

## Health Care Reform: The New Law

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On March 23, 2010 President Obama signed into law the Patient Protection and Affordable Care Act (H.R. 3590). On March 29, the President also signed the Health Care and Education Reconciliation Act of 2010 (H.R. 4872), which includes a series of amendments to H.R. 3590 previously negotiated and agreed upon by the Democratic leadership of the House and Senate. The new health care reform law is the most important piece of federal social legislation since passage of Medicare and Medicaid in 1965.

The new Patient Protection Act guarantees Americans access to affordable health insurance by reforming private health insurance, expanding Medicaid and improving Medicare. The Congressional Budget Office estimates that by 2019 the new law will reduce the number of uninsured by 32 million, insuring 95% of Americans and legal immigrants. The Act also guarantees that comprehensive insurance is available to the 25 million Americans who are "underinsured" because they have insurance that does not provide adequate coverage.

The reform law will be fully implemented in 2014 and this brief provides an overview of what reform will look like then. However, a number of provisions take effect this year. For more information on these, see the brief "What Happens Immediately."

### PRIVATE HEALTH INSURANCE REFORMS

The Patient Protection Act changes how private insurance companies do business to guarantee access to health insurance, prohibit discrimination based on health status, and control health care costs.

#### Guaranteed issue

- Prohibits private insurance companies from turning down individuals because of **pre-existing medical conditions** or **rescinding** policies except in cases of fraud.
- **Young adults up to age 26** may be covered by their parents' plans.
- Stop insurance companies from charging **higher premiums** because of pre-existing conditions, gender, or occupation, and limit the extent to which insurance companies can charge higher premiums because of age (3:1). Plans will still be able to vary premiums based upon family size and geographic area and may charge smokers 50% more.
- Waiting periods for coverage will be limited to 90 days.

#### Comprehensive coverage

- Requires health insurance plans to cover a **standard benefit package** that includes preventive care, hospital, physician, prescription drugs, mental and behavioral health,

substance use, dental and vision care for children, rehabilitative and habilitative services and devices, and other services with the details to be developed by HHS.

- **No deductibles or copayments for preventive services.**

### **Financial protections**

- **Prohibits annual or life time limits** on coverage.
- **Basic plans** will have to cover, on average, 60% of the cost of covered benefits, and insurers could offer three other benefit plans, covering 70% to 90% of costs. The Congressional Budget Office says that policies bought in the individual insurance market cover, on average, 55% to 60% of medical costs. Coverage in the employer-sponsored market is typically around 80%.
- **Requires annual out of pocket spending caps** for consumers, set at current HSA limits, \$5,950 for individuals and \$11,900 for families in 2010, with additional protections for those who qualify for sliding scale premiums.
- **Limits deductibles** in the small group market to no more than \$2,000 for individuals and \$4,000 for families, with additional protections for those who qualify for sliding scale premiums.

### **Premium Protections**

- **Caps insurance company administrative overhead and profits**, requiring insurers to use premiums to pay for medical care. Insurance companies must spend at least 85% of premiums on medical care in the group market and 80% in the individual market.
- Strengthens **oversight of insurance premium rates** and rate increases.

### **More affordable individual and small group coverage**

- Creates state-based **Health Insurance Exchanges** so people who use the small group and individual market get the same economies of scale as larger employers where overhead costs typically run as high as 30-40%, compared with 5-10% in the large employer market.
- Individuals will be able to **choose among a variety of types of plans**, with individuals making their own trade-offs between lower premiums and higher out of pocket costs.
- The Exchanges **will not replace employer-sponsored benefits**. The Exchanges will be for those who do not have coverage or from whom employers sponsored coverage is too expensive.
  - Employees whose employer plans do not cover, on average 60% of the cost of covered benefits or that cost the employee more than 9.5% of income have the option of using the Exchange.
- **Small businesses** with up to 100 employees may opt to use the Exchange, giving their employees access to all plans offered by the Exchange. States also have discretion to allow larger employers to use the Exchange.
  - The Exchanges will cover about 26 million Americans, including many who now purchase individual policies.

### **New health insurance options**

- The new Health Insurance Exchanges will offer a new health insurance option similar to the **Federal Employees Health Benefits Plan** to be negotiated by the agency responsible for the FEHBP. The new FEHBP-like option will include at least two multi-state plans, including at least one not-for-profit plan.
- These new FEHBP-like plans will be another option—no one will be required to enroll in them—for those Americans who use the Exchange to purchase health insurance.

- This new FEHBP-like option will have to comply with all the new rules for health insurers and must support itself through premiums.
  - The Act also creates a new program to foster creation of new not-for-profit, consumer-controlled private plans, called **consumer coops**.

