



COLORADO CENTER
on LAW & POLICY

Justice and Economic Security for all Coloradans

2010 HEALTH LEGISLATIVE REVIEW **May 14, 2010**

Lawmakers expanded access, set stage for federal reform, but moved backward in a few areas

Colorado lawmakers made a number of important changes to health care policy during their 2010 session, despite a budget shortfall that made it almost impossible to pass any bill that would increase spending.

There were more studies and task forces established than anticipated. Real attention was paid to access issues, including workforce development, although that effort was undercut somewhat by Medicaid provider rate cuts. There were a number of significant insurance reforms, including prohibition of gender discrimination in rate setting in the individual health insurance marketplace, and a bill that seeks to ensure people can understand their insurance policies.

There were real moves toward efficiency and transparency – including a requirement that Colorado establish an all-payer claims database designed to facilitate the reporting of and provision of information about health care, health quality and health cost data, and a bill that requires health plans to move toward a standard explanation of benefits. Colorado finally passed a False Claims Act, at least for the Medicaid program, maximizing dollars available to the state by qualifying Colorado to receive an enhanced share from the federal government of any money recovered through efforts to control fraud.

The Colorado Center on Law and Policy (CCLP) was troubled to see some bills pass that eliminated services or eligibility for vulnerable populations (House Bill 10-1384) and undercut health insurance consumers (House Bill 10-1160). We also supported the defeat of some bills that would have moved Colorado in the wrong direction by limiting access to services or attempting to undercut federal health reform.

A summary and assessment of some, although not all, health-related bills introduced during the 2010 legislative session follows, noting the bills on which CCLP took a position.

Fiscal years 2009-10 and 2010-11 health budget

The Legislature passed a number of bills to offset General Fund expenditures on the Medicaid program by diverting revenue from other health-related program funds to help balance the budget for the current fiscal year ending June 30. The U.S. Department of Health and Human Services announced in February that the increased Medicaid matching rate made possible by the American Recovery and Reinvestment Act (ARRA) would also apply to the so-called Medicare

drug benefit claw-back payments, saving the state an additional \$42 million and helping balance both the 2009-10 and 2010-11 budgets.

For the 2010-11 fiscal year, the actions that helped balance the health care budget included more fund transfers and payment reforms. Cuts included a \$37.4 million decrease in funds to indigent care due to the expiration of the Health Care Services Fund, a decrease in nursing facility reimbursements and another 1 percent provider reimbursement cut. Helping offset costs in the General Fund is the \$421.9 million from the ARRA increased Medicaid matching rate. Additionally, Senate Bill 10-169 will allow the state to realize millions of dollars in the 2009-10 and 2010-11 fiscal years by applying the increased Medicaid matching rate to the hospital provider fee revenue. This money will pay back the Health Care Expansion fund in 2009-10, from which the Legislature transferred more than \$41 million, and will result in \$46.3 million in General Fund offsets for 2010-11.

CCLP continues to be concerned about the cumulative effects of cuts to provider reimbursement rates because of the possible negative effects for patient access to providers. The Legislature also created a new access problem for elderly Colorado legal immigrants in the Old Age Pension program by newly requiring them to wait five years before accessing the program. This will result in dropping more than 2,000 elderly immigrants off of financial and medical benefits. Also, budget problems have precluded the Legislature from addressing significant long-term funding issues for some of the state's Medicaid and CHP+ expansion populations.

False Claims Acts: Senate Bill 10-167 and House Bill 10-1357

During the Civil War, some government contractors defrauded the U.S Government by furnishing goods and supplies (ammunition, blankets, rifles) of clearly inferior quality. In response Congress passed the federal False Claims Act which provides for triple damage recovery against a fraudulent wrongdoer. To incentivize reports of wrongdoing by contractors, Congress also established a whistle-blower procedure and protections for reports of wrongdoing from within a company.

In the 1980s and again in 2006, Congress strengthened the federal False Claims Act. Most of the recoveries in recent times are against national and international drug companies and medical providers, who false bill or fraudulently market their services or drugs. They are sued in nationwide class actions, and when there is recovery, Colorado receives a share of the recovery proportional to the sales here or Colorado's population compared to the nation. Colorado's Medicaid program, which spends billions of dollars on drugs and services is typically funded 50 percent by the federal government and 50 percent by Colorado revenues. It also provided that if a state enacted a state false claims act, embodying the essentials of the federal Act, it would receive an enhanced 10 percent of any recovery – thus 60/40 instead of 50/50 for Colorado.

