

Spotlight on the States



**Key State Policy Issues for Health Care Reform Implementation
May 2010**

Issue Brief #1: Three Critical Coverage Provisions Taking Effect in Year One

This issue brief is the first in a series that will identify the impacts of health care reform on state health policy and actions PCAs and health centers can take to prepare for implementation.

Introduction

Over the past year, health centers have experienced dramatic patient growth—the largest annual increases in the history of the program—and the number of health center uninsured patients has increased by 900,000.¹ Ensuring adequate reimbursement for services is increasingly critical for health centers and they, along with state primary care associations, work tirelessly to ensure that all individuals and families maintain or obtain coverage privately or through public insurance programs.

The new federal health care reform legislation signed into law by President Obama on March 23, 2010, provides an array of policy options and funding to expand access to both public and private insurance coverage for millions of Americans. While the law provides access to affordable coverage, many of the vehicles for doing so do not become effective for several years, and as health centers know best, the need for their services will not wait. To address the urgent need for coverage and to prevent states from making eligibility cuts to public programs during a time of severe fiscal distress, the law includes two critical provisions relating to Medicaid and Children’s Health Insurance Program (CHIP) eligibility and enrollment. In addition, it establishes a temporary “high risk” insurance pool program that would enable uninsured individuals with preexisting conditions to obtain coverage through the private market. The Medicaid and CHIP Maintenance of Effort (MOE) requirements and the Medicaid early expansion option are in effect currently and the temporary “high risk” insurance pool must be established by mid-June 2010.

These key coverage provisions also present opportunities for states to gradually become compliant with many of the 2014 mandates, which may ease their burden over time, while providing access to coverage for vulnerable populations, many of whom rely on health centers for their health care needs. The attached chart (Table 1) provides a state-by-state look at current eligibility levels for Medicaid, CHIP, and other state-only funded programs, highlighting where opportunities and vulnerabilities exist with regard to these new federal health care reform measures.

¹NACHC Fact Sheet, “One Year Later: Health Centers’ Accomplishments under the Stimulus”, February 2010.
http://www.nachc.com/client/documents/communications/20100216_ARRA_Health_Centers_One_Year.pdf

Three Key Coverage Provisions Taking Effect in Year One

Maintenance of Effort (MOE) Requirements for Medicaid and CHIP

The health care reform package² requires states to maintain Medicaid and CHIP eligibility and enrollment levels that were in effect on the date the legislation was signed into law (March 23, 2010) until the state's health insurance exchange is deemed fully operational by the Secretary of Health and Human Services (HHS). Eligibility levels for children in Medicaid and CHIP must be maintained until September 30, 2019. States that do not comply with the MOE requirements risk losing federal matching funds for their entire Medicaid program until they become compliant. (See Table 1)

Between January 1, 2011 and December 31, 2013, states that can certify to the Secretary of HHS that they are facing a budget deficit for the current year or will face one in the coming year, will be exempt from the MOE requirements for non-pregnant, non-disabled adults with incomes greater than 133% FPL. Given current eligibility levels and projected FY2011 budget shortfalls³, sixteen states may qualify for this exemption (see Table 1).

State Early Expansion Option for Low-Income Adults (Medicaid)

The health reform package extends Medicaid eligibility for individuals up to 133% FPL and eliminates categorical restrictions such as disability and parental status beginning in 2014. As of April 1, 2010, states have the option to expand coverage to what is essentially a new eligibility group of low-income adults (to 133% FPL) and receive federal matching payments at their regular federal medical assistance percentage (FMAP).⁴ The enhanced FMAP determined under the American Recovery and Reinvestment Act of 2009 is not available for this population. States may choose to phase-in income eligibility for this group by setting the income standard at any level up to 133% FPL, but cannot cover higher-income individuals before all lower-income individuals are covered. There is no asset test for this new eligibility group. States that choose the early expansion option are not precluded from receiving the enhanced federal matching rate in 2014, when coverage of this group becomes mandatory.⁵

To qualify for the April 1st effective date, early expansion states must submit a state plan amendment by June 30, 2010. Several states already cover portions of the newly-eligible population through a Medicaid Section 1115 Waiver. Additionally, several states provide coverage through other publicly funded programs (i.e. state basic health programs), and do not receive any federal matching payments for those individuals. For these states, the early expansion option might be particularly attractive as it would leverage significant federal funding and alleviate the budgetary strains of state-only funded programs (see Table 1).

