



Health Reform Implementation: The Next 90 Days

A State Advocate's To-Do List

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Here is a “to-do” list for state advocates to take on in the second 90 days to ensure that health reform is implemented effectively and in the most consumer-friendly way. We also provide other resources to help you prepare for implementation (the links to these resources are available in the online version of this document), along with more technical materials that examine the parts of this law that will need to be put into motion over the coming years.

This “to-do” includes the following:

- Dependent Coverage
- Appeals Process
- Prohibition of Recissions
- Other Protections
- Follow-Up on Other Issues

To view this document online, go to Health Reform Central at www.familiesusa.org and click on “Implementing the New Law.”



Dependent Coverage

Section 1001 of the Patient Protection and Affordable Care Act (PPACA) amends Section 2714 of the Public Health Services Act so that young adults can stay on a parent's plan up to age 26.

- Interim final rules are available online at <http://edocket.access.gpo.gov/2010/pdf/2010-11391.pdf>. They are effective July 12, and the comment period ends on August 11.
- Other resources from HHS: *Young Adults and the Affordable Care Act: Protecting Young Adults and Eliminating Burdens on Families and Businesses*, available online at http://www.hhs.gov/ociio/regulations/adult_child_fact_sheet.html.
- From Families USA: *Health Coverage for Young Adults: Health Reform Will Soon Allow You to Stay on Your Parent's Health Plan* (May 2010), available online at <http://www.familiesusa.org/assets/pdfs/health-reform/coverage-for-young-adults.pdf>.
- You can also visit the Young Invincibles website at <http://www.younginvincibles/home.html>.

To do:

- Spread the word. Young adults who have lost coverage will have 30 days to sign up in the new plan year beginning after September 23, 2010. (This date is explained further in the Families USA fact sheet listed above.)
- Decide if you want to comment on rules or sign on to comments.
- Talk to your state insurance department and legislators about preventing pre-existing condition exclusion periods for young adults who are rejoining a plan. For example, your state could require insurers to disregard any break in coverage that occurred after the young person previously aged out of coverage (e.g., after the 19th birthday). In other words, the state could say that, even for those young adults who lost coverage before the new law went into effect, when they sign up again, they won't have to face a new period during which treatment of their pre-existing condition is not covered.



Appeals Process

Section 1001 of the PPACA amends Section 2719 of the Public Health Services Act to provide for internal and external appeals. Enrollees can appeal if they dispute a plan's determination about whether it will cover a service or claim.

- Plans must have an effective internal claims appeal process.
 - For group plans, this can be the ERISA claims procedure (found in 29 Code of Federal Regulations, 2560.503-1), updated by standards set by the Secretary of the Department of Labor.
 - For individual plans, this can be an internal process set by state law, updated by standards set by the Secretary of HHS.
- Notices to enrollees must be culturally and linguistically appropriate and provide information about any available ombudsman/consumer assistance program.
- Plans must allow enrollees to review the file and present evidence and testimony.

- Plans must comply with external review. They can comply in one of the following ways:
 - Comply with a state process that, at a minimum, includes consumer protections in the National Association of Insurance Commissioners (NAIC) Uniform Carrier External Review Model Act and is binding on plans. The Model Act is available online at http://www.naic.org/documents/committees_b_uniform_health_carrier_ext_rev_model_act.pdf.
 - If the state does not have a process that meets these standards, or if the plan is self-funded, plans must implement a process that meets standards established by the Secretary of HHS through guidance.

To do:

- Improve your state law. See recommendations from consumer representatives to NAIC for suggestions about what should be included in your state law.
- Comment on the federal rules when they come out.



Prohibition of Rescissions

Section 1001 of the PPACA amends Section 2712 of the Public Health Services Act to generally prohibit rescissions (retroactive cancellations of health plans or policies).

- A plan or coverage cannot be rescinded from an enrollee, except if the individual has committed fraud or intentionally misrepresented a material fact as prohibited by the terms of the plan or coverage. Cancellations require prior notice be sent to the enrollee.
- Rules are not yet out.
- Families USA's 2008 issue brief, Post-Claims Underwriting Survey, has examples of state laws to prevent unfair rescissions. California and Connecticut are examples of states that have worked on this issue.

To do:

- Make recommendations to HHS and your state legislators and insurance department about what should be in a notice to enrollees.
- Make recommendations to HHS and your state legislators and insurance department about how to enforce the law. See recommendations from consumer representatives to NAIC about what should be included in the laws, available online at http://www.nationalpartnership.org/site/DocServer/NAIC_consrecs_PPACAimmreforms.pdf?docID=6522. Will your state review proposed rescissions and cancellations to evaluate insurers' allegations of fraud or misrepresentation? Where and how can consumers appeal and present their side of the case? What happens if the insurer wrongly rescinds or cancels a policy—is the insurer sanctioned, and must it pay all just claims and reinstate the policy?
- Review and comment on proposed federal rules when they are promulgated.



