



Update on Federal Health Insurance Reform

**Presentation to Joint Committee Hearing of
Senate Health and Human Services and
Senate State Affairs
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Commissioner of Insurance**



Insurance Reforms to Date

- **Market Reforms – Effective 9/23/10**
 - No preexisting condition exclusions for children under 19
 - Dependent coverage to age 26
 - Limits on lifetime limits and first annual limit phase in
 - Prohibition on rescissions
- **Consumer Resources**
 - Web portal
 - Preexisting Condition Insurance Pool (PCIP)
 - Early Retiree Reinsurance Pool
 - Grandfathered plans
 - State website, information assistance



TDI Activities

- Internal Activities
 - Providing consumers with timely and relevant information
 - Expedited review and approval of health benefit policy forms
 - Identified statutes and rules impacted by PPACA
 - Applied for and received three grants

- External Activities
 - Focused and meaningful stakeholder meetings
 - Consumer Assistance
 - Rate Review
 - Form Filing
 - Accountable Care Organizations
 - Symposium on Exchanges (TBA)



Key Issues

- Medical Loss Ratio / Minimum Loss Ratio (MLR)
- Rate Review
- Mini-Meds
- Coverage for children under 19 – Child-only Plans
- Educating Consumers: Risk, Insurance, Accessing Health Benefits



Legislative Decisions

- Texas Insurance Code adjustments to align with federal requirements
- Exchange creation and design
- Funding issues

**Texas Department of Insurance Reform at a Glance
Federal Healthcare Reform – Patient Protection and Affordable Care Act**