While many states have expanded coverage beyond current federal baselines for low-income adults, there are opportunities for all states to expand and most will need to work diligently in the ensuing years to bring coverage up to the new standards. To date, only Connecticut⁶ and the District of Columbia⁷ have submitted state plan amendments to expand their Medicaid programs under this option.

“High-Risk” Insurance Pool Program: The health care reform legislation requires the Secretary of HHS to establish a temporary “high-risk” insurance pool program for eligible individuals no later than 90 days after

² The Health Care and Education Reconciliation Act of 2010 (HCERA, P.L. 111-152) makes changes to Patient Protection and Affordable Care Act (PPACA, P.L. 111-148). Together, the Reconciliation Act and PPACA are considered the final health care reform package. http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4872enr.txt.pdf

³ The Kaiser Family Foundation. “States with Projected FY2011 Budget Shortfalls.” February 25, 2010 <http://www.statehealthfacts.org/comparemapreport.jsp?rep=56&cat=1>

⁴ Specifically defined as “non-elderly, non-pregnant individuals who are otherwise ineligible for Medicaid under prior law”-. Baumrucker, Evelyne, et al. Medicaid and CHIP: Changes Made by the Health Care and Education Reconciliation Act of 2010 to the Patient Protection and Affordable Care Act. Congressional Research Service. April 1, 2010 <http://www.ncsl.org/documents/health/MACHIPchgs.pdf>

⁵ State Medicaid Director Letter #10-005, April 9, 2010 <http://www2.cms.gov/smdl/downloads/SMD10005.PDF>

⁶ Source: State of Connecticut Department of Social Services <http://www.ct.gov/dss/cwp/view.asp?Q=458714&A=2345>

⁷ Article: “[DC jumps at health-care savings in expanded Medicaid](#)”, The Washington Post, May 14, 2010.

enactment and ending on January 1, 2014.⁸ The law authorizes the Secretary to establish this program directly or through contracts with eligible entities, which include states and non-profit private entities. Currently, 34 states operate high-risk insurance pools (see Table 1). To be eligible for a contract with the Secretary, the state must comply with a MOE requirement that prohibits the state from reducing the annual amount expended for the operation of one or more high-risk pools during the year preceding the year in which the contract is entered into.⁹

In a letter to governors and independent insurance commissioners dated April 2, 2010, Secretary Sebelius outlined several options states could consider with regard to the new high risk pool program. They include:

- Operating a new high-risk pool alongside a current state high risk pool;
- Establishing a new high-risk pool (in a state that does not currently have a high risk pool);
- Building upon other existing coverage programs designed to cover high-risk individuals;
- Contracting with a current HIPAA carrier of last resort or other carrier, to provide subsidized coverage for the eligible population; or
- Doing nothing, in which case HHS would carry out a coverage program in the state.¹⁰

Letters of intent were due to the Secretary by April 30, 2010 and so far twenty eight states and the District of Columbia indicated they plan to run their own high-risk pool program and nineteen elected to have HHS run the high-risk pool in their states.¹¹ (See Table 1)

\$5 billion in new federal funding will be made available beginning July 1, 2010 to states for the operation of these high-risk pools. HHS has proposed allocating these funds to states based on population as well as state costs (almost identical to the allocation method used for CHIP), with a reallocation of unused funds after two years.¹²

Other policy changes states may need to consider come from new statutory requirements for eligibility, benefits and premiums as existing state high-risk pool standards can vary.¹³ The new law defines eligible individuals as citizens or nationals of the United States who have a preexisting condition (as determined in a manner consistent with guidance issued by the Secretary) and who have not been covered under creditable coverage for the previous six months before applying for coverage. Benefits must have an actuarial value of at least equal to 65 percent of total allowed costs and premiums are to be established at a standard rate for a standard population.¹⁴

It is not clear whether subsidies will be available for low-income applicants or whether third-party premium assistance will be permitted as they currently are in some states.¹⁵ Further guidance on program operation is expected in the coming months once HHS has the opportunity to review state letters of intent and can determine where a need for additional federal policy exists.

⁸ Public Law 111-148, Section 1101

⁹ Public Law 111-148, Section 1101

¹⁰ Letter from Sec. Sebelius to Governors and Independent Insurance Commissioners April 2, 2010

<http://www.hhs.gov/news/press/2010pres/04/20100402b.html>

¹¹ National Conference of State Legislatures, "[Coverage of High Risk Individuals: State and Federal High-Risk Pools](#)", Updated May 17, 2010.

