

# Maryland Health Progress Act of 2013

**Stakeholder Meeting**

**January 28, 2013**

Governor's Office of Health Reform

# Scope of Presentation

- ❑ Review of Senate Bill 274/House Bill 228
- ❑ New federal guidance on application counselors: Request for stakeholder input
- ❑ Explanation of Stakeholder Process
- ❑ Questions

## Maryland Health Progress Act of 2013

- ❑ **Senate Bill 274/House Bill 228** constitutes the last step in the O'Malley-Brown Administration's three-year effort to use the tools of the Affordable Care Act to enhance Marylanders access to quality and affordable health care.
- ❑ Together with companion bill conforming state law to remaining federal consumer protections and market reforms going into effect next year, the bill will ensure that Marylanders reap the full benefits of health care reform and effective implementation of the Affordable Care Act.

## Summary of SB 274/HB 228

- ❑ **Medicaid expansion:** expands eligibility to 133% FPL and to age 26 for individuals who have been in foster care;
- ❑ **Maryland Health Benefit Exchange (MHBE) financing:** establishes MHBE dedicated funding stream from existing premium tax on health insurers;
- ❑ **MHIP enrollees:** provides for gradual migration of Maryland Health Insurance Plan (MHIP) enrollees into MHBE to ease their transition and mitigate potential impact on rates;
- ❑ **State reinsurance program:** allows for development of State reinsurance program to counteract potential short-term pressures on rates;
- ❑ **Continuity of care:** puts in place policies to promote continuity of care for those switching insurance policies and moving in and out of Medicaid and commercial insurance; and
- ❑ **Final federal certification:** makes other changes necessary for MHBE to achieve final certification as a state-based exchange.

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- ❑ Preamble
- ❑ SECTION 1. Medicaid expansion - Health General §15-101
  - ❖ Adults eligible up to 133% of FPL;
  - ❖ Individuals formerly in foster care eligible up to age 26.
- ❑ SECTION 2. Permissible uses of hospital assessment - Health General §19-214(d)
  - ❖ In addition to current permissible uses to supplement Medicaid coverage and fund MHIP, the assessment may be used for a State reinsurance wrap-around program to mitigate the rate impact of high-risk enrollees in the individual insurance market.
- ❑ MHBE exemption from third-party administrator statute - Insurance §8-301
  - ❖ The MHBE and its employees, including those in the Consolidated Services Center, are not considered third-party administrators for purposes of bond requirements and other provisions not applicable to public entities.

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- ❑ **Purpose of MHIP Fund revenue - IN §14-502(d)**
  - ❖ In addition to subsidizing coverage for medically uninsurable, Fund may be used for the State reinsurance program.
  
- ❑ **Gradual transition of MHIP enrollees into MHBE - IN §14-502(f)**
  - ❖ Closed to new enrollees Jan. 1, 2014;
  - ❖ MHIP and MHBE Board will decide when to close MHIP and transition all members to MHBE; and
  - ❖ The date for MHIP closure shall be no earlier than January 1, 2015 and no later than January 1, 2020.
  
- ❑ **Use of MHIP Fund for State reinsurance program - §14-504(d)**
  - ❖ MHIP Administrator shall keep separate account of funds from hospital assessment;

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## □ Use of MHIP Fund (cont.)

- ❖ Beginning 2015 until MHIP closes, MHIP and MHBE Boards shall determine each year the amount of funds needed to meet MHIP obligations and, from any funds remaining, the amount needed for the State reinsurance program; and
- ❖ MHIP Board may direct Administrator to transfer funds to the MHBE fund.

## □ Wrongful insurance act - IN § 27-405(a)

- ❖ Fraudulent act to function or hold oneself out as a SHOP or Individual Exchange navigator without appropriate license or certification.

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- ❑ **Effect of carrier delegation of functions to MHBE - IN §31-103**
  - ❖ Carrier's delegation of premium collections and other activities to MHBE does not:
    - alter carrier's responsibility to comply with consumer protections set forth in Insurance Article; or
    - affect Commissioner's regulatory authority over carrier.
  
- ❑ **Permissible uses of MHBE Fund and MHBE collection of premium payments - IN §31-107 and 107.1**
  - ❖ Funds received from MHIP Fund may be used for State reinsurance program;
  - ❖ MHBE Board shall establish a trust account to hold premiums collected on behalf of carriers; and
  - ❖ Payment of premium to MHBE deemed payment to carrier.