2010	2011 - 2013	2014	2015 - 2017
<ul style="list-style-type: none"> • Establishes state consumer assistance program. <i>Action Update: Grant application published 7/22; TDI submitted application 9/10; grant awarded 10/19.</i> <i>Fiscal Impact: This program is funded by the awarded grant through FY2011; no promise of future grants.</i> <i>Federal Funds: \$30 million allocated to states by Secretary. Grant awards could range from \$120K to \$3.4 million .Texas awarded \$2,792,180.</i> • Creates temporary Early Retiree Reinsurance Program (ERRP) for employers providing insurance to retirees age 55 and over. <i>Action Update: 159 Texas employers approved for this program as of 11/1.</i> <i>Fiscal Impact: State programs (ERS, TRS, universities) have been approved; claims paid under ERRP will save plans (and Texas) money.</i> <i>Federal Funds: \$5 billion reinsurance pool reimburses for 80% of claims between \$15K and \$90K, dating back to June 1, 2010.</i> • Creates temporary Pre-Existing Condition Insurance Plan (PCIP) to help uninsurable individuals until guarantee issue begins in 2014. <i>Action Update: Texas opted to allow HHS to administer the pool for Texans. HHS contracted with GEHA to operate the pool for PCIP states. Enrollment began 8/1. As of 9/15, 1,152 applications were received from Texans. As of 11/1, 393 Texans were enrolled.</i> <i>Fiscal Impact: Texas is not obligated by this program.</i> <i>Federal Funds: \$5 billion is appropriated through 2013, with \$493 million allocated for participants in Texas.</i> • Requires HHS to establish web portal for individuals and small employers to obtain information on availability of insurance. <i>Action Update: HealthCare.gov launched 7/1; price information included as of 10/1.</i> • PPACA provisions create the following market reforms: <ul style="list-style-type: none"> ○ Prohibits lifetime policy limits, limits annual dollar limits. ○ Prohibits policy rescissions. ○ Includes coverage of preventive health services. ○ Covers dependents up to age 26. ○ Prohibits eligibility requirements based on employee salary ○ Prohibits pre-existing condition exclusions for children. ○ Requires plans to allow enrollees to select PCP or pediatrician. ○ Prohibits pre-authorization and for ER, regardless of network. ○ Prohibits preauthorization for OBGYN services. ○ Creates new standards regarding claims appeal processes <i>Action Update: reforms take effect for plan years beginning after 9/23. TDI must continue to process forms as insurers modify policies to comply.</i> • States to review premium increases; TDI report to HHS. <i>Action Update: TDI applied for and was awarded a \$1 million grant to expand TDI's premium rate review capabilities and systems.</i> <i>Fiscal Impact: Expanded activities will require more actuarial and legal staff, which are funded through the federal grant.</i> <i>Federal Funds: HHS to distribute \$250 million in grants to states over 5 years to assist with rate review activities. Cycle II of grants expected last quarter 2010.</i> 	<p style="text-align: center;">2011</p> <ul style="list-style-type: none"> • Legislation for PPACA compliance <i>Action Needed: Statutory changes are needed during the 82nd legislative session to align Texas Insurance Code with federal law.TDI has drafted changes to the TIC and TAC.</i> • Legislation for Exchange creation <i>Action Needed: Legislation creating a state Exchange is required if Texas wishes to avoid HHS intervention. TDI is currently working with NAIC on draft language.</i> <i>Fiscal Impact: Exchange implementation will be costly; all necessary Exchange establishment costs are to be funded via HHS grants. Exchange operations will be self-sufficient by 2015.</i> <i>Federal Funds: TDI & HHSC were awarded a planning grant of \$1 million 9/30; Larger implementation grants are to be announced in May 2011.</i> • Insurers must report MLRs and provide rebates to consumers if the percentage of premium spent on health care is less than 85% for large groups or 80% small groups/individual. <i>Action Needed: NAIC submitted MLR recommendations to HHS 10/28. HHS to adopt/finalize regulations.</i> • NAIC must develop standardized definitions and uniform explanation of coverage, to be approved by HHS. <i>Action Needed: TDI is participating in NAIC calls. Standards must be finalized by March 23, 2011; insurers must comply by March 23, 2012</i> <p style="text-align: center;">2012</p> <ul style="list-style-type: none"> • Insurers must comply with standardized definitions, uniform requirements for summary of benefits and explanation of coverage documents. • Insurers must submit annual reports to Secretary on disease management, care coordination, hospital readmission rates, patient safety and provider rate reimbursement structures. <p style="text-align: center;">2013</p> <ul style="list-style-type: none"> • States must demonstrate to HHS that Exchange will be operable by January 1, 2014. <i>Action Needed: Texas must establish an Exchange. TDI must certify qualified health plans (QHPs). Texas Exchange must be operational for testing.</i> 	<ul style="list-style-type: none"> • Insurers must comply with market reforms: <ul style="list-style-type: none"> ○ Guaranteed issuance and renewability provisions and rating requirements. ○ Prohibits preexisting condition exclusions for all enrollees. ○ Prohibits annual limits ○ Limits waiting periods to 90 days. ○ Limits deductibles in small group market to \$2,000 individual/\$4,000 family. ○ Allows employers to offer rewards up to 30% of coverage cost to enrollees participating in wellness program. ○ Prohibits insurers from dropping individuals who participate in clinical trials. ○ Redefines small group from 2-50 to 1-100 <i>Action Needed: TDI must process forms as insurers modify policies to comply.</i> • States may choose to merge small group and individual markets. • Creates temporary reinsurance program funded by assessments on group/individual plans. Program terminates 12/31/16. • Insurers must comply with electronic transaction standards. • States must develop and implement statewide Health Insurance Exchange for individuals, small businesses to be operating by 01/01/14. 	<p style="text-align: center;">2015</p> <ul style="list-style-type: none"> • State Exchange operating budgets must be self sufficient; may not use state revenue or federal grant funds <i>Action Needed: Exchange planning must include a method for funding the operating budget, e.g. premium assessments.</i> <p style="text-align: center;">2016</p> <ul style="list-style-type: none"> • States may enter into health care choice contracts allowing cross-state insurance sales beginning 1/1/2016. <i>Action Needed: Federal regulation to be issued by 07/01/13.</i> • Temporary reinsurance program for transitional market ends 12/31/2016. <p style="text-align: center;">2017</p> <ul style="list-style-type: none"> • States may apply for five-year waiver of certain requirements if it provides coverage to all residents as comprehensive as Exchange coverage and does not increase federal deficit.

