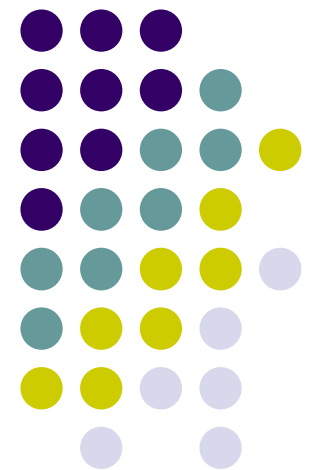


AFFORDABLE CARE ACT Implementation in Maine Elections Have Consequences

John P. Doyle, Jr., Esq.
Chair, Health Law Practice Group





Goals of ACA

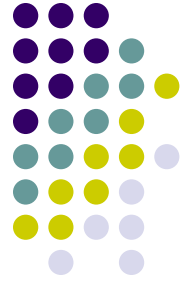
- Near universal access to health insurance
- Improving quality
- Improving affordability



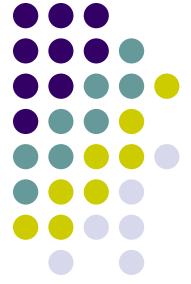
Key Issues for Maine

- Transition of Dirigo program
- Structure for exchanges
- Scope of Medicaid coverage
- Relationship to existing insurance laws

Planning Steps Taken by Baldacci Administration



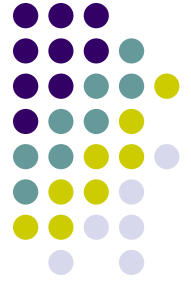
- **Advisory Council on Health System Development**
- **Governor's Steering Committee**
- **Dirigo Health Agency**
- **Maine Quality Forum**
- **Maine Health Data Organization**



Other Players

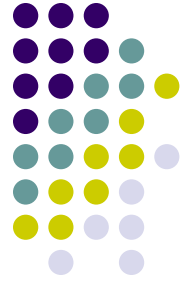
- **Maine Health Management coalition**
- **Quality Counts**
- **Insurers**
- **Maine Hospital Association**
- **Chamber of Commerce**
- **Many others**

Advisory Council on Health System Development



- **Established by Legislation**
- **20 members – Broadly Representative**
- **15 appointed by Governor**
- **5 by Legislature**
- **Met throughout 2010**
- **Built on work of Governor's Steering Committee – Trish Riley, BOI Superintendent Mila Kofman & DHHS Commissioner Brenda Harvey**

ACHSD Report December 2010



- Comprehensive Review
- Addressed core issues
- Link www.maine.gov/healthreform
- Link http://www.maine.gov/healthreform/ACHSD_Report_FINAL_12-17-10.pdf



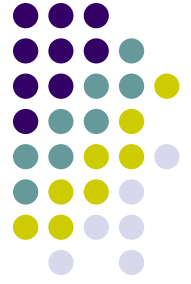
Dirigo Health Agency

- Key initiative of Baldacci administration
- Provide affordable health insurance alternative to limited market
- Had rocky history of funding
- Fell short of enrollment projection



Dirigo Current Status

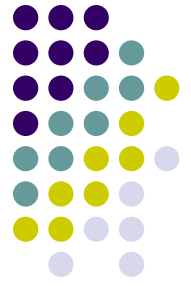
- 583 Businesses – UNUM to Bear River Trading Post
- 15,000 Insureds
- Subsidies up to 300% FPL
- Funded by Dirigo assessment – 2.14% premium tax on health carriers
- Prior controversy over savings offset payment – much litigation



Dirigo as Political Issue

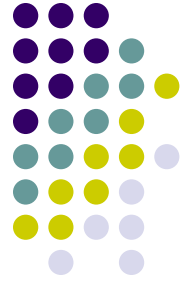
- **Business and insurers strongly opposed to funding via other health insurers**
- **Failed to meet enrollment projection**
- **Became political football**
- **Maine Heritage Foundation opposed – one quote – following elections – Dirigo will be Dirigone**
- **Republicans opposed**