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- ❑ **Dedicated funding stream to finance MHBE - IN §31-107.2**
  - ❖ Annual appropriation sufficient to fund MHBE operations from existing premium tax paid by health insurers;
  - ❖ Appropriation may be used only for MHBE operations; and
  - ❖ Unspent appropriation shall revert to general fund.
  
- ❑ **SHOP Exchange rules for employer premium contributions - IN §31-111(e)**
  - ❖ No employer required to make premium contributions;
  - ❖ Employers choosing to do so may pay a certain percentage or fixed dollar amount of a reference plan premium in manner which does not discriminate against any employee.

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- ❑ **Consolidated Services Center employee functions - IN §31-113.1**
  - ❖ Call center employees may assist the SHOP and Individual Exchanges in providing eligibility, enrollment, and other services of the MHBE;
  - ❖ Employees assisting in QHP enrollment will be required to have SHOP and Individual Exchange enrollment permits; and
  - ❖ Employees will be subject to same training, regulatory oversight, and limitations with respect to the markets outside the MHBE as are SHOP and Individual Exchange navigators.
  
- ❑ **MCOs/carriers permitted to offer plans in Exchange only - §31-115(b)**
  - ❖ Requirement that carriers offer silver and gold plans outside MHBE applicable only to carriers which choose to offer any plans outside the Exchange.

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- ❑ **Plan certification appeals process - IN §31-115(k)**
  - ❖ MHBE has authority to deny, suspend, or revoke plan certification;
  - ❖ MHBE has authority to take other enforcement action for failure to meet plan certification requirements; and
  - ❖ Carriers may appeal MHBE's actions under the Administrative Procedure Act.
  
- ❑ **MHBE authority to establish State reinsurance program - IN §31-117(c)**
  - ❖ MHBE may establish a State reinsurance program and, with the approval of the MHIP Board, may use revenue received from MHIP Fund.
  
- ❑ **SECTION 3. Continuity of care for Marylanders transitioning between insurance policies or between Medicaid and commercial insurance - IN §15-140**
  - ❖ Definitions of acute condition; carrier; enrollee; health benefit plan; health care provider; managed care organization; nonparticipating provider; participating provider; prior authorization; program recipient; provider panel; receiving and relinquishing carrier or managed care organization; and serious chronic condition.

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## □ Continuity of care (cont).

- ❖ Purpose is to promote, beginning in 2015, policies which minimize harmful disruptions in health care when transitioning between and among MCOs and commercial coverage;
- ❖ Carriers and MCOs shall honor prior authorizations for treatment for the lesser of 90 days or the course of treatment with respect to health care services covered by the health plan or MCO;
- ❖ Carriers and MCOs shall, for certain specified conditions, allow nonparticipating providers to continue health care services for the lesser of 90 days or the course of treatment;
- ❖ Conditions are: acute or serious, chronic conditions; pregnancy; mental health conditions and substance use disorders; bone fractures; joint replacements; recent heart attacks and cancer diagnoses; HIV/AIDS; and organ transplants.
- ❖ Except as otherwise provided by law, carriers, MCOs and nonparticipating providers shall agree on the rate and methods of compensation for the health care services;

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## □ Continuity of care (cont).

- ❖ Enrollee's out-of-pocket costs shall be the same as would be incurred with a participating provider;
- ❖ If the nonparticipating provider and the carrier or MCO cannot reach agreement, neither party is required to allow or provide the services;
- ❖ This requirement:
  - is not applicable to services which are not covered by the carrier or MCO;
  - does not preclude a carrier or MCO from providing continuity of care beyond these requirements;
  - is in addition to any other legal, professional, or ethical obligations of a carrier or MCO.
- ❖ The MHBE, MIA, and DHMH shall collect data and submit report and recommendations for any further legislation in 2017.

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## □ SECTION 4. Continuity of care progress report and recommendations

- ❖ It is the intent of the General Assembly that nonparticipating providers and carriers or MCOs are successful in reaching agreement on payment for services to ensure continuity of care without need for further legislative directive; and
- ❖ MHBE, DHMH, and MIA shall conduct study on the efficacy and implementation of the continuity of care requirements and make recommendations on need for any further legislation.

