Individual Mandate: Amendments to Minimum Creditable Coverage Regulations (VOTE) and Calendar Year 2013 Affordability Schedule (VOTE)

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Recap of Prior Board Meetings on Individual Mandate

- Both federal and state reform require individuals who can afford health insurance to obtain it, but the particular rules associated with each mandate differ
  - This means decisions need to be made about how to fashion a workable approach for the Commonwealth
- The recommendation included here is to maintain a state individual mandate in addition to the federal mandate
  - Under the approach we are proposing, no one will pay aggregated federal and state penalties
- This will preserve core elements of the Massachusetts model that have proved successful in ensuring high value coverage for residents, regardless of the market in which they receive coverage
- Two components of the mandate that are under the regulatory authority of the Health Connector Board which we are addressing today based on this recommendation include:
  - Minimum Creditable Coverage (MCC) Regulations
  - Affordability Schedule

Timeline

2012	2013	2014

Minimum Creditable Coverage Regulations

- ★ **12/13/12**: BoD vote to issue DRAFT amended MCC Regulations
- ▬ Notice and Comment Period
- ★ **1/22/13**: Hold public hearing on possible MCC amendments
- ★ **2/20/13**: Final Rule on Essential Health Benefits Released
- ★ **2/22/13**: Final Rule on Health Insurance Market Reforms
- ★ **3/14/13**: Health Connector BoD Vote on Final MCC Regulations
- ★ **1/1/14**: MCC Regulation changes effective for plan years beginning on or after this date

Affordability Schedule

- ★ **2/14/13**: BoD vote to issue DRAFT Calendar Year 2013 Affordability Schedule
- ▬ Notice and Comment Period
- ★ **3/14/13**: Health Connector BoD Vote on Final CY 2013 Affordability Schedule

Minimum Creditable Coverage (MCC) Regulations

Summary: Initial Proposed Amendments to MCC Regulations

- Maximum Out-of-Pockets (MOOPs)
  - Modification of base amounts to those allowed under Internal Revenue Code for High Deductible Health Plans in 2014
  - Modification to the definition of what costs must count towards MOOP
  - Introduction of indexing of MOOPs (average national premium growth)
- Deductible Limits
  - Modification of limits such that combined deductibles (*e.g.*, medical and prescription drug) may not exceed $2,000 (ind)/$4,000 (fam)
  - Introduction of indexing of deductibles (average national premium growth)
- Catastrophic Health Plans
  - Adding this to the regulations as a plan that meets the state mandate requirement
- Other Clean Up
  - Elimination of moot language (*i.e.*, pertaining to prior time periods)

Summary: Testimony and Public Comments

- Testimony and/or Comments were provided by the following:
  - ACT!! Coalition (ACT!!)
  - Blue Cross Blue Shield of Massachusetts (BCBSMA)
  - Buck Consultants
  - Health Law Advocates (HLA)
  - Massachusetts Association of Health Plans (MAHP)
  - Massachusetts Chiropractic Society (MCS)

Summary: Testimony and Public Comments (cont'd)

Comments received in response to the MOOP changes proposed:

- Some commenters (BCBSMA, MAHP) supported the proposal to adjust the base MOOP amounts in line with federal limits and introduce an indexing mechanism, while others opposed this change (ACT!!, HLA)
  - Health Connector response: We propose maintenance of the initial recommendation with respect to aligning with the federal limits for allowable MOOPs and introducing an indexing mechanism
    - This approach provides employers and issuers modest additional flexibility, and as described below, we are proposing it be coupled with a more comprehensive approach for accounting for out-of-pocket costs
- Several commenters expressed concern with the proposed amendment requiring all cost-sharing for Essential Health Benefits (EHBs) to count toward the MOOP, especially if federal rules do not apply this to grandfathered, large and self-insured plans (BCBSMA, Buck), while other commenters supported this approach (ACT!!, HLA)
  - Health Connector response: We propose maintenance of the initial recommendation requiring all cost-sharing for EHBs to count toward the MOOP
    - The final EHB, Actuarial Value (AV) and Accreditation rule requires plans in all markets, except grandfathered plans, to include these cost-sharing limitations. The MCC Certification process can be employed by grandfathered plan sponsors to seek approval of their plans, if necessary