CCLP put extraordinary effort into helping the Colorado Department of Health Care Policy and Financing (HCPF) lobby Senate Bill 10-167. We did so because it is extremely likely, even if no suits are brought in Colorado itself, considering Colorado's share of continuing nation-wide class actions in other states, the bill will result in an increase in Colorado's revenues over what would have been received without the enhanced recovery. At a time of curtailed state revenues, such help is invaluable in assisting HCPF to do its work more effectively, delivering better health care at lower cost to more low-income people in Colorado. Senate Bill 10-167 passed the Legislature and the governor has indicated he will sign the bill.

CCLP also lobbied for House Bill 10-1357, a parallel bill which would have covered those state contracts not covered by Senate Bill 10-167 – such as construction contracts, transportation projects, information technology contracts and other contracts funded by state only dollars. Unfortunately, House Bill 10-1357 was defeated in the Senate.

Pinnacol Assurance

CCLP weighed in against the privatization (sale of the state's interest) of Pinnacol Assurance, the leading Workers Compensation provider in the state, at what appeared to be an unnecessarily low price. The governor's office obtained a private appraisal from investment bank Morgan Stanley, which valued Pinnacol at less than \$300 million. CCLP called for an open auction process if Pinnacol were to be sold, much like the process under which Colorado Blue Cross was sold to Anthem. Ultimately, the sale proposal was shelved.

CCLP also supported a package of bills that deal with improving transparency, oversight and fair dealing by Pinnacol Assurance, which was established by the state and in which the state has a continuing interest. Of the bills related to workers compensation, which are listed below, two bills were enacted and signed by the governor, three passed, and one was defeated.

House Bill 10-1009

Sponsors: Rep. Miklosi, Sen. Hodge

Status: Passed

Description: Requires public notice of the time and place of meetings of Pinnacol's board of directors.

House Bill 10-1012

Sponsors: Rep. Pace, Sen. Morgan Carroll

Status: Failed

Description: Would have severely restricted the ability of Pinnacol to conduct surveillance of workers who have filed claims

House Bill 10-1356

Sponsors: Rep. Ryden, Sen. Tochtrop

Status: Signed by governor

Description: Limits the size of capital reserves and requires refunds to employers of excess, requires more careful scrutiny and stricter threshold for rate increases.

Senate Bill 10-011

Sponsors: Sen. Morgan Carroll, Rep. Miklosi

Status: Passed

Description: Requires Independent Medical Examiners to disclose conflicts of interest.

Senate Bill 10-012

Sponsors: Sen. Tochtrop, Rep. Pace

Status: Passed

Description: Increases penalties for case workers and managers who knowingly delay payments to which workers are entitled.

Senate Bill 10-013

Sponsors: Sen. Hodge, Rep. Ryden

Status: Signed by governor

Description: Requires surveys and reporting on fairness and efficiency of handling of workers compensation claims.

Changes to public programs

House Bill 10-1043

Sponsors: Rep. Apuan, Sen. Sandoval

Status: Signed by governor

Description: This bill eliminates statutory references to the Aid to Families with Dependent Children (AFDC) program. The Department of Health Care Policy and Financing (HCPF) wanted to eliminate the requirement to adhere to certain AFDC income methodology and give itself the authority to do away with an income disregard that remains on the books, and in Colorado's State Plan, but has not been applied for at least 10 years.

Our position: Monitor. CCLP was concerned about the admitted failure to apply the disregard, although persuaded the expansion of Medicaid made possible by the Hospital Provider Fee (House Bill 09-1293) to parents of Medicaid-eligible children up to 100 percent of the Federal Poverty Level would make the disregard unnecessary. We worked with other advocates, HCPF and the bill sponsor on amendments. Once those amendments were adopted, we were neutral on the bill.

House Bill 10-1146

Sponsors: Rep. Hullinghorst, Sen. Tochtrop

Status: Passed

Description: Limits eligibility for Home Care Allowance (HCA) to people who meet the functional impairment and financial eligibility requirements and who are receiving Old Age Pension (OAP), Aid to the Blind, Aid to the Needy Disabled, or Supplemental Security Income (SSI). People who are receiving Home and Community Based Services (HCBS) benefits can no longer also receive HCA. After 2014, only those OAP participants receiving OAP and HCA as of Dec. 31, 2013, and who remain continuously eligible will continue to be eligible for HCA, otherwise OAP is no longer a category for HCA eligibility.

