CPPP Center for Public Policy Priorities POLICYPAGE

WHAT EVERY TEXAN SHOULD KNOW:

HEALTH CARE REFORM LAW

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CPPP

For more than 20 years, the center has been a nonpartisan, nonprofit policy institute committed to improving public policies to better the economic and social conditions of low- and moderate-income Texans.

The center pursues this mission through independent research, policy analysis and development, public education, advocacy, coalition-building, and technical assistance.

The center neither supports nor opposes any political party or candidate for office. We focus solely on evaluating public policy as it affects low- and moderate-income Texans.

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Introduction

On March 25, Congress passed House Resolution (HR) 4872, amending the Senate's Patient Protection and Affordable Care Act (HR 3590) to reflect negotiations with the U.S. House of Representatives, and successfully concluded a year-long fight to pass health reform. Like the Social Security Act of 1935 and the Medicare Act of 1965, this new law is imperfect and will require revisions and updates. But it has codified into law two profound new principles for America's health care system:

1. All citizens who contribute a reasonable share of their income to health care should be guaranteed access to a good standard of care and should be protected from financial catastrophe or loss of health care if their income or health status changes.
2. Our private health insurance marketplace must be open to and fairly priced for all, and must compete on the basis of efficiency, quality, outcomes, and customer service, instead of relying on avoiding risk for its profitability.

The importance of these two fundamental changes is difficult to overestimate. Still, the public remains divided on the law overall.

But polls also find strong public support for many of the major provisions of health reform. When asked about 11 specific provisions scheduled to take effect this year, in each case, a majority of Americans viewed them favorably, many enjoyed bipartisan support.

There is much work to be done to educate fellow Texans about the new law, protect it against attacks, and ensure strong implementation of new state roles in health reform. Two Texas agencies bear most of the new state-level responsibilities under the federal law: the Texas Health and Human Services Commission, and the Texas Department of Insurance. This Policy Page provides a high-level outline of the key insurance coverage elements of the new federal law, noting areas in which estimates of the Texas impact are available.

Immediate Benefits of Reform for Private Insurance Consumers

While the broadest market reforms and coverage expansions are launched in 2014, near-term changes will improve access to preventive care, help young adults, and remove barriers for Americans challenged with significant health care needs. Unless noted, provisions in the table below take effect on **September 23, 2010**, and will be incorporated into private insurance policies at their first annual renewal after that date.

13.5 Million

Texans who have private health insurance.

Provision	Details
Permit dependent coverage up to 26th birthday	All health plans must allow families to keep adult children on their policy until their 26th birthday, unless the child is eligible to enroll in other employer-sponsored coverage.
Prohibit lifetime benefit limits in all plans	All plans will have to eliminate lifetime limits on the dollar value of "essential health benefits," and restrictions will be placed on the use of annual dollar limits as of September 23, 2010. In 2014, annual dollar limits will be banned completely.
Prohibit pre-existing condition exclusions for children under age 19	All plans will be prohibited from excluding coverage of medical services to treat a child's pre-existing condition. Plans will also be prohibited from denying an application for coverage of a child based on the child's pre-existing condition.
Ban co-pays and other out-of-pocket expenses for preventive care and immunizations	Similar to the Medicare provision for U.S. Preventive Services Task Force-recommended services (see next section), this requirement prevents new health plans from imposing cost-sharing like co-payments and deductibles for preventive services such as well-baby; child, adolescent, and well-woman care; and immunizations.
Prohibit "rescission" (retroactive cancellation of health insurance)	All plans will be prohibited from cancelling policies when you get sick, except in cases of fraud.
Create high-risk pool coverage nationwide	The pool will provide coverage for people with pre-existing conditions who have been uninsured for six months or longer. This new high-risk coverage, which could start as early as **July 2010**, will be more affordable than the current Texas high-risk coverage, will not include a pre-existing condition waiting period. This pool will operate until the insurance exchange is up and running in 2014 (exchange coverage will not be denied or priced based on health conditions, making pool coverage unnecessary). Every state will have this new temporary pool; but the Governor has opted to allow the federal government to administer the new pool for Texas.
Accountability for health premium spending	Starting in January 2011, insurers will be required to spend at least 85 percent of premiums they collect in the large group market and at least 80 percent in the small and individual markets on medical benefits, and must provide consumers rebates if their medical benefit spending falls below these percentages.
Review of premium increases	Starting in 2010, state and federal governments will annually review premium rate increases for new plans. Insurers must post justifications for unreasonable premium increases online.
Strengthens consumer appeals processes	All new health plans must have internal and external appeals processes for coverage and claims denials that meet minimum standards.
Tax credits for small employers	Starting in 2010, eligible small employers can receive tax credits to make employee coverage more affordable (see Employer Responsibility section).
Federal funds available to establish state health insurance ombudsman	The U.S. Department of Health and Human Services is investing $30 million starting in 2010 to help states begin ombudsman programs to help consumers file complaints and appeals, educate consumers, and assist them with enrollment and problems obtaining tax credits.
Expanded access to community health centers	Approximately $11 billion in new Community Health Center investments starts in 2011, to help expand access to health care in communities where it is needed most.
Requires all health plans to use uniform explanation of coverage documents.	Within **two** years, all health plans must provide potential policyholders and enrollees with a standardized explanation of covered benefits that includes a "coverage facts" label illustrating coverage and out-of-pocket costs under common medical scenarios, such as maternity, labor, and delivery.