## □ SECTIONS 5-7. Effective dates of the Act

- ❖ Medicaid expansion effective 1/1/14;
- ❖ Continuity of care requirements effective 1/1/15; and
- ❖ All other provisions effective 6/1/13.

## New Federal Guidance on Application Counselors: Request for Stakeholder Input

- ❑ **NPRM's requirement for new consumer assistance category:**
  - ❖ Centers for Medicare and Medicaid Services' (CMS) released a proposed rule (NPRM) on January 14, 2013 which would require MHBE to certify a new category of consumer assistance personnel as "application counselors."
  
- ❑ **Proposed application counselor requirements:**
  - ❖ May assist individuals with eligibility determinations and enrollment;
  - ❖ May have relationships with providers, carriers, and other organizations;
  - ❖ May not receive funding from the Exchange; and
  - ❖ Shall comply with certain conflict-of-interest disclosure requirements.
  
- ❑ **Application counselors under MHBE navigator program:**
  - ❖ Preliminary guidance from CClIO indicates that for the most part, proposed requirements for application counselors may be incorporated into Maryland's existing navigator program.

# New Federal Guidance on Application Counselors: Request for Stakeholder Input

## ❑ **Exception:**

- ❖ MHBE navigators are not permitted to be paid by carriers, so the federal proposal on application counselor raises the question of whether further legislation is needed in Maryland with respect to carriers.

## ❑ **Role of carriers in QHP enrollment:**

- ❖ We believe there is potential value in allowing carriers, in addition to providers and community-based organizations, to enroll individuals in Exchange QHPs.
- ❖ This additional enrollment track would help ensure that fewer people fall through the cracks.
- ❖ It would increase the chances that people currently enrolled in health plans:
  - would be notified that they may be eligible for subsidies in the Exchange; and
  - would receive assistance in determining eligibility and transitioning to an Exchange QHP.

# New Federal Guidance on Application Counselors: Request for Stakeholder Input

## □ Role of carriers in QHP enrollment (cont.):

❖ More generally, it would add to our capacity and boost our success in reaching everyone who may qualify for a federal subsidy or would otherwise benefit from enrolling in an Exchange QHP.

## □ Stakeholder input: In determining how to establish the best path for carriers to perform this role, we seek input on the following questions:

❖ Could carriers fulfill this role through the existing producer authorization program in Sections 31-112 and 113 of the Insurance Article?

➤ Under this model, carriers would use "in-house" brokers who are authorized to sell QHPs in the Exchange.

➤ These authorized brokers would offer assistance to existing plan members to determine eligibility for subsidies and transition to an Exchange QHP if the member so desired.

# New Federal Guidance on Application Counselors: Request for Stakeholder Input

## □ Stakeholder input (cont):

- MHBE is now taking comment on requirements for broker participation in the Maryland Health Connection.
- For the purpose of this request for comment, please discuss whether specific decisions by the MHBE could obviate the need for a separate application counselor program.
- ❖ If Maryland were to establish an application counselor program for carriers:
  - What requirements should apply for training?
  - What oversight mechanisms should be established?
  - What disclosures or other mechanisms should we use to ensure that people understand and can access other options that may be available in the Exchange beyond those that the application counselor, who is employed by the carrier, can offer?

# Stakeholder Process

- ❑ **Comments on NPRM application counselor proposal:**
  - ❖ Due to MHBE by Monday, February 4, 2013
- ❑ **Administration's draft proposal language for application counselor, if needed:**
  - ❖ Monday, February 11, 2013
- ❑ **Tentative date for Senate and House Committee bill hearings:**
  - ❖ Wednesday, February 13, 2013
- ❑ **Stakeholder proposed amendments to original bill:**
  - ❖ Wednesday, February 13, 2013
- ❑ **Stakeholder proposed amendments to Administration's application counselor proposal, if needed:**
  - ❖ Friday, February 15, 2013;
- ❑ **2<sup>nd</sup> Stakeholder meeting to review all amendments submitted by stakeholders:**
  - ❖ Tuesday, February 19, 2013; Joint Hearing Room
- ❑ **Final stakeholder meeting to review Administration's proposed amendment package:**
  - ❖ Thursday, March 7, 2013; Joint Hearing Room



**QUESTIONS?**