**Summary of Federal Health Reform Implementation Activity
Texas Department of Insurance – November 2010**

March-June	July-August	September-October	November-December
<ul style="list-style-type: none"> Requires feds to establish web portal for individuals and small employer to obtain information on availability of insurance; Status: TDI supplied requested information on Texas market to HHS; insurers provided required information to HHS. TDI reviewed Texas information; HHS launched website. See www.healthcare.gov. Requires insurance plans to comply with policy benefit reforms beginning Sept. 23rd, with exceptions for grandfathered plans; Status: HHS issued rules on grandfathered plans, patient protection provisions, and preventive care benefit regulations. TDI met with stakeholders to discuss compliance process for policy form revisions. TDI developed expedited approval process. Staff developed analysis of legislative revisions needed to comply with federal benefit plan requirements outlined in rules. Federal grants available to states for rate review activities announced June 7; Status: TDI applied for and was awarded a \$1 million HHS grant available to all states. TDI submitted grant acceptance letter September 13. 	<ul style="list-style-type: none"> Establishes state consumer assistance ombudsman program; effective immediately, with grants to be issued by HHS; Status: Grant was announced July 22; TDI applied for a HHS grant on Sept. 10; grant award announced Oct. 19 for \$2,792,180. Grant requirements accepted November 2. Temporary high risk pool for individuals with preexisting conditions; Status: Governor Perry declined to operate federal pool; HHS contracted with GEHA to oversee Texas enrollment in Pre-existing Condition Insurance Plan (PCIP). Coverage began August 1; 393 Texans enrolled as of November 1. Creates reinsurance program for employers providing insurance to retirees age 55 & older; Status: HHS issued participation requirements and enrollment forms, and began accepting applications July 1st. The ERRP secure website launched August 30. So far, 2000 applicants have been approved nationally, 149 in Texas. Texas participants are listed via this healthcare.gov link. Policy Forms must comply with federal benefit standards by Sept. 23; Status: TDI worked to review and approve policy form filings to meet September 23rd deadline for policy provisions. Determine budget costs for reform implementation; provide information to LBB; Status: Staff submitted LAR with estimated FHR costs, except for Exchange costs; Exchange cost estimate pending Nov. 2010. 	<ul style="list-style-type: none"> Health plan policy provisions must comply with new federal requirements for all plans issued or renewed on or after September 23rd. Includes: removal of lifetime benefit limits; restrictions on allowed annual benefit limits; coverage for preventive health services; dependent coverage up to age 26; prohibits use of salary to determine employee eligibility; prohibits pre-existing condition exclusions for children; Status: Continue to work with insurers to expedite policy form review and approval to ensure policies meet federal requirements by September 23. Texas legislation, rules needed to comply with federal requirements; Status: TDI has worked to identify all legislative and administrative code changes needed to comply with federal changes. Draft legislation is being finalized and will be completed in November. Develop Premium Rate Review process; Status: In conjunction with HHS requirements, TDI is developing a premium rate review process (pending regulations). States must develop Insurance Exchange by 2014; HHS announced planning grant opportunity July 29; Status: Working to estimate costs associated with Exchange implementation. TDI collaborated with HHSC and submitted planning grant application August 31; \$1.0 million grant awarded September 30. Exchange Request for Comment; Status: Collaborated with HHSC to submit Request for Comments on October 4. Insurers must comply with medical loss ratio (MLR) requirements or provide customer rebates in 2011. Plans must submit rates to states for review; comply with federal reporting requirements; Status: TDI provided recommendations to HHS on MLR and rate review requirements and participated in the October 28 NAIC MLR recommendation to HHS. 	<ul style="list-style-type: none"> Texas legislation, rules needed to comply with federal requirements; TDI Action: Work with Legislative committees, Legislative Council to draft compliance legislation. Review pre-filed legislative proposals related to health reform. Consumer Ombudsman program; TDI Action: Depending on HHS guidance for participation, assist with/direct implementation of Consumer Ombudsman program Health plan policy provisions and company filings; TDI Action: Continue to approve policy form filings; take appropriate action to address non-compliant forms Exchange planning; TDI Action: Working with HHS and HHSC, continue planning activities and RFP per planning grant; prepare for May 2011 establishment grant.

