

Health Care Reform: The Players

Rx for Success?

Beginning in 2014 the Patient Protection and Affordable Care Act (ACA) requires that most citizens purchase health insurance. What does that mean for your association, and who will make the decisions where you live and work?

Check out who matters in healthcare reform:

People

President Obama: The 2012 election removed the final threat of immediate repeal of the ACA, so the focus now moves to implementation and small fixes that Congress may be able to pass. The President may work with Congress again to reduce portions of the ACA depending on fiscal pressure. This happened already during the “fiscal cliff” deal when funding for the Community Living Assistance Services and Supports program (CLASS Act) was removed. President Obama will likely let his cabinet secretaries with jurisdiction handle the majority of the policy and politics of the ACA while providing symbolic leadership on major points.

Secretary Sebelius: Arguably one of the most important cabinet ministers in the Obama Administration, this former Kansas Governor and Insurance Commissioner will stay in her post for a second term. Secretary Sebelius will continue to be the lead on ACA implementation, a particularly important job as many of the major provisions of the health care law are set to take effect in 2014.

Rep. Dave Camp (R-MI): As Chair of the House Ways and Means Committee, Chairman Camp has two years left in his term leading the Committee. As such, he will likely push forward with tax reform in the House. While his version of reform may only make it out of the Ways and Means Committee, it will be viewed as a platform for House Republicans in other tax reform discussions. Part of his tax reform documents will likely include changes to the ACA as passed, so he will be a fiscal leader on this issue for his party.

Rep. Fred Upton (R-MI): As the Chairman of the House Energy and Commerce Committee, Chairman Upton has jurisdiction on aspects of implementation, like medical advancements and market-based reforms. Chairman Upton will likely continue to hold hard hitting hearings on a variety of politically divisive aspects of the ACA, including state Exchanges.

Federal Agencies

Health and Human Services Department (HHS): HHS is the chief agency for health policy and providing essential human services. The agency administers more grant dollars than the other federal agencies combined. On the issue of implementation, HHS will continue to be the most important agency for determining policy and procedure, particularly on the issue of Exchanges.

Center for Consumer Information and Insurance Oversight (CCIIO): The CCIIO is the agency within HHS that oversees the private insurance market, provides consumer information on coverage options, and promotes fair practices within the market. As to the agency’s role in ACA implementation, the CCIIO is responsible for oversight on new insurance market rules, the Medical Loss Ratio, and monitoring of unreasonable rate increases. The CCIIO also plays a role in oversight of the creation of state Exchanges.

Centers for Medicare & Medicaid Services (CMS): Another agency within HHS, the CMS administers Medicare, works with states to administer Medicaid, State Children's Health Insurance Program (SCHIP), and health insurance portability standards. As states consider the option to expand Medicaid, the CMS will play a role in ACA implementation. One governance issue is that CMS has not had a confirmed administrator since the Bush administration. The White House hopes Marilyn Tavenner, a former nurse and hospital administrator, may be regarded as moderate enough to secure confirmation.

Department of Labor (DOL): The mission of the Department of Labor is to foster and promote the welfare of workers at all stages in life and improve opportunities for employment. The Department plays a significant role in ACA implementation when it comes to employer health care issues. Within DOL the Employee Benefits Security Administration (ESBA) oversees a variety of issues ranging from "grandfathered" insurance plans to preexisting condition exclusions.

Department of the Treasury (IRS): The ACA contains many tax provisions for which the IRS has issued guidance. This guidance include: Medical Loss Ratio, Small Business Health Care Tax Credit, and the Medical Device Excise Tax. There has been a strong movement to repeal the Medical Device Excise Tax, so the IRS will play a role in potential legislation on that issue.

Judiciary

The Supreme Court: The ACA was upheld by the Supreme Court in June 2012 and the controversial individual mandate was declared a tax. In a 5 to 4 decision the Supreme Court largely upheld the bill, though the expansion of Medicaid was restricted. The ACA included penalties for states that refuse to expand their Medicaid programs, but the Supreme Court ruled Congress does not have the power to coerce states to expand their programs.

The Supreme Court and lower level state and federal courts will still play a role in ACA implementation, as there are portions of the law that are currently held up in the courts. These aspects include: subsidies for low-income Americans to purchase insurance; contraceptives as an essential health benefit; the Independent Payment Advisory Board (the panel that will ensure Medicare funding is not increasing too quickly); and physician-owned hospitals. These legal challenges will continue to shape the way the ACA is implemented.

Health Care Industry:

Local doctors: Doctors are split on whether or not the ACA is a positive development for the industry. Some argue it will increase the number of citizens that will have access to health care, while other are concerned it will decrease the quality of care.

One important note for consumers is if you or your employees are joining an Exchange make sure to give yourself time to determine which plan your doctor is on.

Insurance Companies: Actuaries are working overtime to determine what the costs should be for each metal level of plans (silver, gold and platinum will serve to indicate the three levels of coverage). In most states insurance companies must also develop the products they will offer outside of the Exchange.

