

Ready or Not, a Wave of New Patients is Headed Your Way

Like most Americans, over the past three years you have

probably had a number of impassioned debates with your colleagues, friends and family about the Patient Protection and Affordable Care Act ("ACA"). Perhaps the most controversial and highly-debated aspect of the ACA is the requirement that most people over the age of 18 have health insurance or pay a penalty starting in 2014. With the United States Supreme Court's upholding of this aspect of the ACA, which is commonly referred to as the "individual mandate," the debates are beginning to wind down. If you are a healthcare provider, it's now time to turn your attention to preparing for the wave of newly-insured insured patients that may soon be seeking your services.

To help those without health insurance obtain coverage, the ACA established the American Health Benefit Exchanges and Small Business Health Options Program Exchanges. These "exchanges" will be new insurance marketplaces for individuals and small businesses to purchase competitively-priced health insurance that qualifies for federal tax subsidies and credits. In California, the state-based exchange is known as "Covered California." Through Covered California, legal residents of California will be able to purchase health insurance that cannot be denied or canceled even though the consumer may already be sick or have pre-existing health conditions. Health plans available through Covered California must cover certain services known as "Essential Health Benefits," which include, among other services, doctor visits, hospitalization, emergency care, maternity care, pediatrics, prescriptions, medical tests, mental health care, and preventive services like mammograms and colonoscopies. Health plans available through Covered California will be subject to a ranking system (platinum, gold, silver and bronze) so that consumers can shop for the plan that best fits their needs and budget.

Covered California will open its "marketplace" on October 1, 2013 and begin enrolling Californians for health coverage that will begin January 2014. Covered California estimates that 2.3 million California residents will enroll in a health plan through its marketplace by 2017. This is an astounding number of newly-insured Californians who will be seeking healthcare services on a more regular basis. Furthermore, the ACA expanded the joint federal-state health program for low-income people, which in California is known as Medi-Cal. This also significantly adds to the number of new patients with health coverage.

Many are concerned that there will not be enough physicians to treat this wave of new patients that will be arriving in 2014. Several California legislators have proposed bills that would deal with the perceived shortage of doctors by expanding the scope of practice of other types of practitioners. For example, State Sen. Fan Pavley, D-Agoura Hills, has proposed Senate Bill 352, which would expand the services that physician assistants can provide. Senator Ed Hernandez, D-West Covina, has proposed Senate Bills 491, 492 and 493, which would expand the scope of practice for nurse practitioners, pharmacists and optometrists. The California Medical Association (CMA) opposes these bills on the grounds that they would create two classes of healthcare in California and lead to quality problems because, according to CMA, mid-level practitioners would be exceeding their training. According to CMA, the solution is for California to build more medical schools, increase residency slots and assist physicians who work in under-served communities with paying off their student loans. It is worth noting that a bipartisan bill was recently introduced in the House of Representatives to create 15,000 more medical residency positions under the federal Medicare program.

Another significant concern for providers arising from the wave of new patients is the impact it will have on providers' contracts with health plans and insurers. Covered California is not expected to finalize its contracts with health plans and insurers any earlier than June 2013, and there is still much that remains to be done before the

health plans and insurers will be in a position to execute contracts with healthcare providers. Nonetheless, providers should expect to receive contract offers and proposed contract amendments from health plans and insurers starting in July 2013. Indeed, we understand that some providers have already received proposed contracts from a few insurers. Providers need to understand and carefully scrutinize the contract offers and proposed amendments that they receive, as contracts through Covered California will carry potential risks and rewards that providers may not be familiar with.

For example, because the large influx of patients under Covered California plans is predicted to be less healthy, older, and less capable of paying patient cost-sharing portions than the overall California population, providers need to come to terms with their practice's ability to take on such risk of high utilization before signing contracts with health plans and insurers, particularly where capitation rates are being offered. Other factors that need to be considered include:

- (1) provider contracts for plans purchased through Covered California are expected to require providers to verify the in-network status of other providers and facilities before making referrals, which could potentially place liabilities on the contracting provider for a patient's use of out-of-network services;
- (2) provider contracts for plans purchased through Covered California are expected to require significantly more measurement and reporting of provider-level cost and quality data, which will likely translate into increased administrative burdens for providers;
- (3) as the result of a federal grace period for enrollees to pay their premiums before their coverage is terminated, providers' claims submitted during the grace period may end up being pended and denied upon the enrollee's termination; and
- (4) provider contracts for plans purchased through Covered California will pay providers 10 to 15 percent less than current commercial rates, as estimated by J.P. Morgan Chase & Co.[\[1\]](#)

Nelson Hardiman is closely monitoring these and other developments of the Health Benefit Exchange programs both in California and nationally, and we will continue to provide our clients with up-to-date information that will be useful in preparing for the major changes in store in the months ahead.

[\[1\]](#) Andrea Rose, Interim Director of Health Plan Management, California Health Benefit Exchange, address to Insure the Uninsured Project's 17th Annual Statewide Conference, ACA: The Final Countdown (Feb. 5, 2013).