

Utah Legislative Update: October 2015

Insight — October 6, 2015

Will There Be a Special Session & Medicaid Expansion?

The Utah Legislature ended the 2015 Session in March at a stalemate concerning how to address the Medicaid expansion options available under the Affordable Care Act (ACA). The Governor and Senate preferred SB 164 (Healthy Utah) and the House preferred HB 446 (Utah Cares). A “Gang of 6” was formed to work on a compromise bill (The Gang of 6 consists of: Governor Herbert, Lt. Governor Cox, President Niederhauser, Speaker Hughes, Rep. Dunnigan, and Sen. Shiozawa).

Time and space after the whirlwind of the session allowed some relationship repair among the political players and the U.S. Supreme Court's *King v. Burwell* decision about subsidies for health insurance premiums on the exchanges provided additional legal certainty. This decision also provided valuable feedback on costs experienced by other states, given that each Medicaid waiver plan has resulted in different costs and coverage outcomes.

In mid-July, the Gang of 6 announced they had reached an agreement on a framework for a solution. The framework outlined:

- Coverage would extend to 138% of federal poverty level (FPL) utilizing the greatest return of Utah taxpayer dollars through the ACA (90/10 cost sharing vs. 70/30 cost sharing).
- Protections for the state from cost overruns through a formulaic funding model allowing providers and benefactors of Medicaid dollars to pay their share.
- A financially sustainable Medicaid plan for the long-term (meaning a “glide path” to end, or transition the waiver if federal funds ever dried up).

Throughout the summer, Governor Herbert promised a Special Session for Medicaid expansion and he identified late October as the proposed date. The Gang of 6 finally unveiled the new compromise plan, dubbed UtahAccess+, to legislators in closed caucus meetings on September 29, 2015. The plan is very similar to the Healthy Utah plan with a few minor tweaks. The highlights include:

- Coverage for low income Utahns up to 138% of FPL (\$33,465 for a family of four).
- Approximately 126,500 Utahns would receive coverage under UtahAccess+

- 32,000 adults from 100-138% of FPL
- 63,000 adults below 100% of FPL
- 31,500 “woodwork effect” children and adults
- It is estimated that 78% of the expansion population would receive premium assistance to join employer-sponsored plans or to purchase private commercial plans on the exchange.
 - Healthcare providers would receive commercial reimbursement rates for these patients.
 - Individuals between 100-138% of FPL would be required to share in premium contributions, deductibles, and co-pays.
- Individuals meeting the definition of “medically frail” would receive traditional Medicaid coverage.

If a Medicaid waiver is approved for UtahAccess+, which seems likely given the assurances received by Governor Herbert from Secretary Burwell for the Healthy Utah plan, it is expected to cost the State of Utah \$78 million dollars to implement. The Gang of 6 has declared that each provider class which benefits from Medicaid expansion is expected to help defray the state's costs through a proportional assessment related to expected provider benefit. This is a point that Speaker Hughes and Rep. Dunnigan have insisted on, that these funds will be generated through a variety of new assessments, licensing increases, premium taxes, and in some cases a gross receipts tax that will be deposited into a restricted Medicaid Expansion account. These assessments, licensing fees, and taxes would begin in 2017. The Medicaid Inspector General for Utah will be responsible for adjusting rates to “true-up” collections based on the prior year's experience. The Medicaid Inspector General is also charged with assuring that the providers do not pass-on the assessments to customers.

This new plan already faces opposition from many provider groups and popular opinion around the statehouse indicates the measure is short the necessary votes to pass in the Utah House. It will receive its first, and possibly only, public hearing on October 6th, in the Health Reform Task Force before returning to closed caucus meetings on October 13th, for a final vote. Speaker Hughes has said he will insist on the “Hastert Rule” which requires 38 of the 63 House Republicans to vote to support the plan in the closed caucus. The outcome of these two events will determine whether Governor Herbert decides to move forward with a Special Session, or if this marks the end of Medicaid Expansion in Utah.

Stay tuned for more updates. Events will move quickly this month.

An Attack on Licensing

At the September 2015 meeting of the Occupational and Professional Licensure Review Committee, Rep. Brian Greene (R-Pleasant Grove) discussed his proposal to review every professional license issued in Utah and consider whether licensing was necessary or should instead be replaced with registration or certification. You can listen to the committee hearing and see the model bill here:

<http://le.utah.gov/asp/interim/Commit.asp?year=2015&com=SPEOPL>.

It appears that Rep. Greene's proposal is drawn from a model bill presented at the American Legislative Exchange Council (ALEC) that has the backing of the Americans for Prosperity and the Libertas Institute. This effort, and the bill file Rep. Greene is rumored to already have opened, could impact every licensed profession in the state of Utah. Questions about consumer safety, license reciprocity with other states, and anti-competitive behaviors abound.

No September Interim. Legislators Go Road Trip'n to Southeastern Utah

Instead of the usual interim meetings on the third week of the month, the Legislature decided to take the show on the road with a 2-day road trip to Southeastern Utah to explore rural educational, energy, and tourism issues.

Prior to the recession, a field trip away from the capitol used to be an annual occurrence to help legislators understand issues taking place outside their districts. This year's trip likely marks a return to the annual tradition as the economy continues to improve.

October and November interim hearings will be the final chance for fast-track legislation and study items to be reviewed. Expect the fall agendas to be packed with important session preparation issues as we enter the final quarter before the start of the 2016 General Session in January.

Utah Ends Budget Year With Small Surplus

The State of Utah ended its fiscal year June 30th and the initial budget reports show that Utah finished the year with a \$95 million surplus. Some portion of those funds will automatically roll into the Rainy Day Fund, but some will roll forward as one-time money available for appropriation in the 2016 General Session. The first set of consensus revenue projections that will shape the 2016 budget process will be released later in October. These projections are always important guideposts that predict whether various tax increases or cuts may be on the horizon. In addition, organizations seeking an appropriation will be able to gauge what funds are available in the general fund and education fund budgets.

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