

# Overview of Federal Health Care Reform Legislation

Deborah Erickson

Department of Health & Social Services

April 15, 2010

# Status

- P.L. 111-148: The Patient Protection & Affordable Care Act (H.R. 3590)
  - H.R. 3590
    - Health care reform legislation initially passed by the U.S. Senate Dec 2009
    - Passed the U.S. House March 21, 2010
  - Date of enactment: March 23, 2010
- P.L. 111-152: The Health Care and Education Reconciliation Act (H.R. 4872)
  - Contains the House changes to H.R. 3590
  - Passed Congress March 25, 2010
  - Date of enactment: March 30, 2010

# Status

- At the direction of the Governor, Alaska's AG is currently conducting a legal review of the new federal law
- A state executive branch interagency team is beginning work on policy review and impact analysis of the law
- The legislature will be involved in any decision regarding state implementation of any provision of the federal law that requires
  - A new state law
  - A state appropriation

# Caveats & Disclaimers

- This presentation is a high-level overview of some key provisions and is not comprehensive
- Many of the details needed to support impact analyses and implementation planning are unknown:
  - Anticipate more than 100 pages of new federal regulations, program guidance, and grant guidance for each page of the new law

# Overview of Legislation

- Health Care Coverage (Titles I & II)
- Health Care Delivery (Title III)
- Prevention and Public Health (Title IV)
- Health Care Workforce (Title V)
- Fraud, Waste, and Abuse (Title VI)
- Medical Technology (Title VII)
- Community Living Assistance (Title VIII)
- Taxes and Fees (Title IX)
- Amendments (Title X)

# Health Care Coverage Overview

- Insurance Market Reforms
- Health Insurance Exchange
- Medicaid Expansion
- New Insurance Programs
- Individual Requirements & Subsidies
- Employer Requirements & Subsidies

# Health Care Coverage

- Insurance Market Reforms

- Exclusions for pre-existing conditions prohibited
  - For children in 2010
  - For adults in 2014
- Dependent coverage extended to 26 years of age (2010)
- Lifetime limits prohibited (2010)
- Annual limits restricted (2010), then prohibited (2014)
- Prohibition on rescissions (2010)
- Medical Loss Ratio: Reporting (2010); Restricted (2011)
- Guaranteed issue and renewal rules (2014)
- Adjusted community rating rules limit variations in premiums to region, tobacco use, age, and family composition (2014)
- Gender discrimination prohibited

# Health Care Coverage

- Health Insurance Exchange (2014)
  - State-based; Multi-state option
  - For individuals and small business (<100 employees)
    - Large businesses allowed to participate starting 2017
  - Federal grants to states for planning and implementation (2010)
  - Administered by gov't agency or non-profit
  - Required to be Self-sustaining (2015)
  - State opt-out provision
    - Federal government required to establish Exchanges for states that opt out



# Health Care Coverage

- Medicaid Expansion (2014)
  - Eligibility expanded to all individuals under 65 (including childless adults) up to 133% FPL
  - Maintenance of effort requirement:
    - Effective as of March 23, 2010
    - States prohibited from reducing eligibility standards
      - For adults: Until Exchange is operational
      - For children: Until 09/30/2019
  - State option to implement expansion immediately without waiver (at state's FMAP rate until 2014, then enhanced)

# Health Care Coverage

- Medicaid Expansion (*continued*)
  - Enhanced FMAP for expansion population
    - 2014 – 2016: 100% Fed
    - 2017: 95% Fed
    - 2018: 94% Fed
    - 2019: 93% Fed
    - 2020 and beyond: 90% Fed

# Health Care Coverage

- Medicaid Expansion *(continued)*
  - Alaska’s Projected Cost for Newly Eligible and Enrolled with Projected # of New Enrollees

