

ACA WG
2/12/18
Notes

Roll Call

Present

Leighton Ku
Jodi Kwarziany
Robert Metz
Laurie Kuiper
Dave Chandra
Kevin Wrege
Kristen Hathaway
Liam Steadman
Jenny Sullivan
Patricia Quinn
Katie Nicol
Carolyn Rudd
John Fleig
John Xu

Absent

Dania Palanker
Margaret Singleton
Donna Alcorn
Carl Chapman
Peter Rankin
Tammy Tomczyk
Maria Gomez

Welcome and Opening Remarks

Leighton Ku: We sent out a draft of the recommendation on Friday so we'll discuss that today. We'll go through that to get a sense of modifications that people think are appropriate for this. We're going to permit votes by email for people who can't make it in person or by phone on Wednesday. We need your vote by 3:30 pm on Wednesday.

Purvee Kempf: We've tried to distill the conversation we had at our last 2 meetings into the recommendation. We'll walk through this document together today. For those participating by phone, it was emailed to working group members and it's also posted on the HBX website. Afterward, we need to see if we have consensus around this language. The goal is to have language completed so we can vote on Wednesday. We're going to go ahead and read the recommendation.

[Recommendation is posted on the website]

Katie Nicol (Whitman Walker Health): Regarding the DC HealthCare Alliance and the Immigrant Children's program, the DC Healthcare Alliance technically doesn't meet MEC, but there are local programs that fill in that gap. I'm wondering if we should mention language that makes it clear that Alliance is not MEC and changing language so that Alliance is exempt from the mandate rather than that it meets the mandate?

Purvee Kempf: In the intro we say .."ensuring that Alliance and ICP enrollees" meet the mandate. We could change the coverage changes section to match the intro. That's broad enough that you could draft it as an exemption but the public messaging could be simpler than that because you're having the enrollees meet the mandate not the program itself. So we could change the coverage changes to match that language.

Patricia Quinn (DCPCA): We need to be clear that we're exempting Alliance but not certifying it that it meets the mandate is also important to us in terms of what that program actually does provide vs. a full meeting of the mandate. Katie, do you feel like making it the enrollees is enough to make that clear?

Katie Nicol: I think its general enough now since this isn't legislative language. We would want to be more careful in drafting.

Jackie Watson(DOH): I think we want to word it in a way that makes it clear that we are protecting these individuals.

Debbie Curtis: Why don't we say that these enrollees are exempt from the mandate?

Patricia Quinn: That's better for us.

Purvee Kempf: Want to make it clear that its always the enrollees that we exempt, we can't make a program exempt.

Katie Nicol: Would we want to make ICP exempt, because that program does meet federal standards?

I don't know if we confirmed that is MEC but it does mirror Medicaid so technically it should be.

Leighton Ku: It doesn't hurt to say it, if nothing else it reinforces that Alliance and ICP folks are safe.

Purvee Kempf: ICP mirrors Medicaid so there's not the same concern about it meeting MEC as with Alliance. We can circle back with Alice to see if there is definitive decision on that. If the federal government made a decision on that then we could even be silent and just conform to federal law anyway. If they haven't then we can make it clear – ICP could meet coverage requirements whereas Alliance enrollees exempt.

Debra Curtis: If ICP already meets MEC then we could be silent.

Dave Chandra: When you're saying we want to exempt enrollees don't we also want to also exempt eligible not enrolled people?

Purvee Kempf: They will be exempt since all those eligible for Alliance would be exempt through the 200% FPL threshold exemption so people in that income range would already be exempt. We heard that people wanted us to take a position on Alliance so that it was clear that DC was taking a position on Alliance even though they will end up being exempt through other pathways as well.

Leighton Ku: We don't want to say we are exempting everyone who is eligible for these programs because we want them to have an incentive to enroll. Otherwise, we may decrease the incentive for people to join Alliance or Medicaid.

Dave Chandra: In the process of passing the statute, while there are some group who will be aware of this aspect of the regulation, I don't think they're tracking this particular aspect of the bill as closely so outreach and education will be very important to supplement legislative language in the bill. I appreciate that there are multiple ways for people to be exempted if we believe that they should be.

Jason Levitis: One technical thing to know – generally it amounts to the same thing to say that coverage satisfies the mandate or that individuals with that coverage are exempt. One practical difference, under reporting requirements, if something is qualifying coverage the agency that provides it has to do the reporting. If there is an exemption – there is no reporting.

Purvee Kempf: I don't think we want to create new reporting requirements. Another reason to head in the direction that Patricia and Katie discussed.

