STATE HEALTH POLICY

Briefing

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Supporting State Policymakers' Implementation of Federal Health Reform

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State Health Policy Briefing provides an overview and analysis of emerging issues and developments in state health policy.

States will have enormous short-term and long-term needs for assistance as they grapple with federal health reform legislation. Significant federal and private resources to support state-level implementation will be necessary. Implementation support must be defined and coordinated quickly. Technical assistance must be provided in a manner that corresponds with state needs. State officials should be involved in the design of technical assistance so that it is most effective given varied state circumstances, needs, and capacities. Technical assistance should inspire innovation among leaders even as it helps all states meet minimum standards of performance.

States will have a significant role in the implementation of federal health reform. How states carry out this role will have a large effect on the ultimate results of reform and whether or not it is viewed as a success. Important aspects of the potential state role have received attention and remain unresolved—in particular the question of whether there will be a national insurance exchange or many state-based exchanges, and whether there will be a national "public option," and, if so, whether states will be permitted to "opt out." Dozens of other state-level responsibilities and opportunities have received less attention.

As federal reform legislation takes its final shape, it is important to consider the types of support states will need to achieve effective implementation. The nature of this support depends upon an analysis of the many roles states will play in implementing reform, the capacity states bring to the endeavor, the efforts they have already made to prepare for reform, and the most effective means for delivering what states need. This brief draws upon NASHP's review of draft legislation, our experience supporting state program development and implementation over the past two decades, and input from leaders in state health policy.

State implementation will take place in the context of extremely strained state budgets which have left many states struggling to keep up with the administrative demands of existing programs and with very limited capacity to take on the new, major challenges associated with implementing comprehensive national health reform. Functions that states might have been able to carry out on their own in the past

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will be challenging in a period of layoffs, furloughs, and rapidly growing caseloads for existing programs. While most people expect the economy to improve before the 2013 and 2014 implementation dates of certain reform provisions, most of the planning and design steps must be taken immediately—while state budget strains are profound.

State implementation also will take place during a period of substantial turnover among governors and their senior staff. A cadre of new state leaders will be confronting many immediate health priorities even as they prepare for longer-term reforms. State leaders will need to develop consensus quickly around issues with strong ideological overtones, including the appropriate role of government in the health care system.

Yet, many states have fully embraced their likely new role and have already put substantial effort and resources into preparing for reform. State leaders, individually and through their various associations, are working hard to shape federal reform to fit their view of what will be most effective in addressing the problems confronting the health system. As with so many matters, state variation in preparation, capacity and circumstances is vast. Any discussion of implementation must take into account this variation and avoid simplistic assumptions regarding state capacity or needs.

We have organized our analysis of state needs into five categories:

- **Information and Analysis**. States will need to know what is required or made possible in the federal legislation and they will need to be kept apprised of federal implementation actions as they occur. They will need analyses of their options and the implications of their choices.
- **Strategic and Implementation Planning**. Each state will need to develop an overall approach to implementing health reform. States will need to dedicate leadership and staff to coordinate the work and define a timeline for their activities. They will need to assess their capacity relative to the tasks they must complete and determine an approach to develop capacity where it is lacking.
- **Topic-Specific Technical Assistance**. States will need to make decisions on a vast array of topics when designing their responses to health reform. States will need technical assistance that includes states sharing their own knowledge and experience and that draws upon external resources to inform their decisions.
- **Communications**. States will need to engage stakeholders in discussions regarding implementation choices and work with them to develop and communicate their decisions to a broad audience. States will also want to engage with the federal government regarding the many policy decisions that will be made at the federal level with significant implications for states.
- **Coordination across Efforts and Integration with Existing Efforts.** Many private and public organizations will be offering states assistance. States will benefit from coordination across these efforts to assure efficient use of their own resources. States also will be looking for ways to align their reform implementation efforts with existing initiatives, rather than starting from scratch.

The following sections consider each of these needs in more detail.