Note: **HHS** - U.S. Department of Health and Human Services; **PPACA** - federal Patient Protection and Affordable Care Act; **HHSC** - Texas Health and Human Services Commission; **NAIC** – National Association of Insurance Commissioners

**Texas Department of Insurance – Federal Healthcare Reform Implementation
Accomplishments: March 23 – November 2010**

	Topic	Activity Detail
Market Reforms	Consumer Protection Reforms	<p>New law:</p> <ul style="list-style-type: none"> • Requires guaranteed issue to children under age 19 and prohibits preexisting condition exclusions; • Requires health plans and insurance policies to extend dependent eligibility to young adult children up to age 26; • Prohibits lifetime dollar limits on essential health benefits and requires any annual dollar limits to be at least \$750k; • Prohibits insurers from rescinding coverage without proving fraud or intentional misrepresentation; • Requires non-grandfathered plans to follow new standards for consumer appeals in cases of denial of claims; • Eliminates cost sharing and deductible requirements for preventive services under non-grandfathered plans • Eliminates prior approval requirements for emergency care. Non-grandfathered plans may not charge out-of-network penalties for emergency care. • Requires non-grandfathered plans to allow patients to access in-network pediatrician and ob-gyn care as they would primary care – no referral needed. <p>TDI Action: TDI communicated with insurers, encouraging all to submit forms to comply with reforms for all policies issued after September 23. TDI must process forms as insurers modify policies to comply.</p>
	Premium Review	<p>Initial \$1 million grant announced June 7. Grant activities will expand TDI’s capacity to review rate increases.</p> <p>TDI Action: TDI submitted grant application July 7. HHS announced grant awards August 16. Since the award, TDI has begun planning for the execution of grant activities.</p>
	State Exchange	<p>HHS announced preliminary \$1 million planning grants July 29. States may use funds to determine whether to establish an Exchange.</p> <p>TDI Action: TDI worked with HHSC and submitted an application August 31. HHSC announced September 30 that Texas has received an award of \$1.0 million.</p>
Federal Grants	Consumer Assistance	<p>Grants to help states establish or strengthen consumer assistance programs were announced July 22.</p> <p>TDI Action: TDI submitted a grant application for \$3.4 million September 10. On September 28 at the request of HHS, Texas submitted revised grant information based on a potential \$2,792,180 award. HHS announced grant awards on October 19, 2010. Texas acceptance of award requirements November 2.</p>
HHS Programs	Early Retiree Reinsurance Program (ERRP)	<p>ERRP created to lower the costs employers incur by providing retiree coverage. Claims dating back to June 1 are eligible for payment. HHS began accepting applications July 1. ERRP launched website August 30. Over 159 Texas employers have been approved as of November 1, including ERS, TRS, UT and A&M.</p> <p>TDI Action: TDI does not have a role to play in the ERRP, but provides information to Texans via the TDI website.</p>
	HealthCare.gov	<p>PPACA required HHS to create a web portal to provide information to individuals and small employers on the availability of insurance. www.healthcare.gov launched July 1.</p> <p>TDI Action: TDI supplied market information to HHS and reviewed information posted for Texas. Plan price information included October 1.</p>
	Pre-Existing Condition Insurance Pool (PCIP)	<p>PPACA created a temporary high risk pool for individuals with preexisting conditions. \$493 million of \$5 billion allocated to Texas participants. Texas deferred to HHS, which contracted with GEHA for PCIP administration. Coverage began August 1.</p> <p>TDI Action: TDI is working with HHS to expand requirements for insurer denial letters to include a referral to the PCIP. As of November 1st, 393 Texans have been enrolled.</p>