¹² [HHS Fact Sheet-Temporary High-Risk Pool Program](#)

¹³ Kaiser Commission on Medicaid and the Uninsured. State High Risk Pools: An Overview, January 2010.

<http://www.kff.org/uninsured/upload/8041.pdf>

¹⁴ See footnote 10

¹⁵ The Henry J. Kaiser Family Foundation, "Issues for Structuring Interim High Risk Pools", Focus on Health Reform, January 2010.

<http://www.kff.org/healthreform/upload/8040.pdf>

What can PCAs and health centers do to prepare?

- Educate policymakers about the importance of maintaining Medicaid and CHIP eligibility and enrollment levels and continue outreach and enrollment efforts.
- Talk with your state about the Medicaid early expansion option and how it could potentially save the state money and benefit health centers and their patients.
- Talk with your state about the ways a robust high-risk pool would benefit eligible health center patients and once established, initiate outreach and enrollment activities for eligible individuals.

Table 1. A State-By-State Look at Coverage

Meeting or exceeding 2014 Medicaid requirements under Health Reform

Eligible for Medicaid/ CHIP MOE Exemption if establish budget shortfall

Includes newly-eligible Medicaid population

	FMAP FY 2010 ¹⁴		MEDICAID/CHIP by % of FPL covered								Other State-Only Funded Coverage			High-Risk Pool ¹⁷	
	Original	ARRA Adjusted	Parents			Childless Adults (limited) ¹⁶	Pregnant Women ¹⁵	Incl. CHIP Expansion ¹⁵			Separate CHIP program ¹⁵	Age 0-19 ¹⁵	Parents ¹⁶		Childless adults ¹⁶
			Jobless ¹⁵	Working ¹⁵	Limited coverage ¹⁶			Age 0-1	Age 1-5	Age 6-19					
AK	51.43%	62.46%	77	81			175	175	175	175					State#
AL	68.01%	77.53%	11	24			133	133	133	100	300				Federal#
AR	72.78%	81.18%	13	17			200	200	200	200*	200				State#
AZ	65.75%	75.93%	106	106		110	150	140	133	100	200				Federal
CA	50.00%	61.59%	100	106			200	200	133	100	250				State#
CO	50.00%	61.59%	60	66			200	133	133	100	205				State#
CT	50.00%	61.59%	185	191			250	185	185	185	300	>300**	300	300	State#
DC	70.00%	79.29%	200	207			300	300	300	300*				211	State
DE	50.21%	61.78%	100	121		110	200	200	133	100	200				Federal
FL	54.98%	67.64%	20	53			185	200	133	100	200	>200**			Federal#
GA	65.10%	74.96%	28	50			200	200	133	100	235				Federal
HI	54.24%	67.35%	100	100	200	100 (200)	185	300	300	300*					Federal
IA	63.51%	72.55%	28	83	250	(250)	300	300	133	133	300				State#
ID	69.40%	79.18%	21	27			133	133	133	133*	185				Federal#
IL	50.17%	61.88%	185	185			200	200	133	133*	200	No Limit, >300*			State#
IN	65.93%	75.69%	19	25	200	(200)	200	133	150	150*	250				Federal#
KS	60.38%	69.68%	26	32			150	150	133	100	241				State#
KY	70.96%	80.14%	36	62			185	185	150	150*	200				TBD#
LA	67.61%	81.48%	11	25			200	200	200	200*	250				Federal#
MA	50.00%	61.59%	133	133	300	(100)	200	200	150	150*	300	400			State

