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Legislative Opportunities and Trends 2012

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THIS REPORT

Legislative Opportunities and Trends 2012 continues CHI's series of reports on the Colorado General Assembly, presenting the major themes and elements shaping this year's session.

Acknowledgments

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Colorado's 2012 legislative session is shaping up to be tough - and potentially contentious. An anticipated battle over the budget is set to cast a long shadow over the General Assembly's 120 days of work.

A number of indicators point to a year in which it will be difficult to make significant progress on health care policy initiatives.

The Budget: Lawmakers face another session in which balancing the budget will mean hard choices. Demand has increased for state services and benefits because of a growing population and a continuing weak economy. This will mean intense scrutiny of major cost drivers, including health care, education and corrections, which consume more than three-quarters of the General Fund budget.

The Political Climate: Colorado, with a Democratic governor, a Democratic-led Senate and a Republican-led House, is politically divided. In 2011, the political split resulted in passage of 25 percent fewer bills than the year before. Meanwhile, state and national elections in the fall will create more uncertainty. And Colorado will experience a leadership turnover in the health care policy arena at the end of the session. Senator Betty Boyd, the Democratic chair of the Senate health committee, will leave due to term limits. Representative Ken Summers, the Republican chair of the House health committee, has indicated he will run for the Senate.

Federal Health Reform: The U.S. Supreme Court's hearing this spring on the constitutionality of the federal Affordable Care Act (ACA) will contribute to questions about whether states should begin acting act on key issues of the law. Colorado's legislature is expected to wade into the debate about which essential health benefits should be required for insurance plans sold in Colorado, a decision that could affect cost, enrollment levels and, ultimately, the success of health reform.

Despite these pressures, the Colorado Health Institute (CHI) anticipates a continued and vital dialogue on key health care policy issues.

Emerging Health Care Policy Themes

With funding tight, the legislature will emphasize efforts to streamline and improve the quality of current services, especially where cost savings can be achieved.

CHI expects that the legislature's work in health policy will fall within four categories:

- ***Departmental***
- ***Programmatic***
- ***The Health Care workforce***
- ***Healthier communities***

As always, there will be wild cards, but the overriding theme of the 2012 session will be cost savings.

Departments

More efficiency, strategic alignments

In his second year, Governor John Hickenlooper plans to advance initiatives to realign work in the state's primary health departments to improve efficiency, reduce costs and provide more coordinated care. The governor sought input from the health departments – the Colorado Department of Health Care Policy and Financing (HCPF), the Colorado Department of Public Health and Environment (CDPHE), and the Colorado Department of Human Services (CDHS) – as well as the Joint Budget Committee (JBC).

Programs

Saving costs, improving care

In addition to increasing efficiencies, each state agency has proposed cost containment measures. HCPF proposes to expand payment reform efforts that will shift from a Medicaid delivery system that rewards on volume to one that rewards high-quality coordinated care.

Health Care Workforce

A focus on quality and availability

Efforts this year will center on measures to ensure the quality, availability and skill levels of Colorado's health care professionals.

Healthier Communities

Winnable battles

The state has identified 10 winnable battles – key public health and environmental health issues where it believes progress can be made using evidence-based strategies to improve the health of Coloradans. New proposals will focus on top issues, including obesity, oral health and tobacco use.

Balancing the Budget: Heavy Lifting

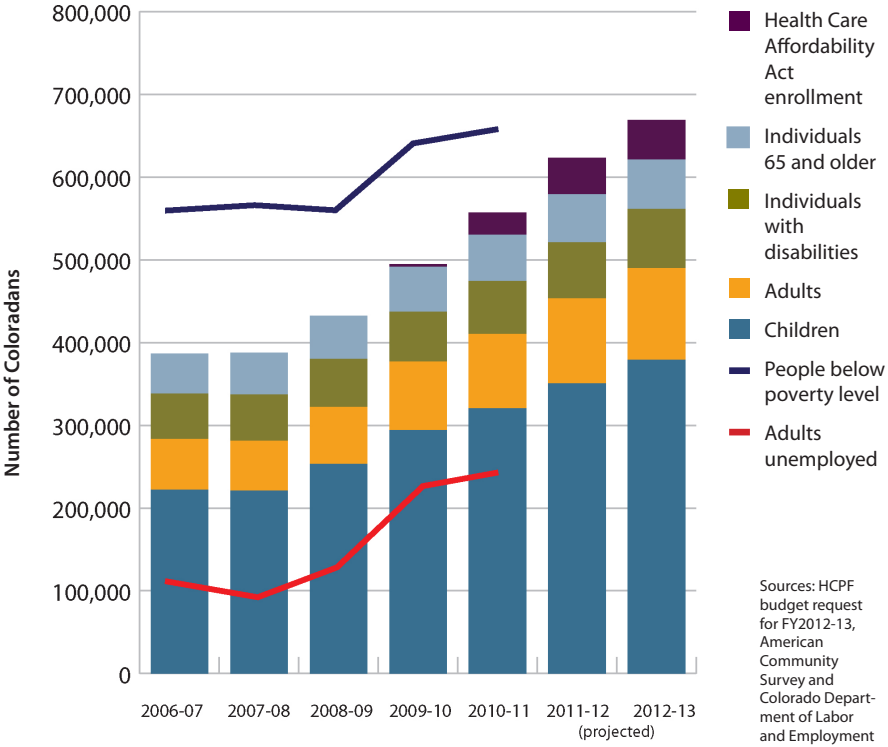
Few legislative proposals will be addressed until the spending and budget priorities are resolved.