Federal Fiscal Year	# of “Expansion” Enrollees	FMAP	State GF Cost
2014	23,467	100% Fed	\$0
2015	23,584	100% Fed	\$0
2016	23,702	100% Fed	\$0
2017	23,821	95% Fed	\$5.5 million
2018	23,940	94% Fed	\$7.0 million
2019	24,059	93% Fed	\$8.7 million
2020	24,179	90% Fed	\$13.2 million

# Health Care Coverage

- New Insurance Programs
  - High-risk health insurance pool (feds may contract with states) (2010)
  - Multi-state health plans created (under contract with private insurers by federal Office of Personnel Management)
  - Health Care Cooperatives: Non-profit member-operated health insurance companies created through loans and grants
  - Health Choice Compacts (2016)

# Health Care Coverage

- Individual Requirements & Subsidies
  - Requirements (2014)
    - Choice between having a qualified health plan or paying a tax penalty
      - Tax penalty \$695/year (Family capped at 3x individual penalty (\$2,085)) or 2.5% of household income, whichever is greater (phased in)
      - Exemptions include
        - Financial hardship
        - Religion
        - American Indians/Alaskan Natives
        - Lowest cost option exceeds 8% of income

# Health Care Coverage

- Individual Requirements & Subsidies
  - Subsidies (eff. 2014)
    - Premium Credits
      - Refundable/ Advanceable credits for purchase of insurance through the Exchange
      - Individuals/families with incomes between 133%-400% FPL
      - Amounts tied to cost of plan and set on sliding scale based on income level
    - Cost Sharing Subsidies
      - Individuals/families between 100% - 400% FPL

# Health Care Coverage

- Employer Requirements & Subsidies
  - Requirements (effective 2014)
    - < 50 employees: Exempt
    - > 50 employees - if 1 or more employee receives subsidy:
      - And employer does not offer coverage, employer required to pay fee of \$2,000/FTE (1<sup>st</sup> 30 FTEs excluded)
      - And employer provides coverage, employer required to pay fee of \$2,000/FTE or \$3,000 per subsidized employee (whichever is less)
    - > 200 employees: Required to provide insurance
    - Provide voucher to employees with incomes less than 400% FPL who chose to participate in Exchange
    - Report value of health care benefits on employees' W-2 (2011)

# Health Care Coverage

- Employer Requirements & Subsidies
  - Subsidies (phased in beginning 2010)
    - < =25 employees: Tax credits (for businesses with average annual wages < \$50,000)
    - Temporary Reinsurance Program (2010)
      - For employers (including state & local gov't) offering health insurance to early retirees (aged 55-64)
      - Will reimburse employers 80% of retiree claims between \$15,000 and \$90,000 until 2014



# Health Care Delivery

- Evidence-Based Practice (Comparative Effectiveness Research)
- Quality Improvement (National Strategy)
- Care Coordination and Service Integration
- Maternal, Infant and Early Childhood Home Visitation Programs
- Trauma System Enhancement
- Primary Care Enhancement
  - Medicare 10% bonus to primary care physicians (2011–2015)
  - Medicaid Medical Home State Plan Option (90% FMAP for two years) (2011)
  - Increase Medicaid payment to Medicare rate (n/a in AK)
- Payment Reform
  - Bundled payments (Medicare Pilot; Medicaid Demonstration)
  - Medicare Pay-for-Performance Program

# Prevention & Public Health

- National Prevention Council and Fund
- Coverage of clinical preventive services
- Nutrition labeling on menus
- Community wellness grants
- Healthy lifestyles program incentives for Medicare and Medicaid enrollees
- Immunization program
- Epidemiology & PH laboratory capacity
- Childhood obesity demonstration project

# Health Care Workforce

- National HC Workforce Commission
- Health care workforce assessment
- Recruitment and retention programs
- National Health Service Corps increased
- Training and education programs
  - Redistribute GME (graduate medical education) slots