Changes from LePage Administration and New Legislature



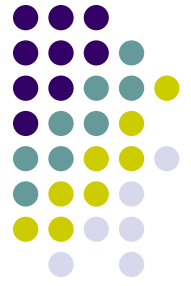
- **Election brought conservative Republican Governor, and Republican House Senate**
- **New Republican Attorney General – William Schneider**
- **First time since early 1960s – Governor and both Houses of Legislature Republican**

Attorney General and Florida Challenge to ACA



- **Mid-January - Maine joined Florida suit**
- **On January 31 – Federal Court rules ACA unconstitutional**
- **Focus on Individual Mandate**
- **June 8 – Argument scheduled before 11th Circuit Federal Court**

Governor LePage Budget - Dirigo



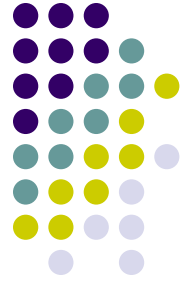
- Phases out Dirigo Assessment over 3 years
- Cuts 2.14% to 1.75% in 2011-12, to 1.25% in 2012-13, and 0.75% in 2013
- Cuts Healthy Maine \$10.8 Million
- Total cut \$52 million over 3 years
- 2011-12 - \$12 million cut – to \$35 million
- 2012-13 - \$23 million cut – to \$26 million
- 2013 - \$17 million cut – to \$8 million
- Will phase out Dirigo Health Product by end of 2014

Governor – New Appointments



- Governor appointed new Chair of Dirigo – Joe Bruno, Former Republican Leader
- Replaces Jonathan Beal – Labor Lawyer
- New DHHS Commissioner Mary Mayhew – Replaces many at DHHS
- Bruce Poliquin New Treasurer –
- No MHHEFA Approvals of pending Hospital and Higher Education Projections

Governor LePage Budget and Medicaid (MaineCare)



- **Proposing to change parent of MaineCare Children from 200% to 133% of FPL**
- **Questions re maintenance of effort**
- **Governor has stated he would like to make more cuts but limited by ACA Maintenance of Effort**
- **State not yet seeking Hardship Exception – but could**

Governor's Bill Coming on Reform Implementation

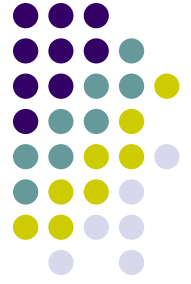


- **Due early April**
- **Will be part of budget process**
- **Typically completed by June – July 1 Fiscal Year**
- **Legislature will go to the end of June and maybe longer**



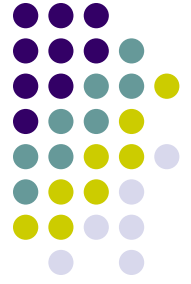
Remaining Questions

- Dirigo Lead Agency for Exchanges?
- Scope of MaineCare Coverage?
- Resolution of Law Suit?
- Scaling back of mandates and coverages?



Report Identified Several Key Issues

- Essential Benefit Plan elements
- Medical Loss Ratio
- Community rating issues
- Structure of Exchange
- Scope of Medicaid coverage



Essential Benefit Plan

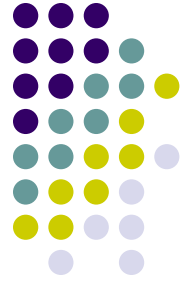
- **Federal definition coming with core elements**
 - mental health, prescription drugs, preventive wellness
- **Maine has multiple mandated benefits 5 pages worth**
- **How will these be meshed?**



Medical Loss Ratios

- **ACA says 80% for individuals and small groups and 85% for large groups**
- **Maine law says – 65% individuals and 75% small groups**
- **BOI sought and obtained waiver from HHS – exemptions**
- **Waiver permits Maine to loss ratio 65% for individual – approved March 9, 2011**
- **Justified to keep individual carriers in market**
- **37,000 individuals – Mega Insurance who has 14,000 threatened to pull out**

Community Rating Issues



- **ACA has ratio re premium variation 3 to 1 based on age and 1.5 to 1 based on tobacco use**
- **Maine law has plus minus 20% based on age and geography**
- **Need to make consistent**



Health Insurance Exchange

- **By 2014 need to be in place**
- **State can implement via government or non-profit**
- **Feds can impose**
- **Report recommends this as government agency - Dirigo Health Agency**
- **How will Dirigo respond?**