Governor Hickenlooper's $20.1 billion budget request for FY 2012-13 ($7.39 billion from the General Fund) includes moderate revenue increases and spending reductions. Still, a 2011 study by the Center for Colorado's Economic Future reported a structural imbalance between revenue growth and required services and benefits. This imbalance will contribute to the expected tensions in budget negotiations.

For health programs, the administration's proposed budget provides for basic services stipulated in state and federal law and includes proposals to reduce costs and improve payment and delivery systems. Even with cost-reduction measures, Medicaid caseload and health costs continue to drive up overall expenditures. The new General Fund resources for HCPF, for example, account for nearly 82 percent of the General Fund increase. With weak revenue growth, health care expenditures are crowding out funding for other state services, setting up one of the primary budget battles. Federal health reform prohibits states from reducing Medicaid eligibility rules that were in effect before March 2010, giving Colorado few cost-cutting options in this area.

In an effort to take a longer-term look at Colorado's structural budget imbalance, the governor has assembled a group of community, education, business and political leaders to participate in conversations around the state about education, health care and transportation issues.

Comparing numbers of Coloradans with Medicaid insurance, numbers of unemployed and numbers below federal poverty level



Sources: HCPF budget request for FY2012-13, American Community Survey and Colorado Department of Labor and Employment

By the numbers

This graphic illustrates the connection between unemployment, the number of Coloradans falling below the federal poverty line and the increase in Medicaid caseload. The number of Medicaid enrollees is projected to grow by 72 percent in the five years between FY 2008-09 and FY 2012-13. Yet General Fund revenues declined, and may finally rise to pre-recession levels in FY 2012-13.

Much of the caseload growth is attributed to population growth, the economic downturn and the expanded eligibility under the 2009 Colorado Health Care Affordability Act (CHCAA).

Between 2006 and 2010, the number of unemployed Coloradans increased from 100,213 (4.3 percent) to 239,684 (8.9 percent). And the number of Coloradans below the federal poverty level increased from 569,386 (12 percent) to 659,786 (13.4 percent).

Children make up the majority of Medicaid clients in Colorado.

Expected Legislation: Health Care Policy

CHI expects that bills introduced in the 2012 legislative session will focus on streamlining existing efforts rather than adding new programs.

The session's primary conflict in the health care area will most likely focus on those trying to protect existing health care programs and those trying to find cost savings in one of the budget's largest programs.

The escalating cost of Medicaid programs, in particular, is generating much debate on both sides of the aisle.

Here is a rundown of some legislation that CHI expects to be introduced and debated during this session, broken down by the four thematic areas.

1. Departments

More efficiency, strategic alignments

CHI expects legislation focusing on the state's health care departments to include:

- **Redesigning the state's long-term services and supports programs.** The plan calls for moving the Medicaid developmental disability waiver programs, the Children's Habilitation Residential Program Medicaid waiver and the state unit on aging programs for older adults from CDHS to HCPF. The goal is to reduce fragmentation, confusion and service delays for clients and to increase the efficiency and effectiveness for services delivered in Colorado's 11 Medicaid waiver programs.
- **Creating a new Office of Early Childhood and Youth within CDHS** to consolidate services and funding and to improve early identification and treatment of problems in an effort to improve school readiness. The Early Childhood Leadership Commission, the Department of Education, CDPHE, HCPF and CDHS collaborated on the proposal.
- **Reducing five full-time CDPHE staff positions** to provide money for Amendment 35-funded health disparities and preventive services programs. Amendment 35 revenues from excise taxes on tobacco products have been used to fund tobacco cessation, prevention programs and primary care services, but last year, a portion of the funds were redirected. CDPHE said streamlining administrative work will allow the money to fund programs instead of workers.

