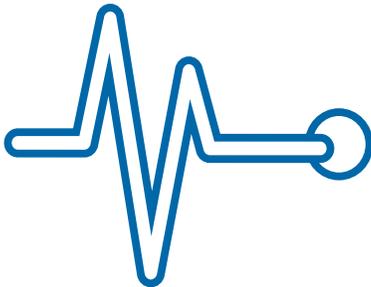




MARCH 23, 2012



The Health Reform Law Two Years Later

Millions of Texans already benefiting as the Supreme Court considers the law

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STACEY POGUE**

March is a big month for the Affordable Care Act or the health reform law. March 23rd marks the health reform law's second anniversary. The health reform law will not be fully implemented until 2014, but many provisions are already in effect and benefiting millions of Texans. From March 26-28, the U.S. Supreme Court will hear legal arguments challenging the constitutionality of the health reform law. Their ruling is expected in late June. We can't know the final outcome of the case yet, but several lower courts and leading conservative judges have upheld the law.

With the 2nd anniversary and the court case's arguments just days apart, the health reform law is sure to get plenty of attention this month. That makes March a good time to reflect on where Texas stands with respect to implementation and take stock of the many ways Texans are already benefiting from the law—benefits that would be lost if the Supreme Court strikes down the law.

HEALTH REFORM'S BIG PICTURE

The health reform law makes fundamental changes to improve our access to and the quality of health care in America by establishing:

1. A system making comprehensive care available to all lawfully present Americans at a cost they can afford,
2. A health insurance marketplace in which insurers compete based on good products and customer service, and not by avoiding covering people who are less healthy, and
3. A foundation for medical practice reforms that rewards high-quality health care as opposed to the volume of care. This is essential to health care cost control and long-term deficit reduction.



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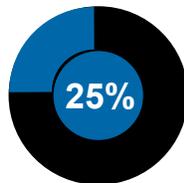
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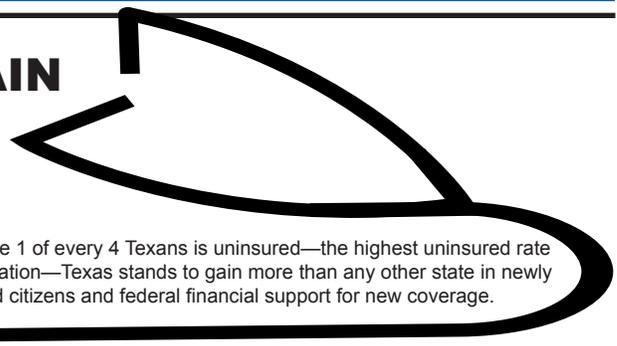


