

Health Care Reform: Implementing the Law

The Importance of Regulation

The passage of health care reform legislation, the Patient Protection and Affordable Care Act (PPACA), is a huge achievement and holds the promise of reforming the health insurance marketplace and covering an additional 35 million Americans. However, getting from passage of legislation to successfully facilitating provision of insurance coverage to 35 million Americans is akin to driving cross country. It is a long haul, with several detours, and the name of the road is "regulation".

Legislation, as passed by Congress, is often merely a framework, requiring clarification and specificity in order to be successfully implemented. Following the passage of bills, regulations are released by federal agencies with more details specific to the law. By eliciting comments from stakeholders and citizens before final regulations are released, laws can be adapted to respond to real world concerns. Federal agencies, such as the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services, must go through this process to successfully implement the PPACA.

Health Professional Shortage Areas

The PPACA calls for the DHHS Secretary to revise the criteria by which a Health Professional Shortage Area (HPSA) designation is applied. This was attempted in 1998 and more recently in 2008. The HPSA designation is a critical link to funding and resources for communities across the country. Already, DHHS has posted a notice of proposed rulemaking to revise this definition. As in 2008, CHF will seek to inform this process to ensure that all vulnerable underserved populations are represented in the designation.

Maintenance of Effort Provisions

To safeguard the delivery of care for safety net populations, including children insured through Medicaid and CHIP, the PPACA included a maintenance of effort (MOE) requirement. This requirement penalizes states that cut back on safety net programs, such as Medicaid and CHIP, during implementation of larger reforms. States, hard pressed by budget shortfalls, are looking for ways to reduce spending. California proposed ending the Healthy Families program and Arizona passed a law eliminating their CHIP program.

The Children's Health Fund will be monitoring, evaluating and weighing in on numerous regulations, including those that will impact the lives of medically underserved children such as:

- Revision of the Health Professional Shortage Area designations
- Maintenance of Effort provisions

CHF will also weigh in on regulations that will impact all children including:

- Children with pre-existing conditions
- Pediatric essential benefits required by law to be offered by insurance plans
- Maintaining coverage for adult children up to age 26 on their parents' insurance plans,
- Grandfathered insurance plans that may not be subject to the provisions of the new health insurance law



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Maintenance of Effort Provisions (con't)

Under the MOE provisions, these states would forfeit millions of dollars in federal funding. This sanction motivated Arizona to restore their CHIP program. CHF believes that strong guidance on MOE provisions will prevent other states from taking draconian steps to cut budgets at the expense of children's health care.

Pre-existing Conditions

Beginning in October 2010, health insurance carriers are prohibited from refusing coverage to children with pre-existing conditions. However, shortly after passage of PPACA, families who needed immediate coverage for their children became frustrated with insurance companies who were unwilling to agree to reduce the timeframe required by the law. After a brief negotiation between health insurance companies and HHS Secretary Kathleen Sebelius, several insurance companies agreed to accelerate implementation of this provision as well as to delay implementation of any new policies until HHS regulations were issued. While this is a step in the right direction, CHF remains concerned about the high cost of premiums for families with children with pre-existing conditions and will remain vigilant when regulations are released.

Dependent Coverage

Adult children were the fastest growing group of uninsured in our country when PPACA was signed into law. Under section 2714, adult children, up to age of 26, will be allowed to stay on their parents' insurance coverage. Concerned families of recent college graduates were vocal in their concern that the graduating class of 2010 would be uninsured despite passage of legislation, as the provision only applies to "new" plans from September 2010 forward. In response to the public outcry, several insurers are offering an extension of coverage for these children, however, a number of insurers are waiting for the final regulations to implement this provision. CHF is supportive of regulations that make it easy and affordable for adult children to stay on their parents' coverage.

Grandfathered Benefits

Many of the new insurance market reforms only apply to "new" insurance plans and exclude grandfathered benefit plans. The law does not specify what defines a "new" plan - this will need to be clarified through regulation. It is possible that many of the insurance reforms contained in the PPACA, including elimination of lifetime caps on benefits and provision of coverage for the full cost of preventive services with no co-pay, may not apply to health insurance plans that people already have. While this was part of the, "If you like your health insurance, you can keep it", rhetoric, CHF believes that insurance reform provisions that were put in place to protect children in families, must apply to as many plans as possible, as soon as possible.

Essential Benefits

The PPACA charges the HHS Secretary with defining essential benefits within a broad framework. Health insurance carriers who wish to participate in the health insurance exchanges will be required to offer these essential benefits. While pediatric benefits are mentioned as part of the law, CHF remains concerned that only one pediatrician will be appointed to the panel that will develop recommendations for the secretary. Pediatric needs are very different from adult health needs. In moving forward, CHF will monitor the development of essential benefits and continue to advocate for use of AAP's Bright Futures guidelines in shaping essential benefits for children.

Conclusion

The passage of health care reform was a historic victory for children, but the work continues for child health advocates to ensure that all children have access to a medical home. Advocates must remain vigilant in the implementation of the PPACA to ensure children's access to care.