Medicare Improvements

New preventive benefits. Starting in January 2011, Medicare adds coverage of a comprehensive annual checkup and other prevention benefits (all those rated A or B by the U.S. Preventive Services Task Force). Check-ups and preventive services will be provided with no out-of-pocket costs (with no co-payments, deductibles, or coinsurance.)

Shrinking, and eventually closing, the prescription drug "doughnut hole." The new law starts to shrink the doughnut hole by $250 in 2010, and provides a 50 percent discount on brand-name drugs in the remaining coverage gap starting in 2011. Every year thereafter, the gap is closed by increasing the discounts and reducing the catastrophic coverage threshold, closing the gap entirely by 2020.

Extends solvency of the Medicare Trust Fund by 10 years. Rather than cutting any current Medicare benefits, budgets, or fees for providers, the new law reduces the allowed annual growth in Medicare spending from 2010 to 2019 from 6.8 percent to 5.5 percent, but still allows for double-digit growth in program costs over that period.

Better access to community-based services and supports. Medicare today does not cover community-based services to help seniors remain in their homes. In 2011, the new law begins to address this long-standing gap by starting a voluntary payroll deduction-based insurance program, called (CLASS), to provide community-based assistance services and support. Enrollees who sign up in 2011 could access benefits as soon as 2016.

Who Does This Help?

2.9 Million

seniors and Texans with disabilities who are covered by Medicare.

Good Coverage at a Fair Price

These fundamental reforms of the private insurance marketplace start in 2014.

Guaranteed access to coverage. For all new health plans, no one can be turned down or have their coverage cancelled because of their health status or medical history, or other personal factors (such as age, gender, business size or industry).

No pre-existing condition exclusions or lifetime/annual benefit limits. All health plans are prohibited from excluding coverage of pre-existing conditions and imposing either annual or lifetime dollar-value maximums on coverage.

more

Who Does This Help?

Every Texan

who has or wants to buy private health insurance, as well as 340,000 Texas small businesses—76 percent of all Texas businesses—that have fewer than 100 employees.

Good Coverage at a Fair Price, more

Fair premiums for individuals and small employers. All new plans sold to small employers and individuals would be prohibited from basing premiums on factors that price many people out of the market today, such as health status, gender, occupation, and size of the employer group. Premiums can vary only by age (with the oldest person charged no more than three times the youngest), tobacco use, and geographic area.

Essential benefits covered and cost-sharing capped. All new plans sold to small employers and individuals must contain "essential health benefits," a minimum standard for comprehensive benefits defined by the U.S. Secretary of Health and Human Services, and must cap annual out-of-pocket cost sharing at $5,950 for individuals and $11,900 for families (caps indexed to inflation).

New health insurance exchanges. States will create new health insurance "exchanges," or regulated marketplaces where private insurers' options can be compared and purchased (like Amazon or Travelocity for insurance). In addition to meeting all the new rules above, coverage in the exchange would have to meet minimum standards for benefits, marketing, provider networks, and quality improvement. At least one non–profit insurance plan will be offered in every state's exchange. Individuals and employers with 100 or fewer employees can buy in the exchange. Members of Congress and their staff must get their insurance coverage through the exchange.

Affordable Coverage

Nearly 90 percent of the 6.1 million uninsured Texans have family incomes below four times the federal poverty income level (400 percent FPL, or $88,200 for family of four). For these families and individuals, even a fair premium for insurance is unaffordable without help.

more

Who Does This Help?

6.1 Million

Texans who lack health insurance, and millions more who struggle to pay premiums and cover fast-growing out-of-pocket costs.

Affordable Coverage, more

To help these Texans, the provisions in the table below begin in 2014.