### Premium subsidies to make health insurance affordable

- Premium subsidies, in the form of refundable tax credits, will be available to families earning between 133-400% of the federal poverty level, (\$29,327 to **\$88,200 for a family of four** in 2009) to help purchase insurance through the Exchanges. Those with lower incomes will be eligible for Medicaid (see below).
- Subsidies will be on a **sliding scale** so premium costs will range from **2% to 9.5% of income**.
- Subsidies will also be available to **reduce out of pocket** costs for those with incomes up to 400% FPL.
  - With premiums now averaging \$4800 for an individual plan and \$13,000 for family coverage, these subsidies are necessary to make insurance affordable for average-income families who do not have an employer contributing towards their insurance costs.
- The act also provides tax credits to small employers to help them pay for the cost of employee health insurance.

1	\$43,320
2	\$58,280
3	\$73,240
4	\$88,200
Yearly 400%	

### MEDICAID

The Act expands Medicaid so it provides safety net coverage for all low income Americans. Presently, almost half of those earning below poverty cannot qualify for Medicaid.

- **Expands Medicaid to cover all low-income working families and individuals** under age 65 with incomes up to 133% of the federal poverty level, \$24,348 for a family of 3.
  - At present, in Missouri non-disabled adults without children cannot qualify for Missouri no matter how poor and parents who earn as little as \$4,584 a year for a family of 3 are ineligible.
- **Enhanced federal match** means that the federal government will pick up the full cost for those who are newly eligible from 2014-2016, 95% for the next two years, and 90% after that. At present, the federal government covers, on average, about 57% of Medicaid costs nationwide and 63% of the cost in Missouri. In 2010, because of federal stimulus funding, Missouri is receiving a 74% federal match.
- Increases Medicaid **reimbursement for primary care to Medicare rates**, funded 100% by federal money in 2013 and 2014.
- The State Children's Health Insurance Program (SCHIP) continues until 2019 to allow time for children to transition to coverage through the new Exchanges.
  - The Medicaid expansion will cover an estimated 16 million uninsured individuals from working families.

	133%
1	\$14,400
2	\$19,380
3	\$24,348
4	\$29,328
5	\$34,296
Yearly 133%	

### MEDICARE

The Reform law strengthens Medicare coverage for seniors and people with disabilities.

- Prescription drug coverage would be more affordable by reducing and then finally closing the **Part D doughnut hole**.
- **Preventive services** will no longer be subject to co-pays or deductibles.

- Provides 10% payment enhancement for **primary care** physicians and general surgeons.
- Requires private Medicare Advantage to spend at least 85% of premiums on medical care, limiting overhead and profit.

### SHARED RESPONSIBILITY

Everyone is worried about how to pay for health reform, but the key to making coverage affordable is for everyone to do his or her part.

- **Those without coverage** will be asked to pay health insurance premiums on an affordable sliding-scale based on income, whether they are young and healthy or older with complex medical needs. Younger adults will pay lower premiums than older adults.
  - The **individual mandate** provides for a penalty only if “affordable” coverage with premiums costing no more than 8% of income is available. There are also exemptions for those facing financial and other “hardships,” and incomes below the tax filing threshold (\$9,350 for an individual and \$18,700 for married couples in 2007).
  - The penalty is the higher of **\$695 per adult or 2.5% of income up to the average premium level**, with a family maximum of \$2,085.
- **Employers** are also expected to do their part, which will level the playing field between those companies that provide coverage and those that do not.
  - There is **no employer mandate**.
  - The Act assesses a **penalty against larger employers**, those with more than 50 employees, only if at least one employee receives an insurance premium subsidy. The penalty is the smaller of \$2,000 for each employee who receives a premium credit or \$750 per employee, not counting the first 30 employees.
  - **Assistance to small businesses.** Small employers, those with 50 or less employees, are not subject to the employer contribution.
    - Small businesses also benefit from the more affordable coverage available in the Exchange, regardless of health status of employees.
    - Small businesses are also eligible for new tax credits to help subsidize the cost of employee health insurance premiums.
      - One-third of the uninsured, 13 million people, work for businesses with fewer than 100 workers.

### Paying for Reform

While the federal budget price tag for expanded health coverage seems staggering—about \$938 billion over ten years—this amounts to less than 2-3% of total health care spending. Overall, counting private as well as public spending, it will cost more to do nothing.

- Congressional rules require that all bills considered on the House and Senate floor be federal budget neutral. The CBO estimates that the new law will reduce the federal deficit by \$124 billion over 10 years.
- About half the cost of health reform will be financed by slowing the growth of **Medicare provider payments** by about 1% a year—an amount hospitals and other providers agreed is reasonable given savings that result from comprehensive health reform designed to provide all Americans with health insurance.
- Other Medicare savings come from cuts in the prices of **brand name drugs** sold to seniors and eliminating **overpayments to Medicare managed care plans**.
- Additional savings come from **price cuts for drugs** purchased by state Medicaid programs.

- New **fees** will be imposed on health insurers, drug makers and medical devices, and indoor tanning studios.
- New Medicare payroll tax increase on certain interest and dividend income of taxpayers **earning over \$200,000** for an individual or \$250,000 for a couple.
- The Senate bill also places an excise tax on **very high cost health insurance plans** valued at \$10,200 for individual coverage and \$27,500 for family coverage beginning in 2018. Presently, the average cost for coverage in the employer market is \$4800 for individual plans and about \$13,000 for family coverage.