Hospitals: There may be new customers for hospitals, but perhaps lower profit margins. The Hospital Value-Based Purchasing Program (an ACA program) went into effect in October 2012 and rewards hospitals with additional Medicare payments based on their performance on clinical quality measures and patient experience. A second program will reduce Medicare payments to hospitals with high readmission

issues. At this point it isn't clear how effective the programs will be, but hospitals are sure to continue to be a center of ACA policy changes and implementation.

Medical Device Companies: The 3.2 percent tax on medical devices sales is a highly contentious tax that went into effect on December 31, 2012. There has been movement to repeal the tax, but no legislation has passed yet on the issue.

Employers

Small businesses and associations: These employers must decide if they will enter the Exchange, or if they will "release" their employees. Cost structures and other details have not been finalized for Exchanges across the country, so associations and other employers currently lack the information necessary to make informed decisions about these critical issues.

Associations/Nonprofits

National Association of Insurance Commissioners (NAIC): The NAIC is the US standard-setting and regulatory support association created and governed by the chief insurance regulators from every state in the country. This association works to educate consumers and employers on developments in ACA implementation.

National Governors Association (NGA): The NGA is a bipartisan organization of the nation's governors that promotes leadership and good public policies. On the issue of healthcare reform the NGA health committee has worked on ways to cut costs for state Medicaid programs. This association has also worked with states to help set up Exchanges.

Kaiser Family Foundation: The Kaiser Family Foundation produces a wealth of information and independent analysis in the areas of health policy analysis, health journalism, and communications. Their website (www.kff.org) includes information on topics including: health reform, costs, state policy, and Medicaid/Medicare.

America's Health Insurance Plan (AHIP): AHIP is a national trade association that represents the health insurance industry. The AHIP position on the ACA is that while it expands access to coverage to millions of citizens, it also increases costs in the industry and will disrupt coverage for consumers of both private insurance and public assistance.

American Medical Association (AMA): The AMA works to promote medicine and the betterment of public health with a focus on improving health outcomes and accelerating advancement in medical education. On healthcare reform the AMA believes that there is work left to be done, especially on issues like the Independent Payment Advisory Board and Medical Liability Reform.

State Government

State Governors: After the Supreme Court ruling states now have the added power to decide if they will expand Medicaid without facing fines for not expanding the program. States that would like to run an Exchange are able to work with HHS on a case-by-case basis to determine if a state-run Exchange is the best option available. The Obama Administration has specifically shown interest in reaching out to states that were not immediately considering creating Exchanges. This can be seen in the January 2013 meeting between Secretary Sebelius and Florida Governor Rick Scott.

State Insurance Commissioners: More than three dozen states allow state insurance commissioners to reject "excessive" premium hikes by insurance companies. A ballot initiative in California in November

2014 may give the CA state insurance commissioner that added power. Currently 37 states allow state commissioners to reject premium hikes.

Congressional Players:

Large scale repeal efforts will most likely not be seen in the 113th Congress, as the opposition to reform has become more strategic and realistic. There is a chance fiscal pressure may force President Obama to work with Congress to tweak certain elements of the ACA in order to reduce the deficit. Subsidies to help low-income citizens purchase healthcare are commonly listed as potentially on the chopping block.

House Committee on Energy and Commerce: Chaired by Fred Upton (R-MI) and with Representative Henry Waxman (D-CA) serving as Ranking Member, many of the political debates in Congress about the ACA take place in this committee. Previously under the chairmanship of Rep. Waxman, this committee played a large role in the creation of the ACA in 2009-2010. The Health Subcommittee is chaired by Congressman Pitts (R-PA), another staunch opponent to the ACA. The Energy and Commerce jurisdiction focuses on biomedical R&D, consumer protection, health and health facilities, public health and quarantine.

House Ways and Means: Chaired by Dave Camp (R-MI) and with Rep. Sandy Levin (D-MI) serving as Ranking Member, this hugely powerful committee has held a series of hearings on the ACA since the Republicans gained control of the House. Topics range from problems with implementation to the law's impact on jobs. Ways and Means has jurisdiction over most of the programs under the Social Security Act, most notably Medicare.

Senate Committee on Finance: Chaired by Max Baucus (D-MT) and with Senator Orrin G. Hatch (R-UT) serving as Ranking Member, this committee has jurisdiction over programs under the Social Security Act and health programs financed from a specific tax or trust fund. These programs include major HHS, DOL and Social Security Administration (SSA) programs.

Senate Committee on Health, Education, Labor & Pensions (HELP): Chaired by Senator Tom Harkin (D-IA) with Senator Lamar Alexander (R-TN) serving as Ranking Member, this committee has jurisdiction over the great majority of health and education issues. With the recent announcement that Senator Harkin will not seek re-election, there may be power struggles in the future with the presumptive incoming Chair, Senator Barbara Mikulski (D-MD). Additionally, Senator Harkin may look to use his remaining time as Chair to cement his legacy in the Senate.