Provision	Details
Medicaid for low-income adults	All states must cover all U.S. citizen adults up to 133 percent of the federal poverty level (less than $14,404 for one person; $29,327 for a family of 4). Today, Texas does not cover most parents or adults without children at this income level. About 1 million of today's currently uninsured Texas adults would qualify for this coverage. The federal government will pay 100 percent of the costs of this new adult coverage for three years (2014-2016). The state will begin to pick up a 5 percent share starting in 2017, and topping out at 10 percent in 2020, meaning Texas will get 9 federal dollars for every one dollar the state budget has to contribute.
Un-enrolled children expected to come on board	States already cover all children in families that make up to 133 percent of the federal poverty level through Medicaid or CHIP, so the new law does not require any expanded coverage of children. States do expect that with the roll-out of reform and expanded coverage of parents, fewer Medicaid- and CHIP-eligible children will remain un-enrolled and uninsured, and the state will need to pay its share of covering those additional children.
CHIP program preserved	The CHIP program will continue through at least 2019, though CHIP block grant funding will be due for Congressional renewal in 2015. Children's health advocates have applauded this approach, which will help protect against abrupt increases in out-of-pocket costs or loss of comprehensive benefits for low-income children in the transition to health reform. The federal share of CHIP will jump by 23 percentage points in fiscal 2016, which will make Texas' share drop from about 28 percent to just 5 percent.
Sliding-scale premium assistance	Uninsured individuals and families with incomes above the Medicaid limit and up to 400 percent of FPL ($43,320 for a single person, $88,200 for family of four) could purchase insurance through the exchange, and would be protected from having to spend more than a predictable percentage of their income on the premium (ranging from 2 percent to 9.5 percent). About 2.5 million of today's currently uninsured Texans would qualify for this help, and no state matching dollars are required.
Out-of-pocket subsidies (to reduce out-of-pocket costs)	In 2014, lower out-of-pocket costs like co-payments, co-insurance and deductibles will be available for families up to 250 percent of the FPL (up to $27,075 for one person, and $55,125 for a family of 4) when they are covered through an exchange.
Out-of-pocket caps for ALL persons with high medical expenses.	Starting in 2014, new individual and group coverage, including new self-insured plans, must establish annual out-of-pocket spending caps that can't be any higher than $5,950 for an individual and $11,900 for a family, which will provide an upper limit for families with incomes above 400 percent FPL.

Individual and Employer Responsibility

Affordable coverage depends on spreading risk across the largest number of people possible to keep the price down for all. Keeping healthy people in the pool is critical, and an individual responsibility to get insurance makes this possible. Similarly, because employer-sponsored insurance is the foundation of our current system, incentives to keep employers from dropping current coverage and to make sure the coverage they sponsor meets minimum standards is also part of reform. **Penalties for not meeting individual and employer responsibilities are, however, only a fraction of the cost of buying or providing insurance.** Designed to create an incentive for taking individual responsibility, the penalties charged to those who do not comply will help support the health care systems they will rely on if they are sick or injured while uninsured.

Individual Mandate

Starting in 2014, all U.S. citizens and legal residents will be required to obtain coverage that meets minimum "qualifying coverage" requirements for themselves and for their dependents.

Many are exempt from the mandate. Exempt from the requirement would be:

- uninsured persons for whom the lowest-price available exchange plan costs more than 8 percent of family income;
- anyone with income below the federal income tax filing threshold (which is close to the poverty line);
- those excused for financial hardship (to be defined);
- religious objectors;
- Native Americans;
- undocumented immigrants (who are also ineligible for Medicaid, CHIP and premium assistance);
- incarcerated persons; and
- those with a gap in coverage of less than three months.

For those who are not exempt, the penalty for failing to get coverage (a federal income tax penalty) is based on the number of uninsured persons in a family, and the family maximum is the greater of 3 times the individual penalty, or 2.5 percent of family income. The penalties will phase in from 2014 to 2016, and from 2016 on would be $695 per adult (half that for children under age 18), and a maximum of $2,085 per family or 2.5 percent of income). Annual inflation updates will be applied to the penalty amounts after 2016.

Penalties for the uninsured are a *fraction* of the cost of getting insurance. The average annual cost of a family group insurance premium in Texas today is about $13,000, so the maximum family penalty of $2,085 would be about one-sixth of the cost of insuring a family.

Employer Responsibility

There is **no** across-the-board employer mandate to provide insurance.

