition coverage.

Mr. Opelka referenced an old guaranteed issue part of the code.

Chair Block clarifies that the $554 million does not include what it would cost to provide protection for the Medicaid expansion population that would lose coverage if the ACA was overturned.

Mr. Opelka replied that the cost depends on the rest of the market and several other factors. Mr. Opelka referenced several states that have had similar issues.

Mr. Barbour asked Mr. Opelka questions about why Louisiana would look at the Maine model, because the populations are so different demographically.

Mr. Opelka explained that the approach is not based on the risk mix, but rather based on the size of the market. It is not intended for Maine’s model to be the only model, but since the model has been effective it is worth exploring.

Mr. Barbour asked if Maine is going to continue with this model; Mr. Opelka said that he believes they are going to do so indefinitely.

Other questions from Ms. Donovan were focused on the Medicaid expansion population and cost-sharing; questions were addressed by Mr. Opelka.

Ms. Haydel asked Mr. Opelka to clarify what other states are planning to do (temporarily) if ACA is overturned. Mr. Opelka explained that many states are doing things differently regarding this- some states are going to implement the same protections that the ACA provides (very expensive) but for now most states are just studying what the impacts of the ACA being overturned will be.

IMPLICATIONS OF ACA INVALIDATION

1. PRESENTATION ON LOUISIANA HEALTH INSURANCE SURVEY

Chair Block introduces Stephen Barnes, the director of the Blanco Policy Institute.

Dr. Barnes gave a presentation about the Louisiana Health Insurance Survey.

Dr. Barnes gave a summary of LHIS background:

* Biennial survey focused on health insurance coverage started in 2003
* Has provided primary measures of insurance and the uninsured rate for Louisiana since 2003
* Sample size includes a minimum of 8,500 households using a combination of landline and cell phone surveys
* Methodological and access advantages compared to the American Community Survey, Current Population Survey, and other sources
* Focus has always been measuring coverage, but has been useful in tracking major changes in Louisiana over time

Dr. Barnes summarized ACA-related insights relating to exchange and premium subsidies as examined by the LHIS.

Dr. Barnes summarized ACA-related insights relating to Medicaid expansion as examined by the LHIS.

Questions were asked by Chair Block regarding the percentage of individuals in the private market, or what that change has been over time (post expansion, what is the difference in percentage of individuals in the private market.)

Mr. Harvey answered Chair Block’s question; at the close of business yesterday, there were 98,200 people on ACA compliant plans in the state and 25,000 in grandfathered plans. Total independent market was 143,046 people in the independent market- percentage can be figured out based on this info.

Ms. Haydel had a question for Dr. Barnes about something that was not addressed as part of the LHIS.

1. PRESENTATION ON PRE-EXISITING CONDITION PROTECTIONS

Chair Block introduced Sarah Balog, the regional director of government affairs for the Leukemia and Lymphoma society.

Ms. Balog emphasized that the overturning of the ACA affects everyone that has health insurance; everyone has something to lose if the ACA is repealed.

Ms. Balog gave background on the ACA.

Ms. Balog discussed patient protections in the ACA, all of which could go away if the ACA is taken away.

* Obtaining coverage
  + Guaranteed issue and nondiscrimination based on health status
* Keeping coverage
  + Guaranteed renewability
  + Prohibition on rescissions
* Cost of purchasing coverage
  + Rate review
  + Single risk pool
* Covered services
  + Coverage of essential health benefits (EHB)
  + Coverage of preexisting health conditions
* Cost-sharing limits
  + Limits on annual out-of-pockets (OOP) for EHB
  + Prohibition of lifetime limits and annual limits
  + Minimum actuarial value (AV) requirements
* Consumer assistance
  + Medical Loss Ratio (MLR)
  + Nondiscrimination regarding clinical trial participation

Talked about where Louisiana should stand on key protections- major gaps that will exist in current LA statute is the ACA is repealed.

Talked about how the loss of Medicaid expansion would be particularly devastating to Louisianians.

Ms. Balog stated that a high risk pool is not adequate to protect people that would lose coverage if the ACA is repealed.

1. PRESENTATION ON MEDICAID EXPANSION

Chair Block introduces Jeanie Donovan who will give a presentation on Medicaid Expansion.

Ms. Donovan discussed several impacts of Medicaid expansion in the state:

* Improved coverage rates
* Improved access to health care services
* Influx of federal funding
* Stronger health care system

Ms. Donovan discussed what the projected impact on Louisiana would be if the ACA is repealed:

* 494,000 additional people uninsured
* $3.6 billion reduction in federal health spending (for one year) (repeal of subsidies and expansion)
* Demand for uncompensated care would increase by 124%
* Downstream impacts on economy, providers, and health outcomes to pre-expansion levels

Questions for Ms. Donovan were centered on federal and state funding. Chair Block had a question about reduction in federal health spending, and Mr. Harvey had a question about the state matching dollars for Medicaid. Ms. Donovan gave clarification. Ms. Donovan stated that state funding would be woefully insufficient to cover the loss in funding if expansion goes away. Mr. Opelka further discussed this point; the state does not have nearly enough funding to cover the loss of federal funding if expansion no longer exists. Mr. Harvey suggests that the state might consider spending part of the HMO tax revenue money on Medicaid expansion.

TEXAS V. U.S. UPDATE

Chair Block asked that the Attorney General’s designee give an update about the status of *Texas v. United States* litigation.

Ms. Haydel gave a brief update on the *Texas v. United States* case. Various reports have been given; not possible to give an accurate update on the case at this time with the limited information that has been released so far. Chair Block asked about discussions the Attorney General had with Congressman Scalise and others about what federal funding options would be available if the ACA is invalidated. Ms. Haydel noted that, unfortunately, she’s not aware of those discussions but she’d be happy to talk to the Attorney General’s office and gather information to present to the group when the Task Force meets again. Mr. Block thanked Ms. Haydel for gathering that information and noted that would be crucial information to know what funding options both inside and outside of the state would exist. Mr. Block noted that the state would not be able to cover the full $3.6 billion in lost federal dollars. Ms. Haydel said she would be happy to check on that and bring it back to the committee.

PUBLIC COMMENTS

No public comments were offered.

OTHER BUSINESS/NEXT MEETING DATE

Chair Block discussed the reporting deadline set forth by the executive order for February 1, 2020. The Governor anticipated that the task force would have a report in time for any bills to be filed in advance of the 2020 regular session. Several meetings will be had before the end of this year, so that a report can be generated before the start of session. This report would possibly be in conjunction with the insurance report.

Additional Comments:

Mr. Drozda suggested things that should be addressed at a later meeting (through presentations or discussion). Two issues that arise with increased medical costs.

1. Issue of surprise billing
2. Continued increased cost of prescription drugs

Chair Block stated the next meeting would take place September 12, 2019 at 9:30 a.m.

ADJOURNMENT

Ms. Donovan moved to adjourn; Mr. Opelka seconded the motion and with no objection the meeting adjourned at 3:04 pm.