Information and Analysis

States will need specific information as soon as federal legislation reaches its final form. They will need a detailed list and in-depth analyses of legislative provisions that affect states; a clear timeline for implementation of these provisions; and fiscal analysis placed in the context of each state.

Summary of legislative provisions that affect states

States will need a section-by-section analysis of federal legislation that focuses on state roles and responsibilities. While many organizations have prepared summaries of the various legislative proposals, none capture with sufficient detail the implications of proposed legislation on states. This summary will become a critical reference document for all states and should be completed as quickly as possible upon enactment.

Timeline of major deadlines and actions

A companion document to the legislation summary is a timeline showing deadlines for all actions that relate to states. This timeline should include actions that must be taken by states as well as a timeline of actions by others with a direct effect on state programs and roles. This timeline will be an important resource for setting priorities as states craft their individual implementation plans.

Fiscal analysis

Many states have been conducting fiscal analyses during the health care debate to inform their negotiating position relative to various provisions—especially Medicaid financing. Once legislation is enacted, these analyses will need to be refined and completed for all states. The timing of this work will be critical because most states are about to begin their budget preparation for State Fiscal Year 2011.

Strategic and Implementation Planning

Each state will need to adopt its own strategic plan for implementation. The plan needs to address governance, include a needs assessment, and result in an implementation workplan.

Governance

The demands on states due to health reform will ripple through state government. The obvious effects will be greatest in umbrella health agencies or authorities, Medicaid agencies, and departments of insurance, but departments of public health, revenue, administration or personnel, and others will also be affected. In addition, if responsibility for establishing exchanges or connectors falls to states, the lead agency for that activity within state government is not obvious.

States will need to make a series of governance decisions regarding who within state government will lead and coordinate the many efforts necessary to implement health reform. These decisions may include reorganization of agencies, temporary assignment of tasks to "czars," and creation of new entities. These decisions will have implications for all aspects of implementation.

Implementing reform also almost certainly will require adoption of conforming legislation at the state level. States vary tremendously in the degree of specificity that is typical in legislation and the degree of authority delegated to the executive branch. States also vary in the length, timing, and frequency of their legislative sessions. There may be disagreement between state executive and legislative branches about how to implement federal legislation.

Capacity and needs assessment

States will need to assess their own capacity (administrative, technical, and fiscal) and compare that capacity to a structured analysis of the resources needed to implement components of reform. Only a few states have comprehensive health planning systems in place that could play a role in this assessment; many more conduct targeted analyses associated with specific programs or populations—analyses that could be woven together into a more comprehensive process. Some states have substantial planning capacity within state government; some states have organizations within the state, such as universities or state-based health institutes, that have such capacity; and other states have very limited capacity to analyze the various issues they will be required to address.

Work plan development

States will want to develop a high-level work plan for the components of reform they will need to complete over the coming years. The work plan will designate the lead and participating parties responsible for each action and define the resources available to conduct the work. The work plan should include a timeline that includes a "critical path" analysis to assure that activities are ordered to achieve all essential outcomes within the specified time.

Topic-Specific Technical Assistance

The most resource-intensive aspect of supporting state implementation will be the ongoing investment in state design and implementation of a broad range of policies that states will be required to address over the coming years. There are dozens of specific components that will require state attention. Within each component there might be a number of subcomponents, each requiring a unique approach and different expertise and actors.

Technical assistance topics

What follows is a preliminary list of the sorts of issues states will need to include in their implementation plans, for which technical assistance could be quite helpful.