Debbie Curtis: The vision would be that on the form we would ask people to check on the tax form whether they had Alliance, Medicaid, Medicare, etc. right?

Leighton Ku: And we should combine Medicaid and Alliance so that people are not identifying themselves as having Alliance, which can also create certain risks.

Purvee Kempf: Useful points to remember when operationalizing this.

Leighton Ku: Re: second sentence in intro: lets broaden it so that it says “puts affordable coverage including private and public health insurance markets at risk”... and has repercussions for the District economy in general. We want to broaden it and bring it back to the District.

Rob Metz (CareFirst): Re: connecting uninsured residents with coverage during tax time. Nothing happens at tax time to connect somebody unless we give them SEP. I think we're leveraging tax time data and info to reach out to people so they can subsequently enroll or enroll people perhaps during OE.

Purvee Kempf: Well, it's both because Medicaid is open year round. The idea that anyone who is uninsured if we find out during tax time we want to see if there is coverage out there for them.

Alex Alonso: We could say "Connecting uninsured residents with health coverage options using tax filing information."

Debra Curtis: During tax time is a time where we would probably doing more. Working with tax preparers to get people covered during that time – connecting them with information about how they can enroll. I think that is a key point in time to hit someone about getting coverage.

Rob Metz: The only folks who can do something about that at that time are Medicaid folks.

Purvee Kempf: That's a lot of DC – 1/3 of people who pay the penalty.

Leighton Ku: We can strike the phrase "during tax time"

Patricia Quinn: I read that line as written as an open door to some of the proposals that Maryland is considering knowing that we are not in a position that with our time frame we are not in a position to implement those. Would be sad to see that go.

Debbie Curtis: Another point: people don't like the notion of government using their tax filing information, is that something that makes us at all uncomfortable?

Purvee Kempf: Lets discuss it more in the explicit area. If that area provides the open door that Patricia is talking about but isn't too detailed to create concern then maybe introductory language isn't too much of an issue. That's really the area where we talk about the change. So we can come back to that later if we need to.

Jason Levitis: Re intro: In the first sentence, replace requirement with payment, since feds didn't repeal requirement, just the payment. Second thought – second paragraph makes no reference to exemptions, could consider adding a clause there "unless they qualified for an exemption" so no one could take it out of context that required everyone to have coverage. Third thing - in the last paragraph, I am concerned it suggests that under the fed law low income individuals are really not exempt. Reframe that by clarifying that low income people are exempt from penalty.

Alex Alonso: The way we currently describe the fed mandate is in a 3-part way where we say that DC residents maintain qualifying health coverage, have an exemption from the mandate, or pay a penalty on their DC taxes.

Purvee Kempf: I don't hear any concerns so we will go ahead and put the second part Jason mentioned in there. We will do the first thing Jason mentioned, I do think its more correct. The third thing he mentioned – the reason we have exempting low income individuals from the penalty in this case I think we want to say that DC is taking a stand since that may not have worked very well at the federal level.

Jason Levitis: You could add the word additional there so that you say we are exempting additional low income people from the penalty.

Purvee Kempf: We don't know if they would be additional. I'd like to hear other people's thoughts on that too. This is really about how this appears to DC so I want to make sure people raise any issues they have with it.

Leighton Ku: I'm good with leaving it as it is.

Purvee Kempf: Ok, let's talk about coverage changes. We will make sure we have Alliance enrollees exempt from the mandate and will figure out what to do with ICP.

Kevin Wrege (AHIP): The second sentence of second paragraph seems vague in terms of future association health plans. If we're trying to protect integrity of District markets maybe we could specify that so that people know what we mean by that.

Debbie Curtis: The third sentence gets at that concern, maybe we need to combine those as one sentence instead of having them as 2 different thoughts?

Kevin Wrege: What would be the step which would be taken vis a vis future AHP's?

Debbie Curtis: They wouldn't be allowed unless they meet the standards.

Kevin Wrege: Maybe we should flesh that out to tell readers what we plan to do there.

Leighton Ku: My change is that we should strike individual and small business and say private insurance markets.

Jason Levitis: I think it might be helpful to clarify in the first sentence here. Might want to say "there is a pending fed regulation that could loosen the flexibility of AHP's that could undermine the Districts private health insurance markets."

Kris Hathaway (AHIP): We're not discussing the short term plans because of the preempt issue, right?

Purvee Kempf: Correct. In the fed law short term duration health plans do not MEC so we are just conforming to that.

