

## Seattle Children’s Hospital Sues State Insurance Commissioner over Health Exchanges

With the initiation of open enrollment on October 1, 2013 for the Health Exchange Marketplace (“Exchanges”) under the Affordable Care Act (ACA), in addition to the technical difficulties encountered, the government may face some other unintended consequences during the rollout. Much of the pre-enrollment period was focused on marketing the insurance choices that Exchanges would provide for consumers, but this period virtually ignored the potential consequences of the limits Exchanges would impose on providers and hospitals. One provider, Seattle Children’s Hospital (“Children’s”), filed a lawsuit on October 4, 2013 against the Washington State Office of the Insurance Commissioner because the majority of plans approved for Exchanges do not currently cover healthcare provided by the hospital.<sup>1</sup>

The majority of health plans available through the Washington Healthplanfinder,<sup>2</sup> the state’s new online Health Exchange marketplace, do not include Children’s under the list of covered providers. The lawsuit demands that two of the health plans under the Exchange—Molina Healthcare and Coordinated Care—be withdrawn from available plan options due to narrow provider coverage options, which excludes Children’s as a covered entity.<sup>3</sup> The two health plans under debate are ironically among five companies that the state’s insurance commissioner initially disapproved applications for due to issues with provider contracts; both were later able to reach settlements during an appeals process.<sup>4</sup>

Children’s, the only hospital in the region providing certain pediatric and neonatal specialty services, e.g., level IV neonatal intensive care and solid organ transplantation, argues that consumers’ access to certain necessary medical services will be restricted as many providers offered by the Exchanges do not include Children’s in their network coverage.<sup>5</sup> In response, Molina Healthcare noted that the plan includes two children’s hospitals in-network, and they would partner with Children’s given that appropriate agreements could be settled between the two entities.<sup>6</sup>

While Children’s was the first to take legal action to address the increasing number of narrow networks among Exchange plans, there is widespread concern among hospitals nationwide regarding the implications of the current infrastructure for insurance plans.<sup>7</sup>

Growth in the number of relatively narrow insurance plan provider options flourished under the ACA, as consumers prioritize the lower premiums offered by plans with strict network restrictions compared to the benefits of plans with higher premiums and wider access to care. As a by-product of this trend, academic medical centers and children’s hospitals, which tend to be higher-cost providers, will likely suffer from network exclusion in many Exchange plans.<sup>8</sup> Pending the outcome of the Children’s lawsuit, and any subsequent legal action by providers, these side effects of the Exchanges may have a greater negative impact on the future of healthcare reform than ever expected.

<sup>1</sup> “Press Release: Majority of Washington’s Health Benefit Exchange Insurance Plans Fail to Cover Care at Seattle Children’s; Hospital Sues Seeking Adequate Network Coverage for Children and Families”, By Seattle Children’s Hospital, October 4, 2013, <http://www.seattlechildrens.org/Press-Releases/2013/Majority-of-Washington%E2%80%99s-Health-Benefit-Exchange-Insurance-Plans-Fail-to-Cover-Care-at-Seattle-Children%E2%80%99s-Hospital-Sues-Seeking-Adequate-Network-Coverage-for-Children-and-Families/> (Accessed 11/2/13)

<sup>2</sup> Available at: <https://www.wahealthplanfinder.org/>

<sup>3</sup> “Seattle Children’s Hospital v Office of the Insurance Commissioner of the State of Washington”, Petition for Judicial Review, Superior Court of Washington for King County (October 4, 2013) pp. 3-4

<sup>4</sup> “Kreidler Settles with Molina – Approves Two More Exchange Plans for King, Pierce, and Spokane Counties”, The Washington State Office of the Insurance Commissioner, Release No. 13-24, September 4, 2013, [www.insurance.wa.gov/about-oic/news-media/news-releases/2013/9-4-2013.html](http://www.insurance.wa.gov/about-oic/news-media/news-releases/2013/9-4-2013.html) (Accessed 11/5/13); “Seattle Children’s Files Suit Alleging Unfair Insurance Exchange Options” By Helen Gregg, Becker’s Hospital Review, October 7, 2013, [www.beckershospitalreview.com/legal-regulatory-issues/seattle-children-s-files-suit-alleging-unfair-insurance-exchange-options/print.html](http://www.beckershospitalreview.com/legal-regulatory-issues/seattle-children-s-files-suit-alleging-unfair-insurance-exchange-options/print.html) (Accessed 11/5/13)

<sup>5</sup> *Ibid*, Seattle Children’s Hospital, October 4, 2013

<sup>6</sup> “Seattle Children’s Sues After Exchange Plans Fail to Include it in Network”, By Joe Carlson, Modern Healthcare, October 7, 2013, <http://www.modernhealthcare.com/article/20131007/NEWS/310079942/> (Accessed 11/5/13)

<sup>7</sup> “Hospital Lawsuit Underlines Provider Concerns with Marketplace Plans”, By Rich Daly, HFMA, October 10, 2013, [http://www.hfma.org/Content.aspx?id=19946&utm\\_source=RealMagnet&utm\\_medium=Email&utm\\_campaign=27352059/](http://www.hfma.org/Content.aspx?id=19946&utm_source=RealMagnet&utm_medium=Email&utm_campaign=27352059/) (Accessed 11/2/13)

<sup>8</sup> *Ibid*, By Rich Daly, October 10, 2013



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