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Legislative Updates

Wade Symons, Amy Pavlu
CPEEHCC Training Conference
Las Vegas

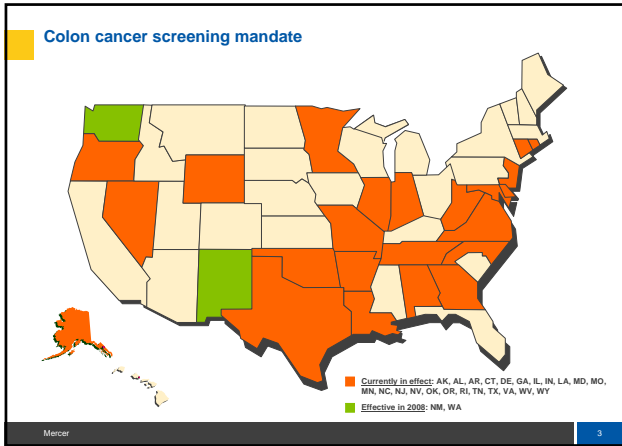
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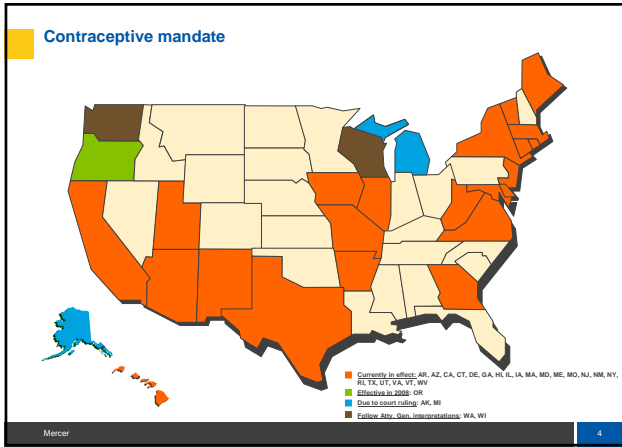
Agenda

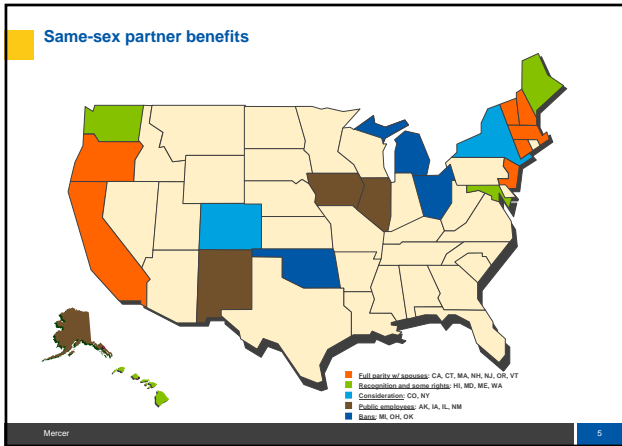
- Legislative Trends
- National Reform Initiatives
- California Health Reform
- California Legislation

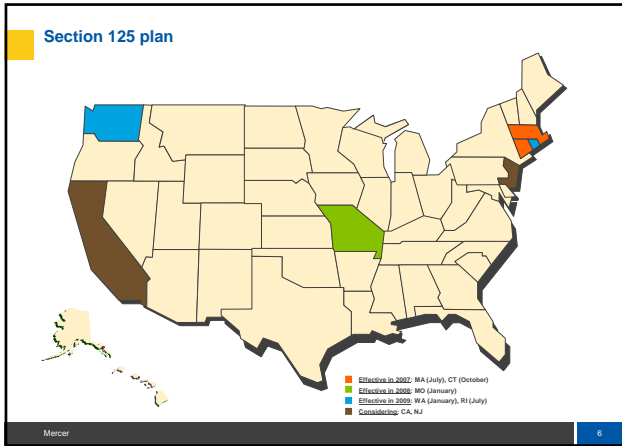
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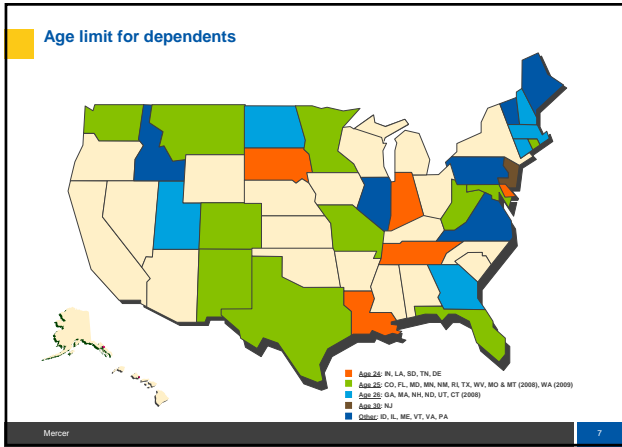
Legislative Trends











