

To: Healthcare Reform Educational Task Force Members

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**New Hampshire Healthcare Reform**

By Barbara Greenwood and Andrew Eills\*

After the Governor called for a Special Session to try to close the \$295 million deficit projected for 2010-2011, the New Hampshire Legislature approved a bill that included significant spending cuts, and then adjourned on June 9, 2010. While budgetary concerns highlighted the Session, several healthcare reform initiatives were introduced that will go forward.

**Health Costs**

**SSHB 1.** Special Session HB 1 contains a number of provisions that will affect the provision of healthcare in New Hampshire. Hospitals face significant reductions in Medicaid payments. Catastrophic aid payments to hospitals will be suspended as of June 15, 2010. However, when catastrophic aid payments resume (presumably on July 1, 2011), the method of payment will be amended. Rather than claims being prioritized based on date of service, all eligible claims will qualify for a portion of the catastrophic aid appropriation. Thus, more hospitals will be able to access catastrophic aid funds. SSHB 1 also calls for the implementation of a payment reform model to be built around an accountable care organization model.

**SB 505.** In January of this year, the Senate introduced SB 505, establishing a commission on healthcare cost containment. In its original form, the bill mandated hospital rate setting for all private payors. SB 505 was revised to create a healthcare cost containment commission which will study New Hampshire's healthcare payment system and is

expected to recommend particular cost containment measures. The New Hampshire House specifically required that the commission not contain "representatives of health care providers" but include legislators, members of the New Hampshire Department of Health and Human Services, representatives of the New Hampshire Department of Insurance, and in addition, experts in healthcare policy and healthcare economics, as well as a consumer representative. The commission has two years to complete its study and will complete its work by July 2, 2012. The commission will be funded by a one-time assessment on insurance carriers with more than 1,000 covered lives in New Hampshire, hospitals, and ambulatory surgical centers.

**SB 392.** The New Hampshire Senate also introduced a bill requiring the insurance commissioner to hold public hearings concerning health insurance cost increases in healthcare services. The commissioner may compel health insurance carriers or third-party administrators to testify at an annual public hearing. The commissioner may also "invite" representatives of healthcare providers to testify. The bill contains language that follows the mandate required by the Patient Protection and Affordable Care Act (PPACA) of 2009 in that hospitals must bill uninsured patients "the amount generally billed to health carriers."

### **Insurance Coverage**

**HB 561.** HB 561 mandates coverage for the professional services associated with fitting, dispensing, servicing, or sale of hearing instruments or hearing aids by licensed professionals. HB 561 also mandates that insurance companies pay for up to \$1,500 per hearing aid every sixty months. The bill will take effect January 1, 2011, if signed by Governor Lynch.

**HB 569.** HB 569 clarifies insurance coverage for the diagnosis and treatment of pervasive developmental disorder or autism. The bill permits coverage for applied behavior analysis to be capped at \$36,000 per year for children up to twelve years of age, and at \$27,000 from ages thirteen to twenty-one. The bill will be effective January 1, 2011, if signed by Governor Lynch.

**SB 390.** SB 390 permits small employers which employ two or more employees and which do not offer employer-sponsored health insurance to all of their employees to establish and maintain a health coverage premium-only cafeteria plan (a Section 125 Plan). Such a plan would be established for the purpose of allowing employees who are not eligible for employer-sponsored coverage to purchase health coverage in the small-group market through a payroll deduction. The employer would not be required to pay for or otherwise contribute to the cost of any health insurance purchased through the cafeteria plan. Any carrier that offers small group health coverage in the state would be required to make its small-employer group coverage available with a limited open

enrollment period to individual employees of small employers when the coverage is purchased through such a premium-only cafeteria plan. SB 390 awaits the Governor's signature.

### **Privacy**

**HB 1649.** The New Hampshire Legislature passed HB 1649 relative to health information and patient rights. The bill provides a "look back" for patients to review whether a provider identified by the patient had access to the patient's electronic medical records within the past three years. While most, if not all, New Hampshire hospitals already review patients' records to report whether particular parties have reviewed a patients' records, the bill now codifies this practice.

### **Charitable Tax Exemption**

**HB 1583.** The New Hampshire Legislature killed a proposed bill which required an application of a "financial means test" in determining a not-for-profit's tax exemption for charitable purposes. The rationale was that the definition of charitable organization as defined by the IRS does not confer automatic exemption from property taxes; rather, it is up to the local authority to determine whether the nonprofit provides charitable services to the community.

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Member benefit educational opportunity:

Participate in the [webinar](#) on trends in managed care litigation for a discussion on the impact of healthcare reform on the existing litigation landscape (July 28, 2010).

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