MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-sixth Session
March 7, 2011

The Senate Committee on Health and Human Services was called to order by Chair Allison Copening at 3:37 p.m. on Monday, March 7, 2011, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Allison Copening, Chair
Senator Valerie Wiener, Vice Chair
Senator Sheila Leslie
Senator Ruben J. Kihuen
Senator Joseph (Joe) P. Hardy
Senator Ben Kieckhefer
Senator Greg Brower

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Shauna Kirk, Committee Secretary

OTHERS PRESENT:

Herb K. Schultz, Regional Director, Immediate Office of the Secretary, Region IX, U.S. Department of Health and Human Services
Michael J. Willden, Director, Department of Health and Human Services
Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Brett J. Barratt, Commissioner of Insurance, Division of Insurance, Department of Business and Industry,

CHAIR COPENING:
We have a presentation from Herb Schultz, Regional Director, U.S. Department of Health and Human Services, regarding the "Implementation of the Affordable Care Act—Opportunities for Collaboration and Partnership."

HERB K. SCHULTZ (Regional Director, Immediate Office of the Secretary, Region IX, U.S. Department of Health and Human Services):
I am here to provide an overview of the key parts of implementing the Patient Protection and Affordable Care Act (Affordable Care Act) given that the implementation is really focused at the state level. The role of my office and the regional director is working with various constituency groups on education, policy making, grants and other types of funding. The regional director also troubleshoots and talks about Medicaid issues, etc., with the states, federal government and our tribal partners. The Affordable Care Act provides for some of the private-market reforms like the health insurance exchange (exchange) which is the marketplace where individuals and small employers will be enrolled January 1, 2014. There is a new opportunity within the exchange world. The law says the secretary of the U.S. Department of Health and Human Services must certify a state to have a state-based exchange by January 1, 2013. Addressing some of the concerns about the ongoing funding of the exchange, we have come out with what we call the "Establishment Grants." The Establishment Grants have the potential to provide for states that are running their exchanges with multiyear funding. The states need to apply for those Establishment Grants by June of 2012. Even if it is a basic framework that is adopted, 2011 becomes a very significant year, especially in states having legislatures that meet every other year. This State has done a great job already in being awarded $1 million for planning for the exchange. The Establishment Grant is in addition to the State Planning Grant.

There are two other private market programs in operation now. There is a significant program in the Affordable Care Act where small employers with less than 25 employees can have the benefit of providing "25 to 35 cents off a dollar" premium. That started in 2010, and they can claim it on their taxes this year. Not only is it for small business for profit, but it can also be for nonprofits. We estimate 30,000 small businesses in the State could take advantage of these small-business tax credits.

The other one I want to talk about is the Early Retiree Reinsurance Program (ERRP). It was in effect 90 days after the enactment of the law. This is a

program where employees between 55 and 60 years of age have retired early. Many of them have had problems with former employers, and retiree health benefits have been eliminated in whole or in part. The ERRP is designed to provide some funds back to the employer to better manage their retiree health benefits and not have to eliminate those benefits. We can provide you with a list of who in Nevada has qualified. This is for both public- and private-sector employers. It can be for an advocacy organization to a very large entity. It could be to a state, county or a city. Many states, cities and counties have been using that as a way to insure their early retirees.

SENATOR HARDY:
How does the tax credit work for 30,000 businesses in Nevada who do not pay income tax?

MR. SCHULTZ:
We qualify people for the program, and the U.S. Department of the Treasury works through those issues. I would be happy to provide you with whom we use for the main contact. My understanding is that all small business would be eligible. Nonprofits do not pay taxes either. There is a way in which it is done.

SENATOR WIENER:
Can you explain more about the Establishment Grant and what kind of funds will be available? What do we need to do to roll that out, and what does it take to qualify? Is there a scale?

MR. SCHULTZ:
Those things are being developed now. There will be specific pots of funds available, and we will look at things like information technology (IT) systems. We know states have varying degrees of eligibility systems. Sometimes they have one for Medicaid and one for Temporary Assistance for Needy Families. It is really designed to look at the infrastructure issues and make sure there is enough money there for the ongoing operation. The IT pieces are big, and the other issues around continuing operation and being able to fund the program are there.

SENATOR WIENER:
Where are we now in terms of IT and the different accounts that we work with? Are we on track?

MR. SCHULTZ:
We have provided the State Planning and Establishment Grants and a rate-review grant, which is critical in this reform to ensure there are no unreasonable premium increases coming forward. I know Mr. Willden, Mr. Barrett and Mr. Duarte have brought together several different parts of the government and stakeholders to meet. The government stakeholders meet every Thursday. Everyone seems to be moving towards understanding the important deadlines and issues before Nevadans.

SENATOR WIENER:
Could you keep us posted on that?

MR. SCHULTZ:
Absolutely.

SENATOR LESLIE:
Is it a tax credit on federal taxes for small business?

MR. SCHULTZ:
Yes.