- **Small employers are exempt.** Companies with 50 or fewer full-time equivalent staff (using a formula that converts part-time worker hours into full-time equivalents) have *no* new health insurance requirements. They will not face penalties if they choose not to offer insurance. If they do offer insurance, though, they may qualify for tax credits to make coverage more affordable (see below).
- **Penalties are targeted to larger firms whose workers need premium assistance, and are a fraction of the cost of insuring workers.** Employers with *more* than 50 full-time equivalents will be assessed a yearly fee of $2,000 per full-time employee after subtracting the first 30 employees if (1) they do not offer coverage *and* (2) they have at least one full-time employee who gets premium assistance from an exchange.
- Employers with 50 or more full-time staff that *do* offer coverage but have at least one full-time employee who receives a premium credit through an exchange (e.g., because the worker's premium share exceeded 9.5 percent of family income) would be required to pay the *lesser* of $3,000 for each full-time employee getting premium assistance, or $2,000 for each of the firm's full-time employees, after subtracting the first 30 employees.
  - o The average insuring Texas employer today pays 68 percent of the cost of a family premium, or about $8,840 of a $13,000 family premium. The $3,000 maximum penalty would be just over one-third of the cost of insuring a worker with family coverage.
  - o Employers with 50 or more full-time workers that offer coverage will also be required to allow employees with incomes below 400 percent of the FPL to use their employer contribution to buy coverage in the exchange, *if* the worker's share of the premium cost is between 8 percent and 9.8 percent of family income. There is *no penalty* for the employer in these cases.
- **Tax credits to make coverage more affordable for small businesses.** Small businesses with 25 or fewer full-time equivalent employees and average annual wages less than $50,000 can get a tax credit if they provide coverage and pay at least half of the premium cost. Credits of up to 35 percent of the employer's cost of coverage would be available from 2010-2013. Starting in 2014, two-year credits of up to 50 percent of the employer's cost will be available for exchange-based coverage. Non-profit organizations that meet these requirements are also eligible for credits of up to 25 percent before 2014 and 35 percent in 2014 and thereafter.

Wide Range of Cost-Control Measures

The health reform law contains a wide range of measures to restructure the U.S. health system to improve quality and slow the growth of health care costs, particularly Medicare costs. The law initiates changes that health policy experts consider promising to "bend the curve"—

reduce the growth of health care spending. Cost control measures include increasing efficiencies in Medicare and Medicaid, creating an Independent Payment Advisory Board tasked with slowing health care spending and improving quality, and beginning to replace financial incentives that result in more visits and procedures with those that encourage effective, quality health care.

For a comprehensive review of quality and cost reform provisions, see the following publications.

From the Center on Budget and Policy Priorities:
"Health Reform Package Represents Historic Chance To Expand Coverage, Improve Insurance Markets, Slow Cost Growth, And Reduce Deficits"

From the Kaiser Family Foundation:
"Health Reform Law Summary"

From the Commonwealth Fund:
"The Health Insurance Provisions of the 2009 Congressional Health Reform Bills: Implications for Coverage, Affordability, and Costs"

What Texas Government Must Do and Spend

Two Texas agencies bear most of the new responsibilities under the federal law: the Texas Health and Human Services Commission (HHSC) and the Texas Department of Insurance (TDI). The most recent state agency projections of health reform implementation activities and spending were given to Texas House members at the April 22, 2010, hearing of the House Select Committee on Federal Legislation. See the following presentations from the hearing:

Texas HHSC

Legislative Budget Board

TDI

While the HHSC materials provided were only slightly more detailed than those presented at an earlier Senate hearing, the agency did provide members with some additional details about their projections. CPPP will prepare a brief update on the HHSC assumptions soon.

Tools for Understanding the Law

Bill Language

Reading federal law is never easy, but in the case of the new reform package, it is more challenging than ever. To read the actual law on a specific issue or provision, you must check three different places to get the full picture. First, look at the main text of HR 3590 (sections 1001-9023). Then, look at the "Manager's Amendment" to HR 3590 to see if any changes were made to the relevant provision. The Manager's Amendment starts at Section 10101 of HR 3590 and includes all the changes agreed to by Senator Reid—the manager of the floor debate—to ensure the 60 votes to pass the bill in the Senate back in December. Then, look at the reconciliation bill, House Resolution (HR) 4782, to see if it makes any additional changes to your topic.

Main Text of the Bill With the Manager's Amendment

Reconciliation Amendment

Bill Summaries

For more information, we recommend these national resources. The Kaiser Family Foundation has excellent summaries on the new law, including a four-page time line showing when provisions take effect, a 13-page summary table of the entire law, and separate summary and time line documents that detail the Medicaid and CHIP provisions of the new law.

Kaiser Family Foundation Resources

Additional resource with emphasis on Medicaid, CHIP, and low-income families include:

Georgetown University's Center for Children & Families

Community Catalyst

Families USA

Mental Health America Overview

Texas Road Show

CPPP and Texas Voice for Health Reform (TVHR) are visiting communities across Texas to discuss the health care reform law. If you have ideas about holding a meeting in your community, please contact us at:

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Our goal is to equip local leaders and others who want to talk to community groups about the health reform law. In addition, we will also conduct webinars about the new law and its impact in Texas that you can view from your desktop.

To receive regular updates on our Texas Road Show plans, join our TVHR Email List at: http://cppp.org/subscribe.php

Or call Kymberlie Quong Charles at 512-320-0222, ext. 115.

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