Jenny Sullivan: In the last sentence of the second paragraph we can delete "continue to"

Alice Weiss (DHCF): I think the intention of this document is to provide recommendation to board and to mayor – do you think it makes sense to reframe the language so that it reflects that? Instead of saying the individual mandate will to say the working group mandate recommends that the individual mandate would, so that its more conditional since this isn't regulatory language?

Debbie Curtis: The thought process here is that its all in terms of a recommendation and then we are laying out where the consensus is with this group.

Alice Weiss: Part of it is also with respect to the AHP thing, the more specific we get the less flexible we can be in the event the policy landscape changes. Just want to make sure the principles and ideas that are discussed here can be shaped into regulations.

Purvee Kempf: Our other recommendations are similarly framed. Up front we say that this is a recommendation and then the rest of the document is “wills” until you get to the recommendation which is all “shoulds” since it’s in the hands of the agencies that will draft the regulations. Intro makes clear the entire thing is a recommendation and then once we start saying should we’re suggesting how the agencies implementing should do it. We want to ensure that the group wanted to show that all the 4 pieces especially in the last recommendation went together.

Amelia Whitman: Maybe we could add a clarifying sentence to reemphasize that this is a recommendation ?

Debbie Curtis: We can add at the beginning of the 3rd paragraph in the intro.. “The ACA WG recommends that the District mandate mirrors the federal mandate..” just making clear that this is a recommendation.

Unknown: I also liked Alice’s comment about District values.. we could add that in there.

Purvee Kempf: About AHP’s – Started first sentence..” There is a pending fed regulation to loosen....” Was there another change?

Jason Levitis: You could then say “The District individual mandate will be designed to protect against these risks by excluding these new AHP’s that do not comply with current rules...”

Leighton Ku: Also wanted to double check with Jason that short term plans would not meet requirements even if fed government changed those rules.

Jason Levitis: Correct. Those are specifically carved out.

Purvee Kempf: If there is no risk that they would be changed down the line short term plans will continue to be excluded.

Debbie Curtis: Lets also remember that the way we use conformity we will be conforming to federal rules as of a certain date so if there are future changes they wouldn’t apply to the District. We intentionally didn’t want to mention short term plans because the regulations aren’t out yet. Right now short term plans don’t count and we want to conform our law to federal law right now so that if something comes out that changes fed law, our date will be before that.

Leighton Ku: Why not mention that then, so that its clear short term plans will continue to be excluded? Right now it just says AHP’s would need to meet those rules.

Jason Levitis: AHP rules that are being changed are not part of the mandate so are not being conformed to as of a certain date so we need extra protections there. The short term rules it is true that CMS could make that MEC but it would get caught under the point in time conformity approach. You could mention it, “as of the federal mandate, short term plans would not comply” but you don’t need to have specific policy to address that.

Katie Nicol: Us not mentioned short term plans is because they currently don’t meet MEC under fed rules, is there any circumstance where that could change? Who knows what the admin is going to do?

Purvee Kempf: To generally capture some of the concerns lets go back to 3rd intro paragraph – we should say mirror the fed mandate as of 12/31 date in 2017.

Jason Levitis: I think that’s a great idea.

Dave Chandra: If we use the 12/31 date of 2017 was there anything done or said administratively during the first year of this admin that would alter or weaken regs from the prior year?

Jason Levitis: I can address that. There was not any harmful guidance issued between those two dates. There was actually helpful guidance issued on 12/6/2017 which was why you want the conformity to be late. The tax law was passed in late December. Doing 12/31 should be ok cause its not effect yet, I would suggest 12/15 because it’s between the last helpful guidance and when the tax law passed.

Purvee Kempf: Ok. So the 3rd intro paragraph is being changed to...see recommendation

AHP’s – read the section on AHP’s.

Debbie Curtis: Where you say by excluding AHPs that do not comply...that’s an odd sentence.

Jason Levitis: An AHP that doesn’t exist right now doesn’t satisfy the rules as of 12/15/17 but it needs to continue to comply, like one in the future needs to comply with the rules that were in place as of then.

Purvee Kempf: I’m going to move on to exemption changes...

Katie Nicol: In that first paragraph, are we making the assumption that it would be inclusive of children?

Alice Weiss: We probably need to add an exemption for children who are otherwise eligible for CHIP. We would probably want to do Medicaid, CHIP, and ICP.

Debbie Curtis: What we want to do with this paragraph was use it as a placeholder so that can get worked out as we move on because we had not yet all coalesced about how this would work.

Amelia Whitman: We want to be able to give flexibility about what's possible within the system but nod to the idea that this is what we would want to do.