There is no more important reform than the Pre-Existing Condition Insurance Plan (PCIP). It is where individuals who have been uninsured for at least six months and had been turned down for insurance are able to obtain affordable, quality health insurance. There are rating reforms in the law, and states can choose to run their program, or the federal government can run it on the state's behalf. In Nevada's case, the federal government is running it. It is paid up to $61 million by the federal government. There are about 14,000 Nevadans who could be eligible for the PCIP program. We have taken a recent step to ensure that children under 19 years of age with preexisting conditions who had been barred by the Affordable Care Act, will be able to receive coverage under PCIP as well as adults. It is modeled after the federal employee health benefits program.

SENATOR KIECKHEFER:
Are you estimating that 14,000 Nevadans would be eligible?

MR. SCHULTZ:
Yes.

SENATOR KIECKHEFER:
Do you know how many have signed up?

MR. SCHULTZ:
I do not.

SENATOR KIECKHEFER:
I have heard it is a low number. Do you know what the barriers are? It creates eligibility to apply for insurance, but it levels it at market rate. Market rate for private insurance is still expensive.

MR. SCHULTZ:
Prior to this historic law, there was no place for people who have been uninsured. That means millions of people have not been able to access health insurance and have been using emergency rooms or have died because of no ability to obtain care. As we have seen with other big laws, it takes time. Part of our strategy has been working with various members of the community, both elected and not, to do everything we can for outreach and education. I am a person living with human immunodeficiency virus (HIV). If I were an individual trying to get insurance in the individual market, I would probably be one of those people that, if I did not get turned down, would have tried to have insurance and would have found myself bankrupt. Approximately 50 percent of the bankruptcies in this country are due to unpaid medical bills.

We have many reforms in the Affordable Care Act in long-term, community-based home services, and Medicaid has various services where other populations can access and afford care. The PCIP is not an option for everybody, but it is an option for a significant number of individuals in this State and across the country.

Another thing I wanted to mention is the “donut hole.” The donut hole pertains to Medicare recipients utilizing the prescription drug feature of the Medicare plan. The Affordable Care Act eliminates the donut hole over a 10-year period. Last year, Medicare rebate checks of $250 went to 14,149 Nevadans who hit that donut hole. On January 1, 2011, the benefit associated with closing the donut hole is 50 percent off most name-brand drugs. It is an extra rebate that goes through the state and comes back to the federal government. It builds up from 50 percent until they get to 100 percent or 0 percent in terms of the donut hole. That is important for our seniors and people on Medicare.

As long as a young adult is not offered employer-based coverage and is between 18 and 26 years of age, each can be on their parent's plan. They do not have to live with their parents. They can be married. The issue is trying to make sure they have access to affordable, quality insurance. There are almost 9,500 young Nevadans who could take advantage of this program.

The last thing I wanted to talk about is prevention and workforce. Senator Horsford talked a lot about workforce when I was here a couple of weeks ago. I talked about the potential of getting the U.S. Department of Labor to have conversations about health-care workforce from the Workforce Investment Act and the community college side that we do within our Health Resources Services Administration (HRSA). There are significant programs throughout the Affordable Care Act to provide opportunities that many have never had such as having to repay loans, loan forgiveness, grants, and it applies to everything from physician to nurse; nurse practitioner; physician assistant; school-based health center; and nurse-managed clinic. There is a huge expansion of the National Health Service Corps as well. The workforce piece is very critical to the success of the overall implementation of the law.

The other side of that is prevention. In the Affordable Care Act, there is a $15 billion investment in public health and prevention. This is a historic initiative that goes to the very heart of individual prevention, community-based prevention and services. As of September 23, 2010**,** major preventive health measures such as screenings, childhood immunizations, mammograms and annual appointments for women, become zero co-payment and zero coinsurance. That is based on the U.S. Preventive Services Task Force and other issues. It is ongoing, constantly evolving and changing based on evidence-based practice and medicine. That $15 billion health and workforce fund is significant because about half of it is being spent on strengthening the primary-care workforce and the other half spent on preventive health measures. There is a community-based focus in which there is a grant program that has not had a request for proposal (RFP) posted yet called Community Transformation Grants. Those are for communities that are fighting incidents such as chronic disease.

In January 2011, we opened registration for significant incentives for providers. This opens up their ability to move towards meaningful use of electronic health data.

We know how difficult an environment it is, and what we are requesting our physicians, nurses and other providers to do in their work. Physicians who participate in Medicare have a 10 percent bonus for some of their management and evaluation codes starting January 1, 2011. General surgeons in a health-professional shortage area will have a 10 percent bonus for the next 5 years. On January 1, 2014, those from 0 percent to 133 percent of the federal poverty levels will have access to this expanded Medicaid program. The physicians who take Medicaid will be paid at the Medicare rate. When we move towards the expansion in 2014, 2015 and 2016 and bring in new people to the Medicaid program, the federal government will be paying 100 percent of the costs of those newly eligible individuals in Medicaid. By the end of the transition, the federal government will be paying 90 percent with the state paying 10 percent.

We want to do everything we can to be partners in the implementation of the Affordable Care Act. I want to have the ability to be your one-stop shop and so I will give you my e-mail address and cellular phone number which are <herb.schultz@hhs.gov> and (415) 265-7049, respectively.