# Fraud, Waste & Abuse

- New provider enrollment processes for Medicare and Medicaid
- Data sharing across federal programs
- Financial disclosure of financial relationships between health entities
- Increased penalties
- Providers required to implement compliance program
- Demonstration grants to states for medical malpractice reform

# Community Living Assistance

- New long-term care insurance program (2011)
  - Voluntary
  - 5-year vesting
  - Cash benefit to help aged/disabled stay in home or cover nursing home costs

# Taxes & Fees

- 10% sales tax on indoor tanning (2010)
- \$2.8 billion annual fee on pharmaceutical industry (2012; increasing over time)
- 2.3% sales tax on medical devices (2013)
  - Glasses, contacts, hearing aids exempt
- Medicare payroll tax increased from 1.45% to 2.35% for individuals >\$200K and couples >\$250K (2013)
- New 3.8% tax on unearned income for individuals >\$200K and couples >\$250K (2013)
- Tax deduction for employers receiving Medicare Part D retiree subsidy eliminated (2013)
- \$8 billion annual fee on health insurance industry (2014; increasing over time)
- Tax on employer-sponsored high-value insurance plans (2018)

# Other Provisions

- Enhanced funding for Community Health Centers
- Medicare Doughnut Hole Closure
- Medicare Funding Growth Capped
- Coordinated Health Care Office
- Elder Justice Act
- Indian Health Care Improvement Act
  - Adds long term care and behavioral health services

# Timeline Highlights for States

- **2010**
  - Medicaid Maintenance of Effort imposed (March)
  - Temporary high-risk insurance pool program established (June)
  - Temporary re-insurance program for early retirees established (June)
  - Feds establish website to facilitate insurance information (July)
  - Grants to states for
    - Exchange planning and implementation
    - Assistance with insurance premium review requirements
    - Establishing an office of health insurance consumer assistance
  - Smallest employers (<25) eligible for tax credits
  - Insurance Market Reforms Implemented
    - Pre-existing condition exclusion prohibited for children
    - Lifetime limits prohibited; annual limits restricted
    - Prohibition on rescission of coverage
    - Preventive services coverage required
    - Dependent coverage to 26 years of age
    - Medical loss ratio reporting required



# Timeline Highlights for States

- 2011

- Medicaid

- States eligible for 1% FMAP increase if certain preventive services covered with no cost-sharing
- Required to cover tobacco cessation for pregnant women
- New state option for home and community-based services for disabled

- Insurance Market Reforms

- Medical Loss Ratio requirement imposed: Required to spend 85% of premium revenue on medical claims (80% for insurers covering small business)

- 2013

- States must notify U.S. DHHS regarding intent to establish Exchange
- Fed regs for health care choice compacts issued
- States eligible for 23% FMAP increase to regular CHIP match (up to 100%) until 2019

# Timeline Highlights for States

- 2014
  - Insurance Exchanges implemented
  - State Medicaid
    - Expansion to 133% FPL takes effect
    - Required to implement enrollment simplification and coordination with Exchanges
    - Required to offer premium assistance for employer-sponsored insurance.
    - DSH funding reduced
    - Prohibition on exclusion of coverage for barbiturates, benzodiazepines, and tobacco cessation products
  - States required to establish at least one reinsurance entity
  - Insurance Market Reforms Implemented
    - Pre-existing condition exclusion prohibited for adults
    - Guaranteed issue and renewal required
    - Adjusted community rating rules take effect
  - Individual and employer mandates and subsidies implemented

# Timeline Highlights for States

- 2015
  - Insurance Exchanges must be self-sustaining
  - Medicaid programs required to begin annual enrollment reporting
- 2016
  - Health Care Choice Compacts may take effect
- 2017
  - States will begin funding share of Medicaid expansion
  - States may operate an alternative program in lieu of federal coverage reforms if waiver obtained in previous year
  - States may allow large companies (>100 employees) to participate in Exchange
- 2018
  - Excise tax on high-value health insurance plans imposed