Purvee Kempf: You can't know if you're Medicaid or CHIP eligible through a tax form, but idea with this is a threshold exemption and we want to make sure people can get the exemption without completing an application. There were also questions about how the info on a tax form could or could not give the full picture about which program people are eligible are. I don't want to be prescriptive because I don't know if we want to say that we will be able to exempt everyone who is eligible for Medicaid or CHIP.

Alex Alonso: We might want to say CHIP because we use CHIP for Medicaid expansion.

Alice Weiss: I think it would be helpful to include CHIP here so there is no ambiguity about who would qualify for this exemption.

Debbie Curtis: This is not a drafting document.

Purvee Kempf: I don't think we know for sure if we have the ability to exempt people who are eligible for CHIP through tax form information. I think Medicaid gets at CHIP.

Alice Weiss: I think the problem is equally strong for those on the Medicaid side who are above 200% FPL so if our policy intention is to protect low income individuals the most clear way to do that is to name the programs that they're eligible for.

Leighton Ku: Recognizing these challenges, that was why I just said 200% FPL to not invoke Medicaid or CHIP because that is something that OTR through tax forms could figure out where the levels are at.

Jason Levitis: I think there is a bit of intentional ambiguity here where we want to make sure that people who are eligible for these programs don't end up paying but we don't want to heavily advertise that if you're eligible for Medicaid, don't worry about getting covered. Depending on how this document gets used we may want to be less explicit.

Dave Chandra: Sounds like the group we are arguing over are those between 200-300% FPL has there been a decision by this group that yes, we want those groups to be exempt? Based on that decision we can use that language here.

Debbie Curtis: There was ongoing ambiguity on our ability to do that via the tax code and that's why this language is placeholder language. Its descriptive of what we want and we need the experts OTR to provide input on that. We did not make the decision on whether we want it to apply to people up to the 300% FPL.

Leighton Ku: It's a high income level for CHIP. For the optics sake its problematic to be more explicit if we are talking about 300% FPL which is probably more than 1/2 of the families in DC.

Alex Alonso: Families would be able to apply for an affordable exemption up to 300% FPL and get it because it would make the bronze plan unaffordable for them on the basis that they can't get APTC because their children are CHIP eligible.

Amelia Whitman: If we said something along the lines of mentioning the other programs without being prescriptive and mentioning those programs explicitly.

Leighton Ku: I remember when Bush vetoed the CHIP bill twice explicitly because of attempts to expand CHIP above 200% FPL, so this is a line above which there are a lot of sensitive conservatives. If we are talking about Congressional oversight, its like raising a red flag.

Alice Weiss: I think I recall from that debate 250% FPL was the level of concern by Bush admin. Most recent CHIP reauthorization there is language about preserving CHIP up to 300% FPL and since our eligibility levels are fairly consistent with that (319%FPL) I think it makes sense to be consistent with that but I understand and appreciate that not everyone has the same thing in mind. If you offer people an exemption that they need to apply for then in many cases they won't come forward or be aware of it.

Purvee Kempf: I changed the language in response to Amelia's suggestion.

Alice Weiss: I don't think we want to delete the reference to Medicaid.

Purvee Kempf: Landed on "Medicaid or other public program eligibility levels."

Does this language in the third provision capture leaving the door open to tax time?

Rob Metz: Can we create a new header where we talk about outreach and education for that bullet?

Alice Weiss: One idea we had discussed was the idea of creating an opportunity to allow for the individual to opt in to having their information shared by the tax agency for the other agencies. Could we ad some language that this recommends that policy makers consider opportunities to promote that option?

Debbie Curtis: That is what we tried to do here without saying that explicitly.

Purvee Kempf: Idea here is to allow for that option. We have not heard from OTR about their feelings on that. We did hear that they would be willing to do that on our behalf. I think this provision captures that we want to do that if there is an opportunity for us.

Deborah Fries (OCFO): I think we should stay more general.

Leighton Ku: Even though it need not be part of this recommendation that the staff explore with OTR and OCFO what is possible around what sort of outreach can be done.

Purvee Kempf: All of these ideas will also be captured in the report we do.

Debbie Curtis: The people who will help draft this policy are also in this room which is very helpful.

Robert Metz: I would suggest that we should say something about reaching out to uninsured residents.

Patricia Quinn: Are we keeping the tax time bit in the further detailed area below?

Debbie Curtis: Yes

Jason Levitis: The idea of leveraging the tax filing process, I wonder if someone could interpret that as something more intrusive. Maybe opportunity..

Leighton Ku: Opportunity!

