

AS GOES MAINE? THE DIRIGO HEALTH INSURANCE PLAN

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Based on information from the Office of Maine's Governor, John Baldacci, in the past 10 years Maine's health care costs have more than doubled, from \$3.7 billion in 1994 to an estimated \$7.7 billion in 2004. Costs have increased much faster than personal income has grown. As a result, Maine is the fifth highest state in health care spending as a percentage of income.¹ Against this background, in the summer of 2003 the Maine Legislature enacted An Act to Provide Affordable Health Insurance to Small Businesses and Individuals and to Control Health Care Costs.² Commonly referred to as the "Dirigo Health Reform Act," this ambitious law, proposed by Governor John Baldacci, is a comprehensive, system-wide health strategy to improve Maine's health care system and includes three inter-related approaches: a new health insurance product ("DirigoChoice") to achieve universal access to health coverage; new and improved systems to control health care costs; and initiatives to ensure the highest quality of care statewide.³ According to the Governor's Office of Health Policy and Finance, the lead agency overseeing the roll-out of the plan, Dirigo is predicated on the belief that health care reform cannot be done piecemeal and therefore must address all of these three fundamental points.⁴

Expanding access to health care through a voluntary, market-based program including a new DirigoChoice insurance product raises several serious questions that form the central focus of this article. The innovative and controversial initiatives in the Dirigo plan to control health care costs⁵ and ensure the highest quality of care⁶ raise many interesting questions of public policy that are beyond the scope of this article except to the extent that they inter-relate with an analysis of the new DirigoChoice product.

To assess the chances of success for this ambitious plan and its potential impact on the commercial health insurance market in Maine, it is useful to start with a brief summary of insurance product that has been created under the Dirigo legislation and then review the reaction to date from the business, insurance, employer and provider communities as this product is rolled out this fall.⁷

The DirigoChoice Health Insurance Product

In brief, DirigoChoice is designed to help small businesses and employers with fewer than 50 employees, the self-employed and individuals afford health coverage. The state went out with a public bidding process to select a health insurer to offer the Dirigo product. Only Anthem, by far Maine's largest health insurer, submitted a bid. Pursuant to state directives in the legislation and in the bid requirements,⁸ the Dirigo insurance product offers enhanced benefits such as wellness/preventive care, mental health and smoking cessation services and several others, with rates calculated under a complicated amalgam of premium costs, state-funded subsidies, mandated employer contributions and sliding scale deductibles.⁹ Specifically, the plan mandates that if savings are realized through a reduction in bad debt and charity care, health insurers will be required to make "savings offset payments" in the form of premium taxes, which would be used to subsidize the cost of Dirigo premiums in the future.¹⁰

The Plan also mandates minimum contribution levels of up to sixty per cent (60%) to be paid by employers for the cost of coverage,¹¹ and that at least seventy five per cent (75%) of the employees of a participating employer that work 30 hours or less and who don't have other creditable coverage must be included in the DirigoChoice coverage.¹² The law also tightens requirements for rate filings in the small group market and requires any carrier adjusting its rate to account for any savings offset payment or recovery in its loss experience.¹³

Preliminary Reaction from the Business and Employer Communities

With enrollment underway since October of this year, the state has been taking its DirigoChoice product around the state to educate small business owners about the benefits of the Dirigo plan. Benefits will not take effect until January 1, 2005, about the same time as the Anthem-Wellpoint merger is expected to be

completed. Statewide business groups including the Maine State Chamber of Commerce, the National Federation of Independent Business (“NFIB”) and the Maine Merchants Association have been closely watching the rollout of the Dirigo plan. These groups have offered insights into how businesses and employers in Maine are reacting so far to the product being offered under Dirigo, and what it means for the future of the health care delivery and insurance systems in Maine.

The Maine Chamber of Commerce

The Maine State Chamber of Commerce has over 5,000 members, ranging from small to large businesses distributed throughout the state. Members are surveyed every two years and health care and tax policy are now far and away the top issues of concern.¹⁴ This large business and employer group, which includes insurance companies and agencies in its membership, believes that the Baldacci Administration should be given top marks for its leadership, effort and interest in trying to understand and address the complex challenge of improving the access to and the cost and quality of health care in Maine.

The National Federation of Independent Business

The NFIB is Maine’s largest small business advocacy organization, as well as the nation’s largest small business group.¹⁵ Over 5,000 small businesses are members in Maine, mostly in the construction, retail and service sectors. Members determine policy positions by direct ballot and were surveyed last year on the Dirigo plan.