Other Protections That Will Go into Effect in Plan Years Beginning after September 23

- No lifetime limits on the dollar value of essential benefits.
- Restrictions on annual limits in new plans and in all group plans.
- New group and individual plans must cover preventive services with no cost-sharing.
- Group plans can't discriminate in favor of highly compensated individuals.
- New plans include the following patient protections:
 - Enrollees can choose any available primary care provider.
 - For children, a pediatrician can be the designated primary care provider.
 - Women can use OB/GYN services without the authorization of a primary care provider.
 - If people have symptoms that would lead a person with average knowledge to think they have an emergency and need immediate attention, they can use emergency services without prior authorization. If they use such services out of network, their cost-sharing (copayments and co-insurance) can be no higher than if the services were in-network.

To do:

- Watch for proposed or interim rules and comment.
- Educate consumers about their new rights.
- Find out how your state handles "balance billing" and suggest improvements, particularly for people using emergency services. (Balance billing occurs when an out-of-network provider does not accept the plan's rates and charges the patient a balance that is more than the plan's copayments and co-insurance.) For more information, see *Medical Debt: What States Are Doing to Protect Consumers* (Families USA, November 2009), available online at <http://www.familiesusa.org/assets/pdfs/medical-debt-state-protections.pdf>.



Follow-Up Work on Issues You May Already Be Working on: Premium Rate Review

States can now apply for grants to enhance review of health insurance premiums.

- HHS's news release is available on their website at <http://www.hhs.gov/news/press/2010pres/06/20100607a.html>.
- The grant announcement is available at <http://www.grants.gov> (search for RFA-FD-10-999). Encourage your state to apply. Talk to your state insurance department about what you think would improve their premium review process.
- Other suggestions and resources from Families USA are available online at <http://www.familiesusa.org/health-reform-central/implementing-the-new-law/implementation-to-do-rate.html>.

Consumer Assistance Grants

Watch for a grant announcement for consumer assistance/health care ombudsman programs. Encourage your state to apply and to develop or enhance a program that will best help consumers who need help resolving health insurance problems and understanding their rights. Could your state work with an expert nonprofit to provide this assistance? What agency in your state is best equipped to provide consumer assistance?

- Other suggestions and resources from Families USA are available online at <http://www.familiesusa.org/health-reform-central/implementing-the-new-law/implementation-to-do-chaps.html>.
- A different grant announcement, to help Medicare consumers and people with long-term care needs navigate health care, was released and is available online at <http://www.hhs.gov/news/press/2010pres/06/20100603b.html>.

Temporary Pool for People Uninsured for Six Months with Pre-Existing Conditions

By now, your state has either applied for a grant to serve this population or announced that it will not be applying and the federal government will instead run the program for residents in your state.

- The National Conference of State Legislators (NCSL) has posted a map showing which states intend to run the pool themselves, available online at <http://www.ncsl.org/default.aspx?tabid=14329>.
- HHS's solicitation, which explains more about the criteria states must fulfill to run the pool, is available online at http://www.hhs.gov/ociio/Documents/state_solicitation.pdf. Find out when the program is likely to begin in your state and how you can enhance outreach, ensure that the application process works easily for consumers, and monitor implementation.
- Other suggestions and resources from Families USA are available online at <http://www.familiesusa.org/health-reform-central/implementing-the-new-law/implementation-to-do-temp.html>.

Small Business Tax Credit

Many small businesses with fewer than 25 full-time workers are now eligible for a tax credit if they pay 50 percent of their employees' health premiums.

- The IRS has materials that explain which businesses qualify and examples of how much they will get from the tax credit. These materials are available online at <http://www.irs.gov/newsroom/article/0,,id=223666,00.html>.
- The Small Business Majority also provides information about calculating the credit and other materials online at <http://www.smallbusinessmajority.org/hc-reform-faq/>.

- Help spread the word and encourage more small businesses to provide coverage. For example, you could ask your state to post links to materials about the credit on any state websites that are used by small businesses and to post flyers in offices where small businesses might be applying for permits or licenses.

Web Portal

In July, HHS will launch its new web portal to help people find available coverage options in their state. In October, further information about benefits and pricing will be posted on the portal to better help consumers compare plans.

- Explore the portal and help publicize it.
- Provide feedback to HHS about how it is working and what further information consumers need.

Reinsurance for Early Retirees

Employers that provide coverage to early retirees, ages 55-64 who do not yet qualify for Medicare, may be able to get reimbursed for a portion of the high-cost claims. They must apply to participate in the new reinsurance program.

- The Office of Management and Budget has posted its draft application online at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201005-0938-012.
- HHS has also posted frequently asked questions online at http://www.hhs.gov/ociio/Documents/errp_qa_firstset_05_14_2010.pdf. You may want to join with unions and others to make sure businesses that cover early retirees know about this program and apply.

*This publication is available online at
www.familiesusa.org/health-reform-central/implementing-the-new-law/.*



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