Our position: Monitor. CCLP expressed several concerns about this bill to the Department of Human Services and the bill's primary sponsor. Some technical concerns were addressed. Because there are good reasons for certain participants to receive services simultaneously from HCA and HCBS, the prohibition on dual enrollment is a grave concern for CCLP. However, CCLP recognizes the bill expands HCA eligibility to SSI recipients, which allows the state to reduce the developmental disability waiting list. Also, the changes in this bill help the state meet its SSI maintenance of effort requirements and CCLP acknowledges this is essential to maintain Colorado's receipt of federal funding.

On the path to health reform

One of the ways that CCLP evaluates health care public policy is to examine whether it is on or off the road to health reform. We employ four criteria in making this evaluation: 1) whether the policy expands health care coverage; 2) whether the policy increases access to health care; 3) whether the policy contains costs or improves efficiency; and 4) whether the policy assists vulnerable populations. Below is a list of bills categorized by whether the proposed legislation should be considered on or off the path to health reform. For those bills on the path to health reform, the bills are further categorized by the criteria set forth above.

1. Expanding coverage

House Bill 10-1008

Sponsors: Rep. S. Schafer, Sen. Carroll

Status: Signed by governor

Description: Prohibits the practice in the individual insurance marketplace of charging women more because they are women. This would not have happened until 2014, if Colorado had waited for implementation of federal health reform. More than 130,000 women in Colorado will no longer have to pay up to 59 percent more for health insurance than men for the same coverage.

Our position: Support

House Bill 10-1021

Sponsors: Rep. Frangas, Sen. Foster

Status: Passed

Description: Requires coverage in group and individual health insurance policies for contraception and requires more individual policies to provide maternity coverage on an equal basis. Prohibits exclusion of pregnancy coverage on the grounds it is a pre-existing condition.

Our position: Monitor

Senate Bill 10-020

Sponsors: Sen. Boyd, Rep. Massey

Status: Passed

Description: A cost-containment bill designed to help prolong the financial viability of CoverColorado. The bill provides CoverColorado with authority to establish a fee schedule for providers and permits a cap to be established on the number of people in the program. The Joint Budget Committee (JBC) must be notified if a cap is established, and no cap may be implemented until the JBC has reviewed the need for such a cap and made a determination as to whether additional funding is available for the program.

Our position: Support with amendments. CCLP strongly supports a viable CoverColorado- we were concerned about capping the program and advocated for the inclusion of the JBC oversight provision. Once that was included, we supported the bill.

Senate Bill 10-117

Sponsors: Sen. Foster, Rep. Primavera

Status: Passed

Description: Adds over-the-counter medications as an optional Medicaid benefit conditional upon approval through the state budget process. Coverage limited to medications determined through a drug utilization review process to result in overall cost savings to the state.

2. Increasing access

House Bill 10-1041

Sponsors: Rep. Acree, Sen. Mitchell

Status: Signed by governor

Description: Authorizes the Department of Health Care Policy and Financing to create a universal application for a single entry point for children's home and community based (HCBS) waiver programs. This is part of the Department's Medicaid Modernization agenda.

Our position: Support

House Bill 10-1029

Sponsors: Rep. Acree, Sen. Keller

Status: Signed by governor

Description: Requires the Department of Health Care Policy and Financing to work with one or more nonprofit organizations to develop a link to approved vendors of durable medical equipment and medical supplies willing to sell at discounted prices for the benefit of people who have applied for, but have not yet been made eligible for Medicaid.

3. Workforce

House Bill 10-1138

Sponsors: Rep. Gagliardi, Sen. Morse

Status: Signed by governor

Description: Raises the annual cap on medical student loan forgiveness. If a medical professional agrees to work in an area with low wages or a health care worker shortage, they can be awarded funds annually to help pay down school expenses.

Senate Bill 10-058

Sponsors: Sen. Tapia, Rep. Gagliardi

Status: Signed by governor

Description: Makes it easier for nurses working as teachers to participate in loan forgiveness pilot program by making part time teachers eligible.

