Health Law and Policy Brief

Volume 4 | Issue 1 Article 9

1-2-2014

Salient Issues Affected by the 2010 Health Reform Law

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Curbing Medicaid Fraud

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Since the formation of the Medicaid program, Medicaid fraud has persisted. Cases involving fraud, waste, and abuse have included unscrupulous doctors and nurses abusing the program by issuing faulty bills, overcharging for services, or offering payments in exchange for an individual's Medicaid number. The victims are often patients of a lower socioeconomic status with very few options for redress.

The new health care reform law provides opportunities designed to strengthen the current Medicaid safeguards. Under the new law, there is a substantial $250 million dollar increase over the next ten years in funding for the Health Care Fraud and Abuse Control Fund, which is overseen by the Health Care Fraud and Abuse Control Program (HCFAC). The HCFAC was designed to harmonize local, state and federal law enforcement activities in their efforts to combat health care fraud and abuse.

With this increased funding, Medicaid will be able to strengthen its Medicaid Fraud Control Units (MFCU). These units were established by Congress in 1977 to investigate cases revealing intent to defraud the Medicaid Program. MFCUs also scrutinize situations involving the neglect or abuse of patients, such as those in nursing homes. To assist in this effort, the National Association of Medicaid Fraud Control Units will continue to aid in the interstate communication between MFCUs.

Abortion and Healthcare Reform

Kristen Barry, 2L

During the last year of the health care reform debate, abortion has been at the forefront of controversy leading up to the passage of the Patient Protection and Affordable Care Act. In fact, President Obama's Executive Order to ensure the enforcement and implementation of abortion restrictions has been seen as the key to obtaining the necessary votes to pass health care reform legislation in the House of Representatives. The Executive Order essentially maintains the Hyde Amendment, which has banned the use of federal funds for abortion since 1976 with exceptions for rape, incest and danger to the mother's life.

Prior to the Executive Order, there were some concerns by pro life activists that the new law left a grey area where federal funds might be used for abortions under the new insurance exchange and in federally run community health clinics.

To address the first concern, the bill added language imposing a surcharge that would be paid by individuals electing a health insurance policy with abortion coverage. The funds obtained from the surcharge would be kept separate from taxpayer money. In addition, no health plan is required to offer coverage for abortion services and states are given the option to ban abortion coverage in health plans offered through the exchange.

President Obama's Executive Order addressed the second concern by stating that federal law under the Hyde Amendment prohibits use of federal funds for abortion services in federally funded Community Health Centers. Again, the language stressed that the Hyde Amendment abortion protections remained intact and applied to the health care reform bill.

The Scope of the New Health Insurance Coverage

Natassia M. Rozario, 1L

On March 23, 2010, President Obama made health care reform the law of the land and declared, "[w]e have just now enshrined the core principle that everybody should have some basic security when it comes to their health." The new law provides health insurance

to thirty-two million currently uninsured people by 2014, but it still leaves more than twenty-three million people uninsured.

Who's in?

- The existing poor and uninsured make up a bulk of the thirty two million people to receive coverage. By lowering the Medicaid eligibility requirements, the law expands Medicaid coverage to individuals making less than $14,400 and families of four making less than $29,000. For everyone above the new eligibility requirements, the law offers income-based subsidies through a state insurance market exchange system.
- Young adults, up to age twenty-six, will receive insurance under their parents plan.
- A greater number of small business employees will obtain health insurance coverage from their employers under the federal mandates.

Who's out?

- Unauthorized immigrants comprise eight million of the twenty-three million who will not obtain coverage. With immigration reform, however, these numbers may change.
- The twenty-three million remaining uninsured also include those persons who will be eligible for Medicaid but who will not sign up for it, those who will be exempt because of religious or affordability reasons, and those who prefer to pay the individual penalty rather than comply with the mandates.

Reforming the Costs of Care

Natassia M. Rozario, 1L

The rising cost of health care in the United States is a grave concern. In 2007, the country spent sixteen percent of its GDP on healthcare costs, which was higher than any other country in the world. National spending on health care has also been increasing by more than six percent a year, according to the annual National Health Expenditure estimate. Despite the billions of dollars spent, the U.S. lags behind other countries in quality of care. According to one World Health Report, the U.S. ranked 37th out of 191 countries.

The health care reform legislation, although criticized by some for not being aggressive enough, makes serious attempts to bend the cost curve. While the legislation will cost a hefty amount, some $950 billion over the ten years, the Congressional Budget Office estimates that the legislation will reduce the federal deficit by $142 billion over the next ten years. To hold costs down, the health insurance expansion will not start until 2014. In the interim, the amount of revenue generated from taxes and the amount saved from Medicaid and Medicare cuts will pay for the legislation.

Further, the new legislation outlines a myriad of cost-cutting mechanisms. As discussed in a recent *New England Journal of Medicine* article by Chernew et al., these mechanisms include: 1) reducing excessive Medicare payments, 2) taxing generous insurance plans, 3) empowering an independent Medicare advisory board, 4) addressing and reducing fraud and abuse within the Medicare program, 5) enacting malpractice reform, 6) investing in information technology and comparative-effectiveness research, and 8) investing in prevention.

Of course, how effective the legislation will be in reducing costs depends on its implementation.