Alex Alonso: Tax filing process is a great way to describe this because it covers a broad range of time.

Purvee Kempf: Penalty changes – [no changes] Moving on to last 2 paragraphs of recommendation.

Debbie Curtis: Change prevent to impact and use enacted instead of legislated

Jenny Sullivan: I think we should add something to the end of the second sentence...to begin upon enactment. To indicate that the awareness campaign needs to begin as soon as changes are made.

Purvee Kempf: Added that. Also added carriers to the next sentence. Moving on to the last section.

Jason Levitis: I need to drop off but I emailed Purvee and Debbie suggestions for AHP language.

Debbie Curtis: Lets go back and look at that section with Jason's comments.

Patricia Quinn: dropping off.

Purvee Kempf: Going to use Jason's language.

Katie Nicol: We had the recommendation which included a lot of stability parts to and it also included the fall back of the mandate so now that we are putting forth our own mandate – what does that do for the affordability parts? Is there a way to loop that into this so its not lost?

Leighton Ku: The HBX board already approved those, and that went up to the Mayor. I don't think it hurts to mention those but not sure if its necessary.

Kris Hathaway: I had the same question, will this get placed into the package? Want to make sure this isn't seen as a stand alone recommendation but includes the other stability provisions.

Leighton Ku: At the point that the board has approved it it becomes a standing policy of HBX, not sure how the Mayor could perceive it?

Amelia Whitman: we're having ongoing discussions about all of them and will continue to do so. Just talking about in general what we can do and what our options are. I think they supplement each other.

Unknown: Could we send it over the Mayors office as a package? The charge seems to be what are your recommendations to protect coverage gains and stabilize market so its all related.

Katie Nicol: Maybe we could say that this takes the place of the fall back?

Debbie Curtis: We could add a sentence that says that this recommendation supplements the other from November and replaces the fall back and then do a link to that. Added this part to the end of the recommendation.

Jackie Watson: I think the Mayor also added a couple things that the mayor added that Jay mentioned. Wanted to go back over those to make sure we've done that. Just want to make sure these statements remain part of the conversation. Want it to be included somewhere.

Debbie Curtis: We have been having these conversations with agencies here and the way I interpreted this is that the next tier is determining what they cost because it's the agencies that will determine cost.

Leighton Ku: I'd be open to adding that HBX will work with other District agencies to assess other potential costs. And the other components, we believe and we have evidence that the loss of the mandate would impact providers and the district economy.

Purvee Kempf: [Made some changes to the second sentence of the first paragraph to account for these comments.]

Leighton Ku: Lets say private and public insurance markets.. and poses risks to District patients and healthcare providers.

Purvee Kempf: Also want to note we did have data that hit these points – uncompensated care data, uninsured rates, etc. We can link back to it in the report.

Leighton Ku: I'll also add to the piece I wrote the Oliver Wyman information

Purvee Kempf: Going to go through this one more time

Leighton Ku: I'd like to add one sentence... that taxpayers will pay the same or less that they would have in 2018 under prior federal law.

Purvee Kempf: I think you're really trying to highlight that we are maintaining the status quo and being more protective in some areas. Are folks ok with that?

Unknown: Do we know that the penalty would be the same or less since we haven't nailed down the penalty structure?

Leighton Ku: So far we've talked about emulating the federal policy which means the levels and then excluding some additional groups and we still have the affordability so it should be the same or nothing for some low income groups

Purvee Kempf: Only difference would be that if the Bronze plan in the District became more than the federal one. We wont know what the federal bronze plan would be after this year so it would only be relevant were they to re-implement a penalty.

Rob Metz: I'm concerns about making promises about how much people are paying.

Debbie Curtis: We say that we want the policy to be updated in future years to make sure its effective and that could change in future years.

Unknown: Like if we chose to implement a MA like structure...

Leighton Ku: I tried to say that it would be the same under the 2018 rules.

Purvee Kempf: I think they are concerns that we may miss a case that we are not aware of or there may be case that it is different.

Leighton Ku: we can say the goal or intention of these policies should be ... and I think its worth it to mention this because its an important political point, that people wont have to pay more on their taxes.

Debbie Curtis: And I want to emphasize how important that is. We are the first state moving forward on this quickly so I think its important to make that statement.

Purvee Kempf: I'll add that and send it around. And if you realize that you want to change something, let us know because we would need to email that to everyone. For anyone who has the ability to call in or attend our board meeting on 2/21 at 3:30, please do. I think board members would love to hear from you.

Leighton Ku: Thanks for all the long hours people have been able to put into this. Adjourn.