4. Transparency

House Bill 10-1004

Sponsors: Rep. Massey, Sen. Foster

Status: Signed by governor

Description: Requires insurance commissioner, with stakeholders, to develop a standardized format for health insurance and dental plans, including an explanation of benefits and standardized benefit forms.

Our position: Active support

House Bill 10-1166

Sponsors: Rep. Kefalas, Sen. Newell

Status: Signed by governor

Description: Requires the use of plain language in insurance policies, including health insurance policies. Specifies, among other requirements, that plan language must be at a 10th-grade reading level, and policies must include an index if more than three pages long.

Our position: Active support. CCLP testified in support of this bill, describing the case of someone the agency represented whose child was denied coverage because her parents did not understand medical language excluding coverage in a rider to their insurance policy.

Senate Bill 10-124

Sponsors: Sen. M. Carroll, Rep. Ryden

Status: Passed

Description: The Skolnick Act requires medical providers to disclose to the Board of Medical Examiners (which then makes the information public), any history of disciplinary actions, health care-related employment contracts and other information. This bill expands the scope of the Skolnick Act to other health care providers and makes other changes to the act.

Our position: Support

Senate Bill 10-126 - Pharmaceutical Transparency Act

Sponsors: Sen. M. Carroll, Rep. Tyler

Status: Passed

Beginning in 2013, requires the Colorado Department of Regulatory Agencies to post a report made by the U.S. Department of Health and Human Services regarding financial relationships between doctors and pharmaceutical and medical manufacturers.

Our position: Support

5. Controlling costs and improving efficiency

House Bill 10-1330

Sponsors: Rep. Kefalas, Sen. Morse

Status: Passed

Description: Requires the Department of Health Care Policy and Financing (HCPF) to establish an advisory committee to make recommendations to the governor for the creation of a framework and implementation of a Colorado all-payer claims database, which will be designed to facilitate the reporting of and provision of information about health care, health quality and health cost data. The data will assist with improving transparency for purchasers. Directs HCPF to seek funding for the creation of the database, and if sufficient funding is secured by Jan. 1, 2012, to establish the data base by 2013.

House Bill 10-1332

Sponsors: Rep. Miklosi, Sen. Romer

Status: Passed

Description: Designed to standardize payment rules across health insurance carriers, thereby making billing for providers less burdensome and reducing the possibility of error resulting in claims denials. Directs the Department of Health Care Policy and Financing to establish a task force by Nov. 30, 2010, to work to develop a standardized set of payment rules and claims edits.

The task force is directed to stay informed about national initiatives to accomplish the same purpose. Within two years, the task force is directed to develop, in conjunction with or as a complement to national rules, a set of rules to be used in the processing of medical claims that can be implemented. Defers Colorado standards and rules to national rules if developed, but requires implementation of Colorado standards if national standards are not in place by Jan. 1, 2014. Repeals the bill if sufficient funds are not collected to move forward by June 30, 2012.
Our position: Active support

6. Insurance reform

House Bill 10-1242

Sponsors: Rep. Apuan, Sen. Tochtrop

Status: Passed

Description: Directs the Commissioner of Insurance to implement a standard initial application for individual insurance for all plans to use after Jan. 1, 2012. The purpose is to avoid lengthy and time-consuming applications for those applicants likely to be denied, while at the same time providing them with the denial required for applications to CoverColorado. Carriers who want more information from applicants can then request that information.

Our position: Support

Senate Bill 10-002

Sponsors: Sen. Steadman, Rep. Looper

Status: Passed

Description: When a third party denies a disabled person's benefits claim, the Department of Health Care Policy and Finance is required to notify the insured of their right to appeal. Directs contractors handling appeals to expedite appeals, which may result in monetary recovery. Creates a fund from some part of recoveries from insurers to help reduce the number of children on developmentally disabled waiting lists.

Our position: Support

Senate Bill 10-183

Sponsors: Sen. Morse, Rep. Gagliardi

Status: Passed

Description: Eliminates the provision repealing the prohibition of balance billing. Balance billing is where medical providers bill patients for charges outside the scope of the charges agreed to between the provider and the patient's insurance company.

Our position: Support

7. Vulnerable populations

House Bill 10-1032

Sponsors: Rep. Frangas, Sen. Boyd

Status: Passed

Description: Requires Colorado Department of Human Services to review behavioral crisis response in the state, formulate a plan to address the lack of coordinated response and present a

report by Jan. 30, 2013, to a joint legislative meeting of the Health and Human Services committees.