CHAIR COPENING:
Can we find the time lines and different aspects of the Affordable Care Act on your Website?

MR. SCHULTZ:
Yes. There is the English language version and a Spanish version. The Website is <http://www.healthcare.gov>. Individuals can apply online for the Pre-Existing Insurance Plan and the Early Retiree Program.

SENATOR WIENER:
Our State is already at the bottom in health-care workers in every category. How can we work with you to get us off the floor? We are going to have an expanded demand with some of these other opportunities. What can we do today so these people can be served?

MR. SCHULTZ:
Working with my office and our Health Resources Services Administration's Regional Director, John Moroney, would be helpful. We can discuss the landscape of Nevada and what can be done to make sure the State and local

governments know what grants they can get. It is important to bring in the community colleges and universities.

SENATOR WIENER:
I am concerned with what we can do right now.

MR. SCHULTZ:
We just announced the second round of the Public Health and Prevention Fund. I can show you the programs and funds that are associated with it. You received some of the funds in 2010. Half of that is generally directed towards the primary-care workforce and strengthening it. It does include opportunities to redirect slots that have not been used into primary care for the first time. We can have that conversation. These funds go into effect this year, and RFPs are going to start soliciting them. There are funds for clinical prevention, public-health infrastructure and the workforce programs. It is a $750 million allotment. It goes up every year until it reaches $2 billion in 2015 and beyond. Knowing about the programs is a big step in the right direction.

SENATOR WIENER:
From the moment a notice for a RFP is posted, what would the time line be for the State's receiving funding?

MR. SCHULTZ:
It would depend on the opening. Any grant opportunity is going to have requirements attached to it. One of the things on the Medicare and Medicaid side is the development of what we call the "innovation center." It is within the center for Medicare and Medicaid services. It is a $10 billion program, of which $1 billion was authorized and appropriated yearly. It is there to provide experiments on not only service delivery but on payment reform. It is important to talk with the federal government and see if there are some intersections in Medicare and Medicaid and service delivery.

SENATOR WIENER:
If we do not get funding in round one, will we still have an opportunity in round two or three, or will additional funding go to those who made it in round one?

MR. SCHULTZ:
It depends on the grant opportunities and how they are structured. I like to identify the possible grants and talk with the government about what that

means and how it should be structured. I have worked with another state's medical school that is under development. They were concerned because the funding was going to four-year universities and not to medical schools. We assisted them in some senior level meetings at HRSA in Washington, D.C. and Baltimore to make their needs known.

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):
As Mr. Schultz mentioned, we meet every other Thursday. We have a group of 15 or 20 who deal with all of the rollout issues that come our way. I want to assure Senator Wiener that we are trying not to miss a grant opportunity. If we do miss an opportunity, it is because we do not have the manpower to go after it. Regarding the PCIP enrollment, the answer is 126 Nevadans are enrolled. We felt we should not apply for that opportunity because we would be overwhelmed with it and do not have an infrastructure to handle it.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):
There were Innovation Grants available in the November, December time frame last year for health insurance exchanges. The idea was that states could form consortiums or go in together for potential grant opportunities and look at IT infrastructures for exchanges. There needs to be a fairly high state of readiness to do that. We decided not to proceed, because there were key policy decisions that still needed to be made. There have been other Innovation Grants we have considered. We have been in discussions with the Center for Medicare and Medicaid Innovation and have had conference calls to inquire about issues such as coordination and managed care for dual eligibility. We are looking at several pilot opportunities, including the possibility of establishing a group of pediatric cardiologists in Las Vegas to deal with childhood obesity, to create a health home through their clinics for children with childhood obesity and to provide dietary consultation and other types of services to change their lifestyles.

BRETT J. BARRATT (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):
We have done a comprehensive media outreach for PCIP. I contacted our broker and agent community, encouraging them to help the people in our community. We applied for our first grant for rate review.

MR. WILLDEN:
People can apply for the PCIP at <http://www.pciplan.com> or <http://www.pcipl.gov>. The phone number is 1-800-220-7898 and 1-866 717-5826.

SENATOR KIECKHEFER:
Is the number of 126 people that Mr. Willden mentioned people that have applied or enrolled?

MR. BARRETT:
Those are the people enrolled.

SENATOR KIECKHEFER:
I understand that when a person with a preexisting medical condition applies for private insurance, there is a requirement to provide proof of it or be denied coverage. Is that becoming a barrier for people accessing it?

MR. BARRETT:
There are two barriers. There must be a preexisting condition and be denied coverage in the commercial market, and the individual has to be uninsured for a period of six months. Someone coming off of an employer's plan would need to meet both of those criteria to be eligible.

CHAIR COPENING:
With no other business to come before this Committee, we will close the presentation and adjourn the meeting at 4:37 p.m.

RESPECTFULLY SUBMITTED:

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Shauna Kirk,
Committee Secretary

APPROVED BY:

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Senator Allison Copening, Chair

DATE:_____

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A	Agenda	Agenda
	B	Attendance Roster	Attendance Roster