Compliance Corner

Update on Federal Health Care Reform & State Issues

February 2015

Ameritas
fulfilling life

group division

Strategy Update

2015 has seen no slowing in activity surrounding the Affordable Care Act. Ameritas continues to leverage the "exchange certified" status we achieved for our pediatric dental plan designs and our Better Benefit feature. We continue to follow up on a few outstanding approvals as we are preparing to file for 2016 certification in the upcoming months.

We will continue advocacy efforts for exchange-certification without participation on the exchange in seven additional states for 2016, with hope to achieve certification for 2016 in 47 states. Ameritas is aligning with other dental carriers seeking off-exchange certification to help further advocacy goals. We are meeting with the Minnesota Department of Commerce and other stakeholder carriers later this month to advocate for a simpler path for certification off the exchange. Idaho has changed their position on exchange certification and has advised they will not allow it in 2016.

We are in contact with the state and are urging them to continue to allow certification for stand-alone dental plans in 2016, as they did in 2015. The exchange certification environment in the states continues to be fluid year to year.

Political Landscape

A bill to repeal the Health Insurer Assessment Fee was recently introduced; however the success of this bill and other bills that aim to peel back the Affordable Care Act on a piecemeal basis is viewed as unlikely. This is due to the pending Supreme Court decision on the validity of the subsidy payments, and Congress is waiting to legislate until a decision is made. Issues that may see legislative movement are the Individual and Employer mandates. Congress has turned its focus for now to privacy and cyber security in wake of Anthem hack, which exposed data on 80 million subscribers and included dental coverage data.

Republicans are also circulating a proposal for a replacement bill for the Affordable Care Act, which is outlined in broad terms that subsidies would be available in any framework for individuals up to 300% Federal Poverty Level. It would also eliminate the Essential Health Benefit (EHB) package. For the exchanges, it would remove framework for the Federal exchange, but allows states to continue to still run a state exchange if they choose. This framework will be the bones for what is pursued in response to the Supreme Court ruling on validity of tax subsidies in the Federally Facilitated Marketplace (exchange).

The Supreme Court is still expected to hear arguments on the validity of the subsidy payments for residents of states that did not set up their own exchange starting on March 6th, with a decision anticipated anytime between then and June.

Equitable Treatment 2.0

The dental benefits industry is evaluating methods to resurrect the portion of the Stabenow amendment that was not adopted for the off-exchange market to provide for "equitable treatment" of dental between off and on exchanges. Advocacy efforts will be for "consistent application" via a legislative fix to accomplish this between both markets. The legislative language may also include verbiage that would obsolete the requirement of "exchange certification" for dental and medical carriers who want to offer pediatric dental, and let the states approve the pediatric dental products, as they do for medical plans today.

Public Exchanges

Open enrollment for healthcare.gov ended on February 15th, but not without some last-minute technical glitches. Those who were unable to enroll due to the IRS income verification glitch now have until February 22nd to sign up under a special enrollment period. Additionally, most states have extended their enrollment periods accordingly. Individuals that do not sign up for coverage for 2015 face an IRS penalty the greater of $325 per person, or 2% of household income, under the Individual Mandate.

Reports as of February 9th indicate that almost 7.5 million people have bought health insurance in state and federal

exchanges since October 1st. Enrollment information on stand-alone dental plans was not included in the last Health and Human Services report. Due to glitches with reporting stand-alone dental last year and its inadvertent inclusion into medical enrollment numbers, they may be reviewing the data more thoroughly before publicizing. In May of last year, the enrollment number for stand-alone dental plans was a little over 1 million enrollments, with only 5% being of pediatric age.

Section 1332 Waivers
(State Innovation Waiver)

Starting in 2017, the Affordable Care Act provides a mechanism for states under Section 1332 to use federal money that would have gone to state residents via tax credits (subsidies) to design their own health care reform program and subsidized coverage process. The state can also waive portions of the Affordable Care Act such as the exchanges, certain market and product requirements, and the individual and employer mandate. It also provides a path for states to coordinate this innovation with their Medicaid, Medicare, and other health programs for a comprehensive overhaul of a state's health system.