A Critical Chapter About to be Written - Three Fundamental Questions

Based upon views obtained from these business groups and supported by an analysis of the Dirigo law and the health insurance product it created, it is fair to say that a “critical chapter” is about to be written, and that there are three fundamental questions that must be answered in the coming months in order to determine how well the Dirigo plan is working. First, will DirigoChoice succeed in the marketplace? Second, will any real savings be realized from DirigoChoice, and if so will they result from a reduction in bad debt and charity care as predicted and how can those savings be verified? Third and perhaps most important, will the DirigoChoice product and the overall Dirigo plan contain health care costs or not?

It is too soon to tell what the answers will be. By the end of the first quarter of 2005, when enrollment data and associated trends will become available, we will be in a much better position to begin to assess the overall impact of the Dirigo plan. Data on the cost of care and any savings to be realized from a reduction in bad debt and charity care will take longer to develop and analyze. Nonetheless the business community seems to agree on some areas of concern on these three questions as the DirigoChoice product goes “on-line” with consumers in Maine.

Will Dirigo succeed in the marketplace?

While the Dirigo plan offers enhanced benefits, it has been observed that the small business community may be disappointed because the projected rates appear to be comparable to those already in the private commercial market, and not substantially lower as many had hoped during the intense negotiation that led to enactment of the Dirigo legislation.¹⁶

Moreover, the Dirigo legislation contains significant mandates on employers’ contributions to premiums for part-time and full-time employees. This removes flexibility currently available under private plans and may present a significant hurdle for many small business owners who are struggling to afford premiums even without these mandates.¹⁷

The fundamental question in this regard is who will sign up for the DirigoChoice product and where will they come from? Will they be the uninsured or the currently insured or underinsured from a private plan?

Can real savings due to a reduction in bad debt and charity care be verified?

The Dirigo plan permits the state to impose a tax on private insurers when certain targets are met from bringing down the amount of bad debt and charity care in Maine. These premium taxes, also known as “savings offset payments” under Dirigo, would be used to subsidize the costs of the Dirigo product. It remains to be seen if these savings can be verified by the state’s Bureau of Insurance to be sure they in fact result from a lowering of bad debt and charity care, and that the “savings offset payment” is justified.¹⁸ There is understandable concern that applying this tax could displace from the roles of private insurers those already insured, and could result in less choice for health insurance products for small business.

Will Dirigo contain health care costs?

There has been some praise for the Dirigo plan as a “wonderful approach.” In other corners the Dirigo plan, particularly the savings offset payments/premium tax and associated heightened regulation of the small group market, has been portrayed as the “scaffold” for “hanging” the commercial health insurance market in Maine. Either way, in the end many will ask whether this plan is containing health costs or not. For large and small businesses, and most consumers of health care services, access and quality are very important, but ultimately cost is a key factor in judging success in healthcare reform at this time. One can ask whether this plan will work in the marketplace, and if not, can it be adjusted to make it work. Many do not see this as a program that can be absorbed and run by the state government and hope a “marketplace” solution can be found.

A Step Closer to a Single Payor System?

Additional concerns about the potential impact of the Dirigo plan have been expressed. If small businesses and their employees are drawn away from existing private plans either due to enhanced coverage features or state subsidies through the imposition of a premium tax on private insurers, this trend could further reduce or even “implode” the existing private health insurance market in Maine. A severe reduction or elimination of the private health insurance market in Maine could be a big step down the road toward a “single payor” system, which in turn could lead to even greater pressure on providers from the state to control the price of providing care.¹⁹

In Latin, “Dirigo” means “I lead,” and it is the state motto for Maine and appears on the state seal and state flag. Maine’s health insurance market has already been reduced to only one commercial company with significant market share, with Medicaid and Medicare accounting for the vast majority of the remaining covered population. How Maine’s experiment with the Dirigo health plan will turn out is still uncertain, and as the results of the upcoming Presidential election become known, we will learn the extent to which this plan will become a model for other states.

¹ Information released by the Governor’s Office of Health Policy and Finance, 2004. For additional background and other links concerning information obtained from this office and used in this article, go to <http://www.dirigohealth.maine.gov/>.

² 2003 Public Law Chapter 469. This comprehensive legislation amended four different titles of the Maine Revised Statutes, with major revisions to the Maine Insurance Code, Title 24-A, and the statutes regulating public health and welfare, Title 22.

³ Information obtained from the Governor’s Office of Health Policy and Finance.