Summary: Testimony and Public Comments (cont'd)

Comments received in response to the MOOP changes proposed (cont'd):

- Commenters requested the MCC regulations allow separate MOOPs for services which may be administered by separate vendors (*e.g.*, prescription drugs, pediatric dental, if included) to address the operational complexity associated with integrating different claims adjudication systems (BCBSMA, MAHP)
  - Health Connector Response: The Health Connector has introduced some additional language in the proposed regulations that clarifies that separate MOOPs are allowed so long as these do not sum to more than the overall MOOP limit
    - This approach addresses operational concerns of issuers and plan sponsors, while also ensuring that adequate member protections are in place

Summary: Testimony and Public Comments (cont'd)

Comments received in response to the deductible changes proposed:

- Some commenters (BCBSMA, MAHP) supported the proposal to introduce an indexing mechanism on deductible limits, while others opposed this change (ACT!!, HLA)
  - Health Connector response: We propose maintenance of the initial recommendation with respect to aligning with the federal approach for indexing deductible limits
    - This approach provides employers and issuers modest additional flexibility, and is balanced by a more comprehensive approach, as described below, for capping total deductible costs
- One commenter recommended that the regulations be amended to clarify that a separate pediatric dental deductible be allowed (BCBSMA)
  - Health Connector response: The Health Connector has introduced some additional language in the proposed regulations that clarifies that separate deductibles are allowed so long as these do not sum to more than the overall deductible limit
    - This approach provides issuers some plan design flexibility, but is balanced by the requirement that all plan deductibles may not exceed the overall deductible limit. The current regulations would actually allow a plan, in some instances, to have combined deductibles in excess of $2,000 (*i.e.*, a plan with the maximum medical deductible and maximum prescription drug deductible)

Summary: Testimony and Public Comments (cont'd)

Other comments received in response to the proposed amendments:

- Commenters suggested modification to the effective date for the proposed amendments: BCBSMA suggested these be effective for plan or policy years beginning on or after January 1, 2014 and Buck Consultants suggested these not be effective prior to January 1, 2015
  - Health Connector response: The Health Connector has modified the initial proposed amendments such that they would now be effective for plan or policy years beginning on or after January 1, 2014
    - This approach is consistent with the federal approach in terms of the timeline for compliance with the MOOP and deductible related provisions
- HLA recommended that "prenatal and delivery services" be expressly included within the "maternity and newborn" service category listed within the "broad range" of services that must be covered
  - Health Connector response: The Health Connector has introduced this language. Consistent with the comments HLA provided, this language was unintentionally omitted due to a drafting change in the regulation

Summary: Testimony and Public Comments (cont'd)

Other comments received in response to the proposed amendments (cont'd):

- MCS requested language be added to include the principle of non-discrimination explicitly in the MCC Regulations
  - Health Connector response: The Health Connector has introduced some additional language in the proposed regulations indicating that "exclusions and limitations on benefits must be identified in plain language and non-discriminatory in their design and application"
    - The inclusion of this language is intended to provide appropriate protections for consumers and ensure that consumers are able to easily identify benefit limits and exclusions
- MCS requested the Health Connector modify a prior administrative bulletin that offers chiropractic as a service that may be excluded from a plan that would meet MCC requirements. Instead, they suggested the bulletin be revised to describe an excluded procedure, rather than a class of providers
  - Health Connector response: The Health Connector has reviewed the Administrative Bulletin to which this comment is referring and plans to amend the bulletin

Summary: Testimony and Public Comments (cont'd)

Other comments received in response to the proposed amendments (cont'd):