- **Eligibility for and enrollment in Medicaid**. Reform legislation anticipates significant increases in Medicaid eligibility, necessitating systems changes to support this growth and a major effort to find and enroll this new group.
- **Eligibility for and administering subsidies for health insurance**. States are likely to play a major role in determining eligibility for subsidies and will need to determine how this function integrates with existing Medicaid eligibility systems and new federal eligibility systems.
- **Modifying state insurance regulations**. New federal provisions regarding insurance rating practices and benefit design will need to be integrated with existing oversight standards states already use to regulate insurance companies. States may have new opportunities to enter into interstate compacts for regulation and they will need to understand the implications of these provisions.
- **Establishing exchanges**. Whether states have primary responsibility for this function or have the choice of creating their own exchanges or partnering with other states, states will confront major design issues such as how to negotiate with health plans and how to present information to consumers in the most useable format.
- **Children's Health Insurance Program (CHIP) transition**. Whether the CHIP program remains in place or becomes integrated with plans offered through the exchange, states will need to determine what changes they need to make in their CHIP programs to conform with the federal reforms. States will be paying particular attention to how they can protect the gains they have made in children's coverage and maintain the existing focus on assuring that coverage terms meet the particular developmental needs of children.
- **Models for handling insurance risk**. Whether through new high-risk pools, risk adjustment mechanisms across plans within the exchange, or entering into shared risk models for provider-based networks that cannot bear full insurance risk, states will need to explore alternative mechanisms for sharing and allocating risk within the health insurance system.
- **State basic health plans**. The Senate is considering legislation that would allow states to design and operate their own basic health plans as an alternative to the exchange for certain populations. States will need to consider how such a provision would function and whether or not they want to elect this option.
- **Benefit design changes**. States will need to consider whether federal reform changes the benefits in their existing programs and if they must provide some populations with services through a combination of exchange-based plans and additional benefits that wrap around private health insurance.
- **Public employees**. As entities with a large number of active and retired employees, states will need to grapple with the same set of implementation issues as other large employers.
- **Opportunities for quality improvement**. Reform legislation anticipates a broad array of demonstrations and initiatives to promote a better organized health system. States will be interested in engaging with these opportunities and integrating them into their own efforts regarding patient centered medical homes, payment reform, chronic disease management, preventing avoidable hospital readmissions, and related innovations.
- **Care for complex, high-cost populations**. Whether through a new office of dual eligibles, the expanded Money Follows the Person demonstration, or long-term care provisions of the CLASS Act, there are opportunities in health reform to improve care for complex populations and states will need to design programs that fit the direction of these efforts.

- **Health care workforce and provider capacity**. Through licensure, training, and payment policies, states play a major role in determining health provider capacity. States will need to reconsider their workforce needs in light of health reform (for example, the expected increased need for primary care providers) and align their workforce policies with the future needs of the population and new opportunities to increase the capacity of the health care workforce.
- **Public health, wellness, and prevention**. Reform legislation includes a number of public health measures that states will want to integrate with their ongoing work to promote the health of their population.
- **The legal context**. Federal reform will likely affect the domains of medical malpractice, fraud detection, and privacy of information. These are areas of traditional state activity that will need to align with federal efforts.
- **Data collection and analysis**. States will be expected to collect a large amount of new data and will need assistance determining their obligations and how to carry out this task in the context of their current systems.

What is technical assistance?

Effective technical assistance starts with the perspective of the recipient, asking "What do states need?" not "What can I give states?" Technical assistance engages the expertise of the recipient; it is active, not passive. While advocates and partisans will offer states their views of how they should act, effective technical assistance is credible within state government without regard to the political or ideological views of a particular administration.

Effective technical assistance involves the following steps:

- Analysis of the issue and development of model approaches
- Creation of one or more communities of practice that can support model development and peer-to-peer learning
- Convening the community of practice (in person and virtually)
- Providing direct one-on-one support of members of the community through expert assistance
- Development of written and web-based products to support the community
- Dissemination of products that draw lessons other states can use
- Bringing the lessons learned by states to the federal level to inform ongoing federal policy development and implementation choices
- Support of a "spread" strategy that facilitates action by additional states
- An evaluation component that is built in from the beginning and is used to refine decisions along the way as well as determine their effects after the fact

These activities can be scaled to available resources, but the most robust (and successful) approaches have employed all of them. Developing and funding this level of support on the broad range of issues states will face is a daunting task. However, it is critical for the overall health reform endeavor.