Senate Bill 10-129

Sponsors: Sen. Hudak, Rep. Rice

Status: Signed by governor

Description: Expands agencies that may contract with state to serve as care planning agency for children with autism.

Senate Bill 10-153

Sponsors: Sen. Boyd, Rep. Frangas

Status: Passed

Description: Requires governor to designate cabinet members to oversee systemic transformation of behavioral health system in Colorado. Establishes Behavioral Health Transformation Council to advise those cabinet members. Council to report to Health and Human Services Committees annually beginning January 2011. Among the council's goals: Developing shared outcomes across key systems, aligning services areas across systems to promote access to a continuum of services, establish joint monitoring processes, creating integrated policies and rules, maximizing use of funds, improve access to electronic health records and other technology, and adopting consistent cross system standards. Council repealed in 2020.

Senate Bill 10-193

Sponsors: Sen. Hudak, Rep. Levy

Status: Passed

Description: Requires the least restrictive restraint necessary to ensure safety to be used on a pregnant woman in her second or third trimester in corrective custody. Prohibits use of restraints of any kind on a pregnant woman during labor and delivery of the child, postpartum recovery, or transport to or from a medical facility for childbirth unless medical staff determines restraints are necessary for safe childbirth, the woman poses an immediate and serious risk of harm to herself or medical staff, or the woman poses a substantial risk of escape that cannot be reasonably reduced by another method. In no case should leg shackles or waist restraints be used.

Our position: Active support

8. End-of-life care

A number of bills that addressed end-of-life issues as a result of an interim task force on hospice care. These include:

House Bill 10-1024

Sponsors: Rep. Balmer, Sen. Williams

Status: Signed by governor

Description: Eliminates the ability of advanced practice nurses to declare patients terminally ill.

House Bill 10-1025

Sponsors: Rep. Roberts, Sen. Newell

Status: Signed by governor

Description: Updates the Medical Treatment Decision Act, affirms the right to execute and advance directive and defines meaning of “artificial nutrition” and “hydration” and other terms associated with end-of-life care.

House Bill 10-1027

Sponsors: Rep. Roberts, Sen. Williams

Status: Passed

Description: Permits people to move to hospice earlier by, pending federal approval, extending eligibility for hospice care to a nine month terminal diagnosis instead of six months.

Our position: Support

House Bill 10-1050

Sponsors: Rep. Tyler, Sen. Tochtrop

Status: Signed by governor

Description: Permits a public or private entity to establish an electronic means of facilitating the exchange of information about advance directives that people may participate in on a voluntary basis. The Department of Health Care Policy and Financing is required to include on its Web site a link to forms containing advance directives available for download.

House Bill 10-1122

Sponsors: Rep. Roberts, Sen. Williams

Status: Passed

Description: Provides a form for medical directives to be filled out by patient, effective with emergency medical technicians, physicians, hospitals and other health care professionals.

Our position: Support

Off the path to health reform

CCLP opposed the following bills either because they were diversions from or actively moved Colorado off the road to reform. In addition to the bills listed individually below, there were three anti-federal health reform resolutions that CCLP actively opposed. Those resolutions were defeated.

House Bill 10-1160

Sponsors: Reps. Rice and Stephens, Sens. Mitchell and Newell

Status: Passed

Description: Permits insurance companies to offer premium and cost-sharing discounts to small businesses, individuals within those small businesses and people purchasing insurance through the individual marketplace. People “earn” these discounts by achieving specific health outcomes established by carriers. Those outcomes are related to reductions in “health risk factors” – for example, reducing cholesterol to a certain level or reaching a set weight or body mass index. The term “health risk factor” is broadly defined, for example, exposure to UV radiation is one factor specified in the bill. On its face, the bill prohibits discrimination against people who do not participate and provides that people who cannot adhere to a wellness program may still receive a

discount so long as a doctor verifies that the person cannot comply or needs an alternate standard.

Our position: Active oppose. There were a host of amendments to the bill, including a provision requiring the Colorado Division of Insurance to examine whether individuals and businesses were being “steered” toward or away from these plans and whether the plans were tied to certain types of policies. CCLP, however, remains very concerned that the practice of charging people different amounts for premiums and cost sharing undermines the fundamental principle of insurance – risk-pooling – and believes the purpose of the bill is to provide health insurance carriers opportunities to move less healthy people out of the insurance marketplace.