- MAHP recommended inclusion of language deeming a small-group plan that complies with the EHB Benchmark in another state as compliant with MCC standards
  - Health Connector response: The Health Connector does not recommend inclusion of this per se compliance
    - Inclusion of this as a per se compliant plan could undermine the intention of maintaining the MCC regulations to promote high value coverage standards, regardless of the market through which coverage is achieved
    - Given the approach for defining the EHB, the likelihood of an individual in another state's benchmark plan not meeting MCC is small
    - Nonetheless, in those instances where this may occur (*e.g.*, a deductible exceeding the MCC limits), an employer or plan sponsor could rely on the MCC Certification process for approval

Final Proposed Amendments to MCC Regulations

- Health Connector staff have thoughtfully reviewed all public comments and testimony received as well as relevant federal regulations (released after the initial amendments were introduced)
  - Together, these comments and rules have resulted in some modest changes to the proposed amendments presented to the Board in December
- We recommend the following final amendments to the MCC Regulations:
  - MOOPs: Maintain the initial recommendation with respect to aligning with the federal limits for HDHPs, introducing indexing, and requiring all cost-sharing for EHBs to count toward the MOOP
  - MOOPs: Introduce the allowance of separate MOOPs (*e.g.*, medical, prescription drug, pediatric dental) so long as they do not sum to more than the defined overall limit
  - Deductibles: Maintain the initial recommendation with respect to aligning with the federal approach for indexing, while also including additional language allowing separate deductibles (*e.g.*, pediatric dental, prescription drugs) so long as they do not sum to more than the defined overall deductible limit
  - Catastrophic Health Plans: Maintain the initial recommendation with respect to adding these as a plan that meets the state individual mandate requirements

Final Proposed Amendments to MCC Regulations

- We recommend the following final amendments to the MCC Regulations (cont'd):
  - Other "Clean Up": Maintain the initial recommendation with respect to clean up and removal of moot language in the regulations
  - Implementation Timing: Revise initial recommendation from "as of January 1, 2014" to "plan or policy years beginning on or after January 1, 2014"
  - Prenatal care and delivery services: Introduce additional language to clarify that maternity and newborn care, as listed in the section of broad range of services, must include prenatal care and delivery services
  - Plan Limits and Exclusions: Introduce language requiring notice of plan limits or exclusions and the requirement that any such limits or exclusions must be non-discriminatory

Affordability Schedule

Summary: Proposed Calendar Year 2013 Affordability Schedule

- Health Connector staff recommended a "two-step" approach to phase the 8% cap (the federal affordability standard) into the Commonwealth's affordability schedule by 2014
  - This approach maintains the progressivity of the existing schedule, but introduces a 10% cap in CY 2013, and moves to an 8% cap in CY 2014
  - This approach also introduces modest revisions to the existing income cohorts and affordability standards, in some instances, to diminish the likelihood of inconsistencies in the affordability schedule during the transition period

Summary: Proposed Calendar Year 2013 Affordability Schedule (cont'd)

- The methodology and approach for developing the proposed schedule for CY 2013 was as follows:
  - Update of income brackets <300% FPL based on 2013 Federal Poverty Level (FPL) guidelines and Massachusetts Cost of Living Adjustments (COLA)
  - Identification of those circumstances where the affordability standard for the lower bound of an income cohort in our current schedule is more than 8% of income
  - Transition in 2013 to an affordability standard ($ value) that is the midpoint between the current standard and the $ value that would represent 8% in 2014
  - Introduction, in some instances, of new income cohorts in an effort to maintain relative consistency in terms of the affordability standard for a given income cohort (when assessed as a percentage of income)

Summary: Public Comments

- Public Comments were provided by ACT!! Coalition
  - Supported maintenance of a progressive affordability schedule and the introduction of an affordability "cap" (rather than defining insurance as "affordable" for those at and above median income)
  - Agreed that this approach appropriately positions the Health Connector and the Department of Revenue to begin the phase-in to a percentage-based approach to affordability
  - Consistent with prior years, expressed concern that the affordability schedule alone does not sufficiently account for cost-sharing beyond premiums