Opportunities for a regional approach

Some state-level support will best be provided on a regional basis. There are a number of reasons for this.

- The federal legislation will likely provide some opportunities for regional approaches—particularly with regard to exchanges. Regional discussions can facilitate this option or at least provide a forum for exploring it.
- A number of regional efforts are already underway that could provide a platform for future work. One example is the New England Collaborative, in which five states are working together and with the federal government on payment reform.
- Limited resources call for regional analysis and approaches. The sheer number of tasks states will be required to perform may be out of reach for some states; a multi-state approach offers a way out.
- States have expressed concerns regarding competing against each other for procurement of systems that are only supplied by a limited number of vendors. Regionalization can be a source of efficiency.
- Markets and delivery systems vary substantially across the country. Regional patterns exist on matters such as Medicaid eligibility levels, penetration of managed care, health system costs, and utilization patterns. These

patterns suggest commonalities within regions that can be a source of learning and improvement.

- The U.S. Department of Health and Human Services operates with a regional structure. Some aspects of federal oversight of states in the implementation of health reform will likely be carried out by the regional offices.

Communications

State communication needs will include engaging a broad range of stakeholders such as consumers, the health care sector, the business community, patient advocates, and others. Communication will need to be in both directions: gaining meaningful input from this diverse group and assuring timely flow of information to them. While states have a broad range of mechanisms for gaining public input—public hearings, formal rule-making processes, input through elected officials—most do not have the infrastructure to support a communication endeavor of this scale and importance to such a broad set of interest groups as well as the entire public.

Effective health reform implementation will depend upon consistent communication between states and the federal government. States must be viewed as partners in implementation with the federal government; this sort of partnership was a key contributor to the successful implementation of the Children's Health Insurance Program. It appears that health reform will leave a tremendous amount of discretion to the federal executive branch, and include agencies within the Departments of Labor, Health and Human Services, the Treasury and the Social Services Administration. State officials will want to communicate regularly with federal agencies in order to inform federal agency policy that will be defined by regulations and other policy guidance. States will want to help shape the many options they will be presented with, including state plan options, new waiver authority, and grant opportunities. Sometimes states will be able to speak with a unified voice while other times individual states will need to voice their unique concerns.

Coordination across Efforts and Integration with Existing Efforts

States will be looking for two kinds of coordination in relation to support initiatives: coordination of implementation support with their ongoing efforts, and coordination of implementation support across those seeking to provide that support.

Integration with existing efforts

Many of the issues states will be expected to address in health reform are the subject of current state initiatives designed to improve the health care system. It is neither efficient nor effective to dismantle existing initiatives and replace them with new ones designed to fit into a federal framework. Indeed, much of what states have learned in their current reform efforts will increase the odds of success for federal reform.

Therefore, existing state-based reform activities should be harnessed for their ability to accelerate the implementation of federal reform. Such activities include:

- State-based health reform. More than a dozen states currently have comprehensive waivers from HHS that fundamentally alter the nature of their Medicaid programs. All of these states will have at least one waiver renewal prior to the major state deadlines in federal reform. The waiver renewal offers an excellent opportunity to move these states on a path toward the program design they will need under federal health reform. Additionally, states that operate significant coverage programs outside of Medicaid and CHIP have learned important lessons that can also contribute to the design of a reformed health system.
- State Health Access Program. Thirteen states recently were selected to receive grants through the Health Resources and Services Administration to work on initiatives to expand coverage and improve enrollment and retention. These coverage-related activities form an important potential base for broader transformation toward a reformed system.
- Health Information Technology initiatives. With the significant increase in federal resources provided in the American Recovery and Reinvestment Act, states are building the health information infrastructure for the nation. Activity in this area is exciting, but the work is far from done. This massive endeavor must be integrated into the health reform agenda if we are to achieve the improvements in efficiency, care delivery, and coordination that are possible and anticipated by reform. If the HIT and health reform agendas are pursued independently, the lost opportunity will be tremendous and difficult to reverse.
- Computer infrastructure initiatives. Many states are in the midst of efforts to upgrade their eligibility