National Reform Initiatives

Congressional developments 2007-2008



- Proposals to increase states' flexibility to adopt broad health reform through ERISA waivers
- Reauthorization of SCHIP funding could contain provisions affecting employers
- Narrow health proposals (mental health parity, genetic nondiscrimination)
- Broad health reform proposals (such as, expanding private health coverage; expanding Medicare or federal employees' health benefit program; grants to states for experimentation)
 - Financing for some proposals includes employer mandates
 - Broad reform unlikely, though it's unclear what will happen as 2008 presidential and congressional campaigns evolve

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White House developments 2007-2008



- Bush administration proposal for eliminating tax exclusion for employer-sponsored coverage, replace with a standard tax deduction
- Opposition to SCHIP expansion
- CMS may allow access to Medicare and Medicaid provider data to facilitate transparency efforts
- Secretary Leavitt's "Four Cornerstones" activity
 - Measuring and publishing cost information
 - Measuring and publishing quality information
 - Develop incentives to promote price competition and improve quality
 - Make widespread use of interoperable health IT

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2008 presidential campaigns



- **Democrats**
 - **Clinton:** large employer play-or-pay; small business and individual tax credits; phased-in, individual coverage mandate; expanded private and public coverage options; retiree health plan tax credit; limit employer-coverage tax exclusion
 - **Edwards:** employer play-or-pay; individual tax credit; individual coverage mandate; expanded private and public coverage options
 - **Obama:** employer play-or-pay; small employer and individual subsidies; individual coverage mandate for children; expanded private and public coverage options; employer catastrophic cost subsidy
- **Republicans**
 - **Giuliani:** individual \$15,000 tax credit; simplify HSA rules; permit coverage from out-of-state insurers
 - **Huckabee:** individual health insurance tax deduction, expand HSA eligibility, expand health insurance portability, disease management
 - **Romney:** repeal employer-coverage tax exclusion; expand individual medical deduction; expand HSA eligibility; state-based individual premium assistance; encourage state reform initiatives; permit coverage from out-of-state insurers

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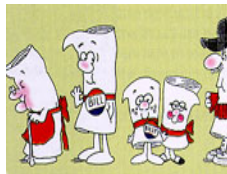
State funding sources

- General state taxes
 - New broad-based taxes
- Employer funding
 - Targeted taxes or fees tied to the provision of health care (for example, play-or-pay tax for employers not offering sufficient coverage)
- Social taxes
 - Tobacco
 - Alcohol
 - Gambling revenue
- Redistribution of existing state funds



California Health Reform

How a Bill Becomes a Law in California



Health care reform
California - Timeline

- **December 2006:** CA Assembly Bill 8 (AB 8) introduced in the California State Assembly
- **January 2007:** CA Senate Bill 48 (SB 48) introduced in the California State Senate
- **January 2007:** Governor Schwarzenegger announced a comprehensive health care reform proposal: requiring all California residents to obtain health insurance coverage
- **June 2007:** Assembly Speaker Nunez and Senate President Pro Tem Perata announce the merger of AB 8 and SB 48, respectively, into one bill: [AB 8](#)
- **September 10, 2007:** [AB 8](#) passes the California Assembly and California Senate
- **September 10, 2007:** Governor Schwarzenegger states he cannot sign [AB 8](#) in the form in which it was passed and calls the Assembly into an Extraordinary Session
- **September 11, 2007:** [ABX 1 1](#) introduced by Núñez and Perata



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Health care reform
California - Timeline

- **October 9, 2007:** Governor Schwarzenegger announced revisions to the Health Care Security and Cost Reduction Act, reflecting feedback and compromise from the January proposal
- **October 11, 2007:** [CalCare Plus](#), a package of bills introduced by Senate Republicans
- **October 12, 2007:** Governor Schwarzenegger vetoes [AB 8](#)
- **November 6, 2007:** [ABX1 8](#) introduced by Assembly Republicans
- **November 8, 2007:** [ABX1 1](#) amended, incorporating several key elements from the vetoed AB 8 and [the Governor's proposal](#)
- **December 17, 2007:** **CA State Assembly passed [ABX1 1](#).** Should [ABX1 1](#) pass the state Senate, Governor Schwarzenegger has indicated he would likely sign the legislation into law. Senate vote expected in January 2008.

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Health care reform
California – [ABX1 1](#)

- "On and after **July 1, 2010**, every California resident shall be enrolled in and maintain at least minimum creditable coverage, defined by Managed Risk Medical Insurance Board"
- Creates a [pay or play](#) system for employers and would establish an [individual mandate](#) for Californian residents (living in California at least six months) to have minimum creditable coverage
- There are some exceptions for lower-income individuals when the cost of coverage exceeds 5% of family income, or in other situations of hardship, yet to be defined
- **January 1, 2010:** Each employer of one or more employees in California must adopt and maintain a cafeteria plan (Section 125 plan) to allow employees to pay premiums pre-tax