Recommended Calendar Year 2013 Affordability Schedule

- Health Connector staff recommends adoption of the Affordability Schedule as presented in February, with modest changes to account for MA COLA
  - Incorporation of these changes does not materially impact the schedule in terms of the percentage of income an individual is required to contribute to health insurance
- This is an important step forward in meshing the state and federal mandates and moving toward a percentage-based affordability structure

Recommended Calendar Year 2013 Affordability Schedule (cont'd)

CY 2013 RECOMMENDED AFFORDABILITY SCHEDULE INDIVIDUALS					
Income Bracket			Affordability Standard (Maximum Monthly Premium)	Percentage of Income	
% of FPL	Bottom	Top		Bottom	Top
0 - 100%	$0	$11,496	$0		0.0%
100.1 - 150%	$11,497	$17,244	$0	0.0%	0.0%
150.1 - 200%	$17,245	$22,980	$40	2.8%	2.1%
200.1 - 250%	$22,981	$28,728	$78	4.1%	3.3%
250.1 - 300%	$28,729	$34,476	$118	4.9%	4.1%
300.1 - 350%	$34,477	$40,195	$178	6.2%	5.3%
350.1 - 397%	$40,196	$45,554	$239	7.1%	6.3%
397.1 - 450%	$45,555	$51,639	$331	8.7%	7.7%
450.1 - 490%	$51,640	$56,273	$359	8.3%	7.7%
Above 490%	$56,274		10% of income		

Recommended Calendar Year 2013 Affordability Schedule (cont'd)

CY 2013 RECOMMENDED AFFORDABILITY SCHEDULE COUPLES					
Income Bracket			Affordability Standard (Maximum Monthly Premium)	Percentage of Income	
% of FPL	Bottom	Top		Bottom	Top
0 - 100%	$0	$15,516	$0		0.0%
100.1 - 150%	$15,517	$23,268	$0	0.0%	0.0%
150.1 - 200%	$23,269	$31,020	$80	4.1%	3.1%
200.1 - 250%	$31,021	$38,784	$156	6.0%	4.8%
250.1 - 300%	$38,785	$46,536	$236	7.3%	6.1%
300.1 - 365%	$46,537	$56,656	$319	8.2%	6.8%
365.1 - 435%	$56,657	$67,448	$403	8.5%	7.2%
435.1 - 500%	$67,449	$77,604	$524	9.3%	8.1%
500.1 - 574%	$77,605	$89,032	$598	9.2%	8.1%
Above 574%	$89,033		10% of income		

Recommended Calendar Year 2013 Affordability Schedule (cont'd)

CY 2013 RECOMMENDED AFFORDABILITY SCHEDULE FAMILIES					
Income Bracket			Affordability Standard (Maximum Monthly Premium)	Percentage of Income	
% of FPL	Bottom	Top		Bottom	Top
0 - 100%	$0	$19,536	$0		0.0%
100.1 - 150%	$19,537	$29,304	$0	0.0%	0.0%
150.1 - 200%	$29,305	$39,060	$80	3.3%	2.5%
200.1 - 250%	$39,061	$48,828	$156	4.8%	3.8%
250.1 - 300%	$48,829	$58,596	$236	5.8%	4.8%
300.1 - 398%	$58,597	$75,899	$379	7.8%	6.0%
398.1 - 500%	$75,900	$97,584	$550	8.7%	6.8%
500.1 - 581%	$97,585	$113,443	$756	9.3%	8.0%
581.1 - 611%	$113,444	$119,270	$862	9.1%	8.7%
Above 611%	$119,271		10% of income		

Next Steps

- Request Board vote to approve the final MCC Regulations as proposed
- Request Board vote to approve the final CY 2013 Affordability Schedule as proposed