	FMAP FY 2010 ¹⁴		MEDICAID/CHIP by % of FPL covered								Other State-Only Funded Coverage			High-Risk Pool ¹⁷	
	Original	ARRA Adjusted	Parents			Childless Adults (limited) ¹⁶	Pregnant Women ¹⁵	Incl. CHIP Expansion ¹⁵			Separate CHIP program ¹⁵	Age 0-19 ¹⁵	Parents ¹⁶		Childless adults ¹⁶
			Jobless ¹⁵	Working ¹⁵	Limited coverage ¹⁶			Age 0-1	Age 1-5	Age 6-19					
MD	50.00%	61.59%	116	116		(116)	250	300	300	300				State#	
ME	64.99%	74.86%	200	206		(100)	200	200	150	150*	200	>200**	300	300	State
MI	63.19%	73.27%	37	64		45	185	185	150	150	200				State
MN	50.00%	61.59%	215	215	275		275	280	275	275		>275**		250	Federal#
MO	64.51%	74.43%	19	25			185	185	150	150*	300				State#
MS	75.67%	84.86%	24	44			185	185	133	100	200				Federal#
MT	67.42%	77.99%	32	56			150	133	133	133*	250				State#
NC	65.13%	74.98%	36	49			185	200	200	100	200	200-225**			State#
ND	63.01%	69.95%	34	59			133	133	133	100	160				Federal#
NE	60.56%	68.76%	47	58			185	200	200	200*					Federal#
NH	50.00%	61.59%	39	49			185	300	185	185	300	300-400**			State#
NJ	50.00%	61.59%	200	200			200	200	133	133*	350	>350**			State
NM	71.35%	80.49%	29	67	250	(250)	235	235	235	235					State#
NY	50.00%	61.59%	150	150		100	200	200	133	100	400	>400**			State
NV	50.16%	63.93%	25	88			185	133	133	100	200				Federal
OH	63.42%	73.47%	90	90			200	200	200	200		>300**			State
OK	64.43%	76.73%	31	47			185	185	185	185*					State#
OR	62.74%	72.87%	32	40	100	(100)	185	133	133	100	300	>300**			State#
PA	54.81%	65.85%	26	34			185	185	133	100	300	>300**	208	213	State
RI	52.63%	63.92%	175	181			250	250	250	250*			350***		TBD
SC	70.32%	79.58%	48	89			185	185	150	150	200				Federal#
SD	62.72%	70.80%	52	52			133	140	140	140*	200				State#
TN	65.57%	75.37%	70	129			250	185	133	100	250	>250**			Federal#

	FMAP FY 2010 ¹⁴		MEDICAID/CHIP by % of FPL covered									Other State-Only Funded Coverage			High-Risk Pool ¹⁷
	Original	ARRA Adjusted	Parents			Childless Adults (limited) ¹⁶	Pregnant Women ¹⁵	Incl. CHIP Expansion ¹⁵			Separate CHIP program ¹⁵	Age 0-19 ¹⁵	Parents ¹⁶	Childless adults ¹⁶	
			Jobless ¹⁵	Working ¹⁵	Limited coverage ¹⁶			Age 0-1	Age 1-5	Age 6-19					
TX	58.73%	70.94%	12	26			185	185	133	100	200				Federal#
UT	71.68%	80.78%	38	44	150	(150)	133	133	133	100	200				TBD#
VA	50.00%	61.59%	23	29			200	133	133	133*	200				Federal
VT	58.73%	69.96%	185	191		160	200	300	300	300	300				State
WA	50.12%	62.94%	37	74			185	200	200	200	300		200	200	State#
WI	60.21%	70.63%	200	200		(200)	300	300	300	300*		>300**			State#
WV	74.04%	83.05%	17	33			150	150	133	100	250				State#
WY	50.00%	61.59%	39	52			133	133	133	100	200				Federal#

*Part of the 100-133 population is funded through Title XXI

**Buy-in Program

***For Pregnant women

State currently operates its own high-risk pool

¹⁴Kaiser Family Foundation. Federal Matching Assistance Percentage (FMAP) for Medicaid with American Recovery and Reinvestment Act (ARRA) Adjustments.

Available at: <http://www.statehealthfacts.org/comparemaptable.jsp?ind=695&cat=4>

¹⁵Center on Budget and Policy Priorities, & Kaiser Commission on Medicaid and the Uninsured. *A Foundation for Health Reform: Findings of a 50 State Survey of Eligibility Rules, Enrollment and Renewal Procedures, and Cost-Sharing Practices in Medicaid and CHIP for Children and Parents During 2009*. December 2009

Available at: <http://www.kff.org/medicaid/upload/8028.pdf>

¹⁶Kaiser Family Foundation. *Where are States Today?: Medicaid and State-Funded Coverage Eligibility Levels for Low-Income Adults*. December 2009.

Available at: <http://www.kff.org/medicaid/upload/7993.pdf>

¹⁷See Citation 11

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NACHC Mission:

To promote the provision of high quality, comprehensive and affordable health care that is coordinated, culturally and linguistically competent, and community directed for all medically underserved populations.

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