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Commissioners OK health rate plan

By: Sarah Kliff
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It was a rare moment in the drawn out and highly partisan health care debate: a unanimous vote.

The National Association of Insurance Commissioners approved Tuesday morning a preliminary outline of what insurers will be able to count as medical costs, a document necessitated by the health reform bill's requirement that insurers spend at least 85 percent of subscriber premiums on medical costs in the large group market and 80 percent for small group and individual plans.

Despite divided political views on the health reform law, all commissioners voted together to approve the document, a move forward that drew the ire of insurers.

"It's extremely noteworthy that you heard … very diverse perspectives on the bill and the impact of the bill, but the vote was unanimous," NAIC CEO Terri Vaughan told POLITICO after the vote. "That's a very powerful statement on the hard work this organization did."

The commissioners moved forward with a proposed "blank," NAIC terminology for an insurers' filing document, as well as 10 of 11 **proposed amendments**. They approved amendments that narrow inclusions of utilization review in the calculation and expand the definition of "wellness and health promotion activities" to include "public health marketing campaigns that are performed in conjunction with state or local health departments."

The one rejected amendment would have allowed insurers to count accreditation fees as a "quality improvement" cost, thus making it a part of medical spending.

While insurance commissioners moved forward unanimously, familiar fault lines emerged between consumer advocates and industry over the document and how it categorizes medical spending.

"In general, we are very pleased," said NAIC consumer advocate Timothy Jost, a professor of health policy at Washington & Lee University. "The process has been very open and participatory. We feel like our concerns have been listened to."

America's Health Insurance Plans, the trade organization that represents health insurers, was unenthused about the document and warned of dire consequences. AHIP circulated a **letter** detailing its concerns with what will be counted as a quality improvement, urging that spending on complying with new "ICD-10" coding requirements, which require upgrading systems tailored to ICD-9 specifications, and anti-fraud efforts ought to make the cut.

"The NAIC is conducting a transparent and thorough process as it develops the [medical loss ratio] MLR definition, but the current proposal could have the unintended consequence of turning back the clock on efforts to improve patient safety, enhance the quality of care and fight fraud," AHIP president Karen Ignagni said in a statement. "Preserving patients' access to high-quality health care services is essential if the key goals of health care reform are to be achieved."

Even among NAIC officials, the Tuesday vote was not without heated health reform commentary. Connecticut Insurance Commissioner Thomas Sullivan took to the microphone to criticize health reform as a "potentially leaving states and tax payers with an enormous unfunded liability."

But Sullivan still supported the MLR filing form. "Right now, I think this is important," he said after the vote. "The deliberations before this body were very thoughtful," he added, cautioning that how the Department of Health and Human Services interprets the document remains to be seen.

The MLR blank is the first of many NAIC collaborations with HHS.

"There's a lot of heavy lifting," NAIC president Jane Cline told POLITICO. "We have a lot of work to be doing over the course of the next several years. This was our first full meeting as an entire organization since the actual health care legislation passed, and we have a lot of work ahead of us."

The vote still leaves unresolved many contentious issues in MLR regulation, chief among them how federal taxes will be factored into the calculation. Excluding more taxes from the calculation would make overall spending smaller, thus helping increase the percentage of spending on medical costs.

While insurers have pushed for nearly all taxes to be excluded from the calculation, congressional Democratic chairmen argued, via a letter last week, that only taxes incurred directly from the legislation ought to be exempt.

Another NAIC subgroup continues to work on MLR methodology and is aiming to have the federal taxes issue settled by the end of the summer. White they have not taken any official stance on the issue, multiple NAIC officials and commissioners have indicated displeasure with the Democrats' letter.

"Unfortunately you can't establish congressional intent after the fact. We see this as a comment from the Hill," NAIC health policy manager Brian Webb told reporters earlier this week.

Commissioner Sullivan was more blunt: "If they want to change the federal taxes provision, they would have to rewrite the law. A plain reading of that language says taxes are to be treated as we've addressed them."

The vote came at the end of the NAIC's annual meeting, which began last Thursday. The meetings heavily focused on health reform, with 14 working groups within the NAIC created specifically to focus on implementation.