Colorado's Health Care Departments

The three state agencies responsible for providing health-related services – HCPF, CDPHE and CDHS -- have worked collaboratively to identify ways to make the delivery of services more effective and efficient for the people they serve.

Department of Health Care Policy and Financing (HCPF): Administers federal-state Medicaid and Child Health Plan Plus and other programs for vulnerable Coloradans.

- **FY 2012-13 budget request:** Total funds - $5.4 billion, up 6.8 percent. General Fund - $1.85 billion, up 11.1 percent.
- **FTEs:** 315.3, up 0.7 percent.

Colorado Department of Human Services (CDHS): Oversees county departments of social/ human services in administering public assistance and child welfare programs, the state's mental health system, the programs for those with developmental disabilities and long-term services and supports.

- **FY 2012-13 budget request:** Total funds - $2.1 billion, up 0.9 percent. General Fund - $633.5 million, up 3.1 percent.
- **FTEs:** 4,868.4, down 0.1 percent.

Colorado Department of Public Health and Environment (CDPHE): Oversees programs contributing to the community-wide health of Coloradans.

- **FY 2012-13 budget request:** Total funds - $474 million, up 7.2 percent. General Fund - $27.3 million, down 0.7 percent.
- **FTEs:** 1,290.4, up 2.3 percent.

2. Programs

Saving costs, improving care

HCPF has proposed major initiatives for the Medicaid and Child Health Plan Plus (CHP+) programs. Four provide financial incentives, called gainsharing incentive payments, to providers to improve care management and reduce overutilization of services. They include:

- **Federally qualified** health centers and rural health clinics would receive a percentage of savings achieved by reducing hospital admissions and prescription drugs for their clients. ***Projected general fund savings:*** *$750,000 in FY 2012-13 and $1.6 million in FY 2013-14.*
- **Behavioral health organizations** would receive a percentage of savings achieved by improving management of psychotropic medications for seriously mentally ill patients. ***Projected general fund savings:*** *$149,500 in FY 2012-13 and $404,000 in FY 2013-14.*
- **Federal health reform** encourages primary care providers to accept Medicaid clients by increasing payments in calendar years 2013 and 2014 to 100 percent of federal Medicare rates, up from about 86 percent. HCPF proposes using these federal funds as an incentive pool for primary care physicians who achieve quality measures such as reduced hospital expenditures. Since the increase in physician rates is federally funded there would be no increase in state expenditures. *No estimates of savings are available.*
- **The Accountable Care Collaborative** program established in 2011 by HCPF anticipates reducing participating client expenditures by seven percent in FY 2012-13. The department recommends paying incentives to primary care providers and the state's seven regional care collaborative organizations that achieve savings above that seven percent. *No estimates of savings are available.*

In addition to the payment reform initiatives discussed above, HCPF proposed reducing General Fund expenditures by $30.5 million in FY 2012-13 through rate adjustments and service limitations. Including:

- **Limiting the number** of home health visits for therapy and the number of hours of at-home skilled nursing care for Medicaid clients. ***Projected general fund savings:*** *$2.2 million in FY 2012-13 and $2.3 million in FY 2013-14.*
- **Reducing the General Fund portion** of nursing facility per diem rates by1.5 percent. Nursing facilities are reimbursed on a cost basis with annual rate increases. The proposed rate reduction, initiated in 2010, reduces the amount of the annual rate increase. ***Projected general fund savings:*** *$4.5 million in FY 2012-13 and $4.7 million in FY 2013-14.*
- **Improving management** of prescription drugs. ***Projected general fund savings:*** *$4.1 million in FY 2012-13 and $4.7 million in FY 2013-14.*

HCPF also includes increased copayments and enrollment fees which are designed to reduce General Fund Expenditures by $1.4 million in FY 2012-13 and $2.5 million in FY 2013-14.

- **Increasing co-payments** for some Medicaid and CHP+ services such as emergency and urgent care, inpatient and hospital services and routine office visits. Co-payments for office visits would range from $2.55 to $10, depending on client income level.
- **Tripling the annual enrollment fees** for children and pregnant women enrolled in CHP+ earning above 205 percent of the federal poverty from $25 to $75 for one child and from $35 to $105 for two or more children. Governor Hickenlooper vetoed legislation last June that would have required monthly premium contributions in the belief that the measure would impede access to the program. HCPF has proposed an annual enrollment fee rather than a monthly premium.
- **Allowing children** of state employees to be eligible for the CHP+ program. It is estimated to be a cost-saving measure for every state agency because the CHP+ per-capita costs are less than the state contributions for employee dependent health benefits. Estimates on cost savings are not available.