**Texas Department of Insurance – Federal Health Reform Implementation
Next Steps - November 2010 – Spring 2011**

	Topic	Activity Detail
Statutory Changes	FHR Reconciliation Legislation	In order for Texas to be in compliance with federal law, statutory changes are needed. TDI Action: TDI has reviewed the federal PPACA legislation and identified areas of conflict in the Texas Insurance Code and Texas Administrative Code. TDI is currently in the process of completing draft recommendations for statutory revisions to align Texas law with new federal requirements.
	Exchange Legislation	Federal law provides for the creation of state Exchanges. HHS will create an Exchange to operate in any state that does not establish one. If Texas chooses to establish an Exchange, legislation must pass in the 2011 session to authorize the creation of an Exchange and designate an Exchange entity. TDI Action: TDI is collaborating with HHSC to research and plan for a potential Exchange in Texas. TDI and HHSC will provide the legislature with a range of scenarios to consider detailing the pros and cons for each. The NAIC is drafting model Exchange legislation and TDI is participating in this process.
Insurer Requirements	Medical Loss Ratio – Standards and Rebates	Beginning in January 2011, insurers must meet minimum medical loss ratio (MLR) requirements, or pay rebates to enrollees. Large group plans must spend 85% of premium dollars on medical claims and activities that improve quality, while individual and small group plans must spend 80%. HHS has requested the NAIC to draft methodology for MLR and rebate calculations, and draft definitions and standards for what activities qualify as being counted towards the MLR. TDI Action: TDI participated in technical calls on these topics. NAIC members, including TDI Commissioner Geeslin, approved MLR recommendations during October meeting (10/18-10/21). HHS will consider these recommendations when issuing final regulations.
	Standard Definitions & Uniform Coverage Documents	PPACA instructs the Secretary of HHS to develop standard definitions of insurance and medical terms and standards for the benefits summary and explanation of coverage documents that health plans and insurers provide to enrollees. These standards are intended to improve transparency, ensure consumers understand what they are being sold, and allow consumers to effectively compare health plans. These standards must be issued by March 23, 2011 and insurers must comply with these standards by March 23, 2012. TDI Action: TDI is participating in technical calls with the NAIC to develop sound definitions and standards.
Potential Grants	Premium Review	In order to assist states in implementing expanded premium review activities, HHS will issue additional grants to ensure states have the necessary funding. TDI Action: This second round of premium review grants is expected in the last quarter of 2010. TDI is working on activities within the initial grant, and waiting for the second grant to be announced.
	State Exchange	In order to assist states with the costs of establishing Exchanges, HHS will release a second round of grants to fund state efforts according to funding levels needed. TDI Action: This second round of Exchange grants is expected in May 2011.

Texas Department of Insurance (TDI) Quick Reference for Federal Health Reform
November 2010

- **What are the key federal health reform provisions and when are they effective?**

Federal health reform provisions have staggered effective dates. Some changes are currently effective, while others will be phased in through 2020. Please see the reverse side for the TDI summary.

- **What are the specific reforms that were effective on September 23, 2010?**

The federal Patient Protection and Affordable Care Act (PPACA) and related *Health Care and Education Reconciliation Act*, enacted by Congress in March 2010, include significant insurance market reforms effective for most group and individual health insurance policies with plan years that begin on or after September 23, 2010 (listed on the reverse side). Under the Act, most health benefit plans in Texas (including both fully insured and self-funded ERISA plans excluded from state regulation) are affected by these provisions.

- **What is the new provision for an interim federal health risk pool that will provide coverage for preexisting conditions? When does it begin?**

The law creates a federal high-risk program to provide coverage for people who have been uninsured for six months and have a preexisting condition. This new federal risk pool, called the Pre-Existing Condition Insurance Plan (PCIP), is now accepting applications for coverage effective August 1, 2010. For more information, go to www.pcip.gov or call 1-800-220-7898.

PCIP will provide insurance coverage until 2014, when insurance companies can no longer deny coverage based on a person's health. Premium costs for participants will be comparable to what an individual without preexisting conditions would pay to purchase insurance from the commercial insurance market. Although at a higher rate, the Texas Health Insurance Pool currently offers health insurance to Texans who have preexisting conditions. People enrolled in the Texas Health Insurance Pool are not eligible for PCIP because they do not meet the requirement that individuals must be uninsured for at least six months to qualify. The federal risk pool is administered by Government Employees Health Association (GEHA), a private not-for-profit benefits administrator.

