Affordable Care Act Implementation: 
Implications for 
Persons with Disabilities

2012 Disability Policy Seminar

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Outline

- Political Overview of ACA Implementation
- Immediate Improvements in Health Care Coverage
- Health Insurance Market Reforms
- Progress on Essential Health Benefits
- Summary of Benefits and Coverage and Glossary
- Disability-specific Provisions
- Expansion of Medicaid
- Message to HHS, White House and Congress
- Next Steps: States, Courts and Election
Political Overview of Implementation of ACA

The Affordable Care Act remains a polarizing law, especially this election year.

Most conservative lawmakers at the federal and state level are vocal opponents of the law.

Supreme Court hears oral arguments on constitutionality of ACA, decision likely in June.

Administration is implementing complex law.

- Giving flexibility and responsibility to states, turning implementation into state-by-state struggle.
- Real tension between affordable and comprehensive coverage.
Immediate Improvements in Health Care Coverage for People with Disabilities and the Uninsured

- Temporary High Risk Pools ($5 billion over 3.5 yrs)
- Lifetime limits prohibited now
- Annual limits prohibited in 2014, individual grandfathered plans excepted
- Rescissions prohibited
- Extension of dependent coverage until age 26
- Prohibition on preexisting condition exclusions for children
Guaranteed availability and renewability of coverage

Prohibited:
- Pre-existing conditions exclusions
- Discrimination based on health status or disability
- Unfair health insurance premiums
  - Premiums in individual and small group markets may vary only by family structure, geography, actuarial value of benefit, age (3:1), and tobacco use (1.5:1)
Progress on Essential Health Benefits

- Coverage that provides essential benefits, as defined by HHS Secretary, must be equal in scope to typical employer plan.

- Ten general categories of essential health benefits including:
  - Rehabilitative and habilitative services and devices
  - Preventive and wellness services and chronic disease management
  - Mental health and substance abuse benefits, including behavioral health services

- HHS issued pre-rule bulletins on essential health benefits:
  - States pick benchmark plans by September 2012
  - Add coverage for habilitative services and devices, and other statutory categories
  - Apply non-discrimination provisions
  - If choose largest small employer plan as benchmark, states can add mandates to EHB for first two years at no cost
  - Mental Health Parity applies to EHBs

In defining essential health benefits the Secretary must:

- Ensure that such essential health benefits reflect an appropriate balance among the categories so that benefits are not unduly weighted toward any category
- Not make coverage decisions, determine reimbursement rates, establish incentive programs, or design benefits in ways that discriminate against individuals because of disability
- Take into account the health care needs of diverse segments of the population, including persons with disabilities
- Ensure that health benefits established as essential not be subject to denial to individuals against their wishes on the basis of the individual’s present or predicted disability, degree of medical dependency or quality of life
- Periodically review the essential benefits and determine need to update based on changes in medical evidence or scientific advancement

No formal regulations yet released on EHB, including non-discrimination provisions
Comparing Benefit Plans:
Summary of Benefits and Coverage and Glossary of Terms

- HHS releases final regulations on summary of benefits coverage and glossary of terms
  - Terms such as rehabilitation and habilitation services, durable medical equipment and medical necessity
  - Including condition within definition of medical necessity
  - Major victory for disability community
  - Examples to illustrate common benefit scenarios, including chronic medical conditions

- Summary of Benefits and Coverage
  - Binding document plans must provide to plan participants
  - Lists out services and requires plans to describe limits on these services, including habilitation, rehabilitation and mental health services
Disability-Specific Provisions of ACA

Standards for Accessible Medical Diagnostic Equipment
– Access Board to establish standards for accessibility of medical diagnostic equipment to individuals with disabilities

Disability as Category of Health Disparities
– Any ongoing or new federal health program must collect and report data on race, ethnicity, sex, primary language, and disability status for applicants, recipients, or participants

Disability as Subpopulation of Comparative Effectiveness Research
– Patient-Centered Outcomes Research Institute
  ▪ Institute must ensure that subpopulations are appropriately accounted for in research designs
– Safeguards to protect against discriminatory coverage decisions based on age, disability, terminal illness, or an individual’s quality of life preference
Expansion of Medicaid

- Starting in 2014, Medicaid eligibility expanded to childless adults with incomes at or below 138% of the poverty line

- By 2019, CBO estimates 16 million more Medicaid enrollees than under current law

- Expansion fully funded by Feds for 3 years, then 90/10 matching rate

- (Another 16 million covered in expansion of private market, with federal subsidies where necessary)
Benchmark Benefits for Newly Eligible

- States *must* provide benchmark benefits to newly eligible adults
- Proposed reg raised questions of whether PwDs would lose access to broader waiver services if channeled into benchmark plans
- National disability organizations, including the Arc, Easter Seals and ACCSES, worked with HHS to rectify this issue
- In a significant victory for disability groups, HHS clarified in final regulation that eligible individuals would not lose optional services even if eligible under new category
Message to HHS, White House and Congress

- Healthcare reform is critical to people with disabilities and chronic conditions.
- The reformed system must be a significant improvement over the current system for people with disabilities.
- Attempts to repeal or weaken the law are harmful to people with disabilities.
Next Steps: States, Courts and Election

- Some States move forward with exchanges and EHBs
- Federally affiliated exchanges and EHBs
- Unclear timing on HHS EHB Regulations
- Supreme Court Decision
- Election
- Budget fight – threats to MOE, subsidies and Medicaid expansion