systems from legacy systems with limited capability to newer systems that are more flexible and that permit the integration of enrollment and medical claims data. Federal reform anticipates significant changes in Medicaid eligibility and a large increase in the number of Americans who will interact with some agency to determine either their eligibility for Medicaid or a financial subsidy to purchase health insurance. This level of growth simply cannot be added on top of existing welfare-based eligibility systems. Existing efforts need to be coordinated with a new, national initiative to upgrade these systems if states are to have the capacity to perform the new functions demanded by health reform.

- Existing federal planning initiatives. A number of federal grant programs require states to develop implementation plans and coordinate across agencies. For example, in order to receive funding under Title V of the Social Security Act, states must every five years prepare a needs assessment addressing services for pregnant women, mothers, children, and children with special health care needs.
- Quality, payment and data initiatives. Across the country, states are engaged in efforts to improve health care quality, redesign payment methods to reward quality and outcomes, and collect and report cost and quality data. These initiatives are often joint public-private initiatives. Some are supported by federal agencies; some by private foundations; some by local leaders. These initiatives will become even more important in a health reform environment.

Coordinating sources of support

The work described in this brief is a vast undertaking. While some support for implementing health reform provisions will come from the federal government, it is unlikely that the level of support will be all that is needed. Many private foundations also see this work as a priority and have already made significant investments in the sort of work described here.

This long list of work and potential actors lends itself to a division of labor—at the support level and at the state level. Those with the resources to provide support will need to work with other organizations to coordinate their efforts—otherwise states will be buried in offers of assistance that they cannot use. States will need to be given a strong voice in setting the priorities for assistance—in the topics to be covered and the form in which the assistance is delivered.

Many organizations are already supporting states and are poised to continue to do so. Associations, private consulting groups, research institutions, and others are gearing up for the task. While complete coordination across these groups is neither realistic nor entirely desirable, some degree of coordination is critical. Ideally, some entity (possibly designated by the federal government) would coordinate a process that set priorities for support based on the complexity of each issue, the importance of the issue to the overall success of reform, and the timing of when the issue needs to be resolved. Again, ideally, states would be presented with a reasonably coherent menu of technical assistance opportunities and they would select those of greatest interest and importance to them given their resources.

States also would benefit from coordination of research on the effects of health reform. States will be unable to handle myriad, uncoordinated requests that they complete surveys on their program design or provide population-level data on coverage and utilization. Coordination efforts such as took place in the wake of health reform in Massachusetts or welfare reform in Wisconsin will be necessary. As research results emerge, states would benefit from coordinated efforts to synthesize the research and draw implications for mid-course corrections that states can make.

Conclusion

States will have enormous short-term and long-term needs for assistance as they grapple with federal health reform legislation. The current resources provided to organizations that have worked in different capacities with states are not sufficient to meet the likely demand, urgency, and scope of work of federal health reform. The federal government has yet to define its role in supporting state implementation.

We reach the following conclusions:

- The implementation issues states will confront include some that all states will face and some that are more regional or local in nature. This suggests a variety of forms of implementation support. Significant federal resources to support state-level implementation will be necessary. But private sources—especially state, regional, and national health-oriented foundations—will also be necessary to achieve effective implementation.

- Implementation support must be defined and coordinated quickly. States will need to move quickly to meet their implementation deadlines; support for state efforts must move with similar speed.
- Technical assistance must be provided in a manner that corresponds with state needs. State officials should be involved in the design and selection of technical assistance so that it is most effective given varied state circumstances, needs, and capacities. Technical assistance should inspire innovation among leaders even as it helps all states meet minimum standards of performance.

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