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Health care reform

California – ABX1 1

- Voters would need to approve funding components in a ballot initiative in November, 2008
- It is reported that employers, depending on their size, would have to spend between 1% and 6.5% of payroll on employee health care **or** pay into a state purchasing pool:
 - Up to \$250,000: contribute 1% of payroll toward coverage
 - \$250,000 to \$1 million: contribute 4%
 - \$1 million to \$15 million: contribute 6%
 - Above \$15 million: contribute 6.5%
- Expansion of public programs – Healthy Families and Medi-Cal
- Insurance Market Reforms: Guaranteed Issue, Rating Reforms, minimum spending amounts on patient care, cost containment, prevention and wellness

Initial estimates that **ABX1 1**, when fully implemented, would cost approximately \$14.4 billion

California Legislation

California Legislation

San Francisco Health Care Security Ordinance –

- **Ordinance enacted in 2006.** Establishment of a health care program that is affordable to uninsured residents of SF; and Employer Spending Requirement to make health care expenditures on behalf of covered employees
- **Effective date of Employer Spending Requirement**
 - January 1, 2008, for employers with 50 or more employees
 - April 1, 2008, for employers with 20 or more employees
 - Note: Nonprofit employers with fewer than 50 employees and employers with fewer than 20 employees are exempt from the law
- **# of Employees based on ALL LOCATIONS, not just SF employees**
- **Covers employers with insured and self-insured benefits**

San Francisco employers likely not covered:

- Many public employers
- Private businesses located in a federal enclave within SF w/ no employees in SF
- Employers located solely at San Francisco Airport (SFO)

California Legislation

San Francisco Health Care Security Ordinance –

- Covered employees
 - Full-time
 - Part-time
 - 2008: who work in SF a minimum of 10 hours per week
 - 2009 and after: who work in SF a minimum of 8 hours per week
 - Employees whose work in SF fluctuates from week to week:
 - determined based on average number of hours worked per week during applicable quarter
 - Includes seasonal, contracted and undocumented employees
- "Work in SF" includes:
 - Work within the geographic boundaries of City and County of SF
 - Employees whose work requires stops in SF (not those who just travel through SF)
 - Work performed from home by SF resident (e.g. telecommuter)

California Legislation

San Francisco Health Care Security Ordinance –

- Payments due quarterly
- Reports to the City are due annually on a City-mandated form
- Notice to employee of payment to the City on behalf of employee
- Record Requirements
 - Maintain for 4 years
 - Make records accessible to the Office of Labor Standards Enforcement
 - Failure to keep records: presumption employer did not make expenditures
- Penalties
- Prohibited actions – to reduce cost of complying with mandate
- Lawsuit filed by Golden Gate Restaurant Association

California Legislation

AB 392 – military service

- California employers with 25+ employees
- Employee Spouse of Qualified Members of military may take up to 10 days of unpaid leave during a qualified leave period
- Qualified Members of military – U.S. Armed Forces***, National Guard, or Reserves
- Qualified Leave Period: Period of time that Qualified Member is on a leave from deployment during a period of military conflict

This bill was signed into law October 9, 2007, and is effective immediately

***Member of the U.S. Armed Forces:

- Deployed during a period of military conflict, and
- To an area designated as a combat theater or combat zone by the President of the United States

Qualifying Employee

- Spouse of the Qualified Member of the military
- Work for an employer for an average of 20 or more hours per week (does not include independent contractors)
- Provide notice of their intent to take leave "within two business days of receiving official notice that the qualified member will be on leave from deployment"
- Submits written documentation to the employer certifying that the Qualified Member will be on leave from deployment during the time the leave is requested

Prohibits retaliation by employers against employees requesting or taking leave

California Legislation

AB 895 – coordination of benefits: dental

- Requires the primary dental benefit plan that is coordinating dental benefits with one or more other plans or insurers to pay the maximum amount required by its contract or policy with the enrollee
- Requires dental plans, when they are secondary payers, to provide supplemental reimbursement for the patient's out-of-pocket costs under the primary plan for benefits covered by the secondary plan (unless that amount exceeds what the supplemental plan would have paid as a primary plan)
- Require all dental plans to clearly disclose their coordination of benefits policies in the evidence of coverage documents they provide to their enrollees

Goal: ensure that dental patients with dual coverage receive the benefits from both plans

California bills

SB 357 – life and disability insurance: group policies

Current Law

- 75% of eligible employees must participate in group life coverage if part of the premium is paid with eligible employee contributions
- Coverage for dependents may continue through 22 years of age if the dependent is attending an educational institution

Revised Law

- Requirement deleted
- Coverage for dependents may continue through 24 years of age if the dependent is attending an educational institution

California bills

AB 650 – Federal Earned Income Tax Credit: Notification

- The federal earned income tax credit (EITC) can benefit certain low-income families
- AB 650 requires employers to notify all California employees that they may be eligible for the EITC
- The notice must include specified language and information for contacting the Internal Revenue Service to find out more about the credit
- Employers must provide the notice at the same time (or within one week before or after) it provides employees with an annual wage summary such as a Form W-2 or 1099
- The requirement cannot be satisfied by posting a notice on an employee bulletin board or sending it through office mail