CDPHE proposals include:

- **Adding state funding** of $251,000 to continue three programs that have been historically funded by the federal Preventive Health Block Grant (PHBG). The federal block grant, which provided approximately $961,000 last year, is anticipated to be eliminated. The state money would go toward environmental epidemiology and communicable disease and sexually transmitted disease programs. Not funded would be the Ryan White AIDS Assistance Program and the Colorado Immunization Information System.
- **Cutting funding** for school-based health centers by 4.5 percent to 15 contractors who represent 35 of the state's 49 school-based health centers.

Other expected legislation in this area:

- **Expanding oral health services** to pregnant women covered by Medicaid. It is anticipated that these services would reduce transmission and the expensive treatment of dental caries in very young children. Under current law, Medicaid dental services are only provided to adults when medically necessary.
- **Reinstating Medicaid reimbursement** for circumcision. Reimbursement for the service was discontinued as a cost-saving measure in FY 2011-12.
- **Developing an electronic filing system** for death certificates, with the goal of reducing paperwork and administrative costs.

Medicaid and CHP+ *The Basics*

Medicaid: A federal-state health insurance program that serves low-income families, elderly, the disabled, and, beginning in 2012, adults without dependent children. Federal funds provide 50 percent of the cost in Colorado. ***Estimated 2012-13 enrollment:*** *672,978.*

CHP+: A federal-state health insurance program for low-income children and pregnant women who do not qualify for Medicaid and have family income of less than 250 percent of the federal poverty level. Federal funds provide 65 percent of the cost in Colorado. ***Estimated 2012-13 enrollment:*** *67,542 children and 1,360 pregnant women.*

3. Health Care Workforce

A focus on quality and availability

The health care workforce is monitored and regulated by the Colorado Department of Regulatory Agencies (DORA). Several initiatives this year seek to maintain transparency for consumers, preserve peer review confidentiality and better ascertain the availability of the workforce.

DORA also recommends:

- **Continuation of the peer review process** in the Colorado Professional Review Act, which requires confidentiality of any peer review reports.
- **Including advanced practice nurses and physician assistants** in the professional review process outlined in the act.

Other expected legislation in this area includes:

- **Requiring the DORA Division of Registrations** to collect expanded data from health care professionals. Information such as the practice location and the number of hours worked by providers would give a better understanding of the current health care workforce in Colorado and assist in planning for future state health care workforce needs.
- **Requiring health care practitioners** to identify their type of professional license in advertisements for health care services.
- **Defining or extending** scopes of practice for a number of health professionals, including chiropractors and naturopaths.

4. Healthier Communities

Winnable battles

Initiatives this year will continue to focus on cost-effective public health measures to decrease access to unhealthy foods and tobacco products. Expected legislation includes:

- **Banning the sale** of foods containing trans fatty acids in schools.
- **Limiting youth access** to dissolvable tobacco products such as breath mints, toothpicks, breath strips and chewing gum that contain both tobacco and nicotine. The Colorado Board of Health issued a resolution opposing the sale of these products in Colorado because of the marketing methods used and their unknown health effects.
- **Allowing local governments** to tax tobacco products without losing their current local share of the state tobacco tax.

Other Health Policy Issues

- **Requiring hospitals** to disclose charity care policies and to allow uninsured patients to participate in a payment plan.
- **Requiring hospitals** to disclose to patients, prior to admission, the services the hospital does and does not provide.
- **Developing a program** to provide financial support for children with cerebral palsy and other neurological impairments.
- **Determining the essential health benefits** that should be required for insurance plans sold in Colorado. The federal government proposes that states choose a comprehensive set of services to be included in individual and small group plans sold on or off the state health insurance benefit exchanges, based on a health plan currently offered in the state.

Conclusion

The direction of the legislature's health care policy work matters for all Coloradans. It can have a bearing on who is insured, how efficiently the medical system works, the size and qualifications of thehealth care workforce and the overall level of public health in the state.

CHI expects that legislators during the 2012 session will focus on existing programs rather than creating new initiatives. Lawmakers faced with tough budget decisions will want assurance that programs they have previously approved are being run in the most efficient manner possible for clients of the programs and the taxpayers who are funding them.

Of great importance, CHI sees an enduring commitment among Colorado's policymakers – even in the toughest of times - to improving the health of all Coloradans and to providing health care services for those who most need them.

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The Colorado Health Institute (CHI) is a trusted source of independent and objective health information, data and analysis for the state's health care leaders. CHI, celebrating its tenth anniversary in 2012, is funded today by Caring for Colorado Foundation, Rose Community Foundation, The Colorado Trust and The Colorado Health Foundation.

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