- **As an employer, how can I get the new small business tax credit?**

The small business tax credit is available beginning with the 2010 tax year. Businesses with fewer than 25 full-time equivalent employees and average annual wages less than \$50,000 per employee may qualify. To qualify, employers must have a group health plan and must pay at least 50 percent of the premium.

- **What is a health insurance exchange and when is it effective?**

The federal law creates state exchanges for health insurance. Exchanges must be fully implemented by January 1, 2014, and are required to be operational for testing in 2013. The Exchange will function as an entry point for Texas consumers seeking health insurance coverage, although consumers can purchase plans outside of the Exchange. An eligibility process will determine if users are eligible for public programs such as Medicaid and CHIP; exempt from the individual mandate; eligible for premium tax subsidies or cost sharing reductions, or, simply eligible to purchase an Exchange health plan.

- **Links to key resources:**

- TDI web resource page with FAQs: <http://www.tdi.state.tx.us/consumer/cpmhealthcare.html>
- For additional information about Texas insurance options, please visit www.TexasHealthOptions.com
- U.S. Department of Health & Human Services (HHS): www.HealthCare.gov

Federal Health Insurance Reform Update for Texas Insurance Industry

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Table 1

Health plans in existence before March 23, 2010 are eligible for a "grandfathered" status. Plans beginning on or after September 23, 2010 will reflect several market reforms enacted by the PPACA which are intended to protect consumers. Interim final rules issued by the U.S. Department of Health and Human Services on June 17 provide for conditions when grandfathered status is forfeited by health plans.

Applies to Grandfathered Plans

MARKET REFORM	PROVISION SUMMARY	EFFECTIVE DATE
Extension of dependent coverage to age 26	All plans must allow young adults to continue coverage under their parents' health plans until age 26 if not eligible for their own employer health coverage.	Sept. 23, 2010
Prohibit preexisting condition exclusions for children	This provision prohibits pre-existing condition exclusions for children under age 19 for plan years beginning on or after September 23, 2010, and is extended to adults January 1, 2014.	Sept. 23, 2010
Restrict annual dollar limits on health insurance coverage	This restriction is phased in, preventing insurers from capping coverage below \$750K for plans beginning after September 23, 2010, and increasing until January 1, 2014, after which annual coverage limits will be prohibited entirely. <i>*Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs), and Medical Savings Accounts (MSAs) are exempt from this restriction.</i>	Sept. 23, 2010
Ban lifetime coverage limits on health insurance	This applies to all types of plans.	Sept. 23, 2010
Prohibit rescissions of health insurance coverage	Absent intentional fraud or misrepresentation, rescissions are prohibited.	Sept. 23, 2010
Medical loss ratio (MLR) reporting and rebates	For plan years beginning on or after January 1, 2011, insurers must provide an annual rebate to enrollees if their MLR is less than 85 percent in the large group market, or 80 percent in the small group and individual market.	Jan. 1, 2011
Uniform explanation of coverage documents	HHS, with help from the NAIC, to develop a uniform insurance disclosure form that will enable consumers to understand and compare health policies, including their cost-sharing and covered benefits.	March 23, 2011

Note: Shaded items apply to group plans only; individual plans are exempt.

Grandfathered Plans Exempt

MARKET REFORM	PROVISION SUMMARY	EFFECTIVE DATE
Required provision of preventive care services at no cost to enrollees	Health plans must offer a required set of preventive health services to enrollees, waiving any applicable deductibles, co-pays, and co-insurance.	Sept. 23, 2010
Expand access to in-network pediatrician and OB-GYN care without referral	Enrollees can choose any primary care doctor or pediatrician in their plan provider's network, and permit women to seek in-network OB-GYN care without needing a referral.	Sept. 23, 2010
Remove prior-approval requirements for out-of-network emergency care	Plans are required to cover emergency services for emergency medical conditions without prior authorization, regardless of whether the emergency provider is in-network.	Sept. 23, 2010
Strengthened internal and external appeals processes	Health plan enrollees have a right to both internal and external appeals of claim and coverage denials. At a minimum, the external appeals process must comply with the standards in the NAIC model law for external appeals.	Sept. 23, 2010