⁴ Many agencies of state government have responsibility for administering parts of the Dirigo Health Plan. Because it addresses the systems of health care delivery and finance, its administration is multi-faceted. The Bureau of Insurance, the Department of Health and Human Services, and the newly created Dirigo Health Agency share responsibilities with the Governor’s Office of Health Policy and Finance. That office will coordinate implementation of the Dirigo Health Plan across all state agencies. The Dirigo Health Agency is an independent agency with a Board of Directors nominated by the Governor. This agency will administer the the Dirigo Health Plan and will establish the Maine Health Quality Forum. See 24-A M.R.S.A. § 6904 (creating Board of Directors of Dirigo Health).

⁵ The Dirigo plan proposes to lower health care costs by working closely with Maine’s hospitals, doctors, patients’ advocates, businesses and insurance companies to control rising health care costs through

voluntary limits on costs and margins, limiting capital investment and strengthening the certificate of need law. See 2003 Public Law Chapter 469, Sections F-1 (Voluntary Cost Restraints); Section B-1, amending 5 M.R.S.A. §102 (Capital Investment Fund Limits); Section C-3, amending 22 M.R.S.A. §§328-38 (Certificate of Need provisions). These changes to existing law raise significant political and public policy issues that are beyond the scope of this article. As part of the Dirigo plan the State will also adopt a new state health plan, which will incorporate the recommendations of a Commission to Study Maine's Hospitals, a group created under the Dirigo legislation and which is currently reviewing the structure and finances of all of Maine's 41 hospitals (all of which are non-profit corporations). See 2003 Public Law Chapter 463, Section F-3 and Section B-1, amending 5 M.R.S.A. §§ 101 & 103. The new health plan is intended to make sure that all Maine people have health care when and where they need it at a price they can afford. Covering Maine's large number of uninsured is intended to significantly reduce the large amount of bad debt and charity care costs. See Governor's Office of Health Policy and Finance website.

⁶ The Dirigo plan proposes to improve the quality of care statewide by promoting quality of care initiatives and educate providers and consumers on best medical practices and other quality of care indicators.

Specifically the legislation created the Maine Quality Forum, which is governed by the Dirigo Board with advice from the Maine Quality Forum Advisory Council. This council is comprised of representatives of health care providers, consumers, employers, private health plans and the MaineCare (Medicaid) program. See 2003 Public Law Chapter 469, Section A-8, enacting 24-A M.R.S.A. § 6951 et seq.

⁷ In addition to analyzing the Dirigo legislation and reviewing information posted on the website of the Governor's Office of Health Policy and Finance, the author has personally interviewed representatives of the Maine State Chamber of Commerce and the National Federation of Independent Business and has obtained information from the Maine Merchants Association website to develop and document the points discussed in this article.

⁸ The Dirigo legislation provides the Dirigo Board with the authority to contract for the provision of health benefits coverage starting October 1, 2004, and mandates that the product comply with all relevant requirements of the Insurance Code as amended by the Dirigo legislation. 2003 Public Law Chapter 469, Section A-8, enacting 24-A M.R.S.A. § 6910(1).

⁹ 24-A MRSA §§ 6910 - 6912.

¹⁰ 24-A MRSA § 6913.

¹¹ 24-A MRSA § 6910(4)(B)(3).

¹² 24-A MRSA § 6910(4)(B)(4).

¹³ 2003 Public Law Chapter 469, Section E-16, enacting 24-A M.R.S.A. § 2808-B(2-A) to (2-C).

¹⁴ Interview in September 2004 with Dana Connors, President of the Maine State Chamber of Commerce for the past ten years, and a member of the original Dirigo Health Board of Directors.

¹⁵ Interview in September 2004 with David Clough, state director since 1982 of the National Federation of Independent Business.

¹⁶ Based on information obtained from the Maine Merchants Association newsletter dated September 12, 2004. For more information and related links go to <http://www.mmamail.org/latestnews.htm/>

¹⁷ Interview with David Clough, September 2004.

¹⁸ 2003 Public Law Chapter 469, Section A-8, enacting 24-A M.R.S.A. §6913 authorizes the Dirigo Board annually to determine the amount of cost savings due to a reduction in charity care and bad debt costs, and to determine the amount of the savings offset payments to be made by insurers. This section also creates detailed reported requirements and a complex methodology for verifying the amount of cost savings and associated savings offset payments.

¹⁹ As has been widely-reported recently in this State, the Maine Commission to Study Maine Hospitals has recently released a report including recommendations to close two small hospitals, consolidate key functions among regional groups of hospitals, and publish annually the salary and compensation for top hospital executives. See Maine Hospital Association Hospital Update, October 2004. For more information and related links go to <http://www.themha.org/>.