In order for the waiver to be approved, it must provide for benefits at least as comprehensive as the Essential Health Benefits, ensure qualified individuals will not be paying more for coverage and services, apply the subsidies to as many or more people than are receiving it today, and it cannot increase federal spending above current assumptions. States are exploring these waivers as they can receive their portion of federal money that would have gone into the exchange, benefit packages, and the mandates in their state. HHS and Treasury have released some guidance but not a whole lot of detailed rules and instructions. The pending ruling in King v. Burwell could however defund this waiver process if the Supreme Court strikes those subsidies.

Administrative Simplification

Proposed regulations released in April 2014 related to the potentially onerous Certification for Compliance for Health Plans have not yet been adopted. Additionally, the requirement for Controlling Health Plans to obtain a Health Plan Identifier number was suspended until further notice.

These requirements are applicable to both dental and vision and have been delayed significantly from the original compliance deadline of December 2013. Requirements are around electronic transactions related to claims, eligibility, and electronic funds transfers.

2016 Small/Large Group Changes

Three major changes in 2016 have the potential to impact our business:

1. Small employers are re-classified as of January 1, 2016 from less than 50 eligible employees to less than 100 eligible employees.
2. The Employer Mandate changes from 100+ eligible employees down to 50+ eligible employees.
3. The Transitional Period, which allowed groups and individuals to maintain their current medical plan designs (depending on state/medical carrier) rather than change to an Affordable Care Act compliant plan, expires as of October 1, 2016.

Accordingly, groups with 50-99 eligible employees will be required to purchase medical coverage, which must be the Essential Health Benefit package (which includes pediatric dental), or be subject to the Employer Mandate.

Ameritas Readiness

We are gearing up for the third year of exchange certification for 2016 effective dates. We are advocating for availability of exchange certified status in seven states without actual participation on exchanges. We will be focused on including 2015 product enhancements that could not be filed outside of the exchange certification filing window.

We will continue to monitor state environments, where regulations can exceed federal parameters and impact the standalone dental market. We will continually provide education, communications, and product strategies to meet our producer and client needs.

We will continue to advocate for availability of exchange certified status in seven states that did not allow certification without actual participation on exchanges for 2015, and to educate and promote awareness of value of exchange certification in states that may revise their position on certification without exchange participation.

What else is going on in the states?

***New Trend Alert* – Provider Directories**

Illinois, California, and Missouri have introduced legislation prohibiting dental carriers to list participating providers as practicing at locations in provider directories if the providers have not submitted a claim to the carrier within a certain time period. The Illinois and California bills impact on-exchange dental carriers only, while the Missouri bill if passed would impact any dental carrier in the state.

***New Trend Alert* – Coordination of Benefits**

Nevada is the first state that has introduced legislation addressing lack of clarity of coordination of benefits between medical and dental plans that provide the pediatric dental Essential Health Benefit. The proposed bill would require a stand-alone dental plan as the primary policy for oral surgery procedures. The same bill would also prohibit medical plans with embedded pediatric dental benefits from being offered on the exchange.

Dental Loss Ratio

The draft reporting requirements for the California Dental Loss Ratio (DLR) are expected soon, with the first report due September 2015. Although Washington State has also introduced legislation that would require an applied DLR similar to what was proposed in California (but reduced to a study), we have preliminary success through advocacy with our trade association to mitigate the impact of the bill to just a study as well.

Where can I get more info?

The Ameritas Health Care Reform Steering Committee and Implementation Team are actively engaged on the various components of the law that require significant actions.

Look for the Compliance Corner communications, visit our website, or ask your sales contacts. Contact Kate McCown, our Group Compliance Officer, at kmccown@ameritas.com, or reach out to any member of our compliance team. Let us know if you would like copies of any materials mentioned.

Questions? Contact us!

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About Ameritas

The group division of Ameritas Life Insurance Corp. has served customers since 1959. It provides dental, vision, and hearing care products and services for nearly 110,000 employer groups, insuring or administering benefits for more than 5.4 million people nationwide. Ameritas has one of the largest dental networks in the country with over 348,000 access points. Its contact center has earned BenchmarkPortal's Center of Excellence certification every year since 2007 and placed in BenchmarkPortal's most recent Top 100 contest for small centers. In New York, products are offered through Ameritas Life Insurance Corp. of New York.

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