House Bill 10-1163

Sponsors: Rep. Acree, Sen. Scheffel

Status: Failed

Description: Authorized Insurance Commissioner to enter into multistate agreement for the purchase of individual health insurance across state lines.

Our position: Active oppose. The idea of interstate purchasing of insurance is popular and has been introduced several times in the General Assembly. It presents substantial problems for consumers. Concerns include the difficulty of protecting consumers who have purchased coverage offered in other states and the fear of a “race to the bottom” among insurers to offer insurance in states with the fewest consumer protections or mandated benefits.

House Bill 10-1258

Sponsors: Rep. Acree, Sen. Harvey

Status: Failed

Description: Permitted carriers in the small-group and individual markets to offer premium discounts contingent on compliance with a treatment plan crafted by the person’s provider. Not outcomes-based.

Our position: Active oppose. CCLP opposed this legislation for the same reasons it opposed House Bill 10-1160, discussed above.

House Bill 10-1384

Sponsors: Rep. Lambert, Sen. White

Status: Signed by governor

Description: Changes the definition of legal immigrant in state law to conform with the federal “qualified alien” definition, and imposes a five-year waiting period on legal immigrants applying for state-funded public benefits programs like Old Age Pension (OAP). In cases where the legally present immigrant has a sponsor, the bill requires that the immigrant count the full amount of the sponsor’s income when calculating eligibility for a state-funded public benefits program. Due to federal Medicaid maintenance-of-effort requirements, this portion of the bill cannot be implemented until 2014. The bill creates financial hardship exceptions and exceptions for immigrants who have been abandoned or abused by their sponsors.

Our position: Active oppose. House Bill 10-1384 results in the termination of OAP financial and medical benefits to elderly Colorado legal immigrants, leaving more than 2,000 elderly Colorado residents uninsured and without financial assistance. While a five-year waiting period is required for federally funded public benefits programs, it is not required for state-funded programs. Moreover, the waiting period will apply to legal immigrants currently receiving benefits, terminating their coverage. This is unprecedented. Even when the federal law was created in the mid-1990s, current program participants were grandfathered. Counting sponsor income is not a requirement for state-funded programs and there are many valid public policy

reasons for states not to adopt it, including the certain financial hardship a sponsor would encounter or does encounter in order to medically support an elder in today's health care market.

Senate Bill 10-160

Sponsors: Sen. Lundberg

Status: Failed

Description: Directs the state to seek a federal waiver to restructure Medicaid long-term care to permit Medicaid recipients to receive 70 percent of the Medicaid benefit in exchange for the ability to choose any provider and not be subject to estate recovery.

Our position: CCLP opposes this change in the Medicaid program. No one can predict the cost of the medical services they will require, particularly at the end of life. This bill would have taken away Medicaid's fundamental guarantee of medically necessary care, and also had the potential to increase costs for uncompensated care.

Conceptually worthwhile, but wrong timing or framework

House Bill 10-1103

Sponsors: Rep. Todd, Sen. Steadman

Status: Failed

Description: Imposed a small surcharge on health insurance policies issued in the state to establish a fund to provide for costs in excess of a certain amount for children with defined catastrophic illnesses.

Our position: Passive support. CCLP hopes the concept is brought forward again. While a good idea, there were a number of structural problems and outstanding questions, including whether this was truly a fee rather than a tax, issues about how the advisory committee charged with distributing monies would function, the constitutionality of imposing a one-year residency requirement and other issues. New Jersey has adopted a similar mechanism, but did so through an employer tax.

House Bill 10-1266

Sponsors: Rep. Frangas

Status: Failed

Description: From time to time, legislators and advocates have considered whether it makes sense to permit municipal governments and small employers and nonprofit organizations to purchase health insurance through the state employees' benefits plan. Potential problems include the risk of adverse selection as well as administrative costs and complexity. Potential benefits include the opportunity for those otherwise unable to afford insurance to pool risk. The bill would have required an up front investment by the state to be reimbursed in time by administrative fees collected under the bill. Any bill with a substantial fiscal note was unlikely to survive this year. In addition, there were a host of questions and issues that would have had to be resolved, including how to run a program that was essentially parallel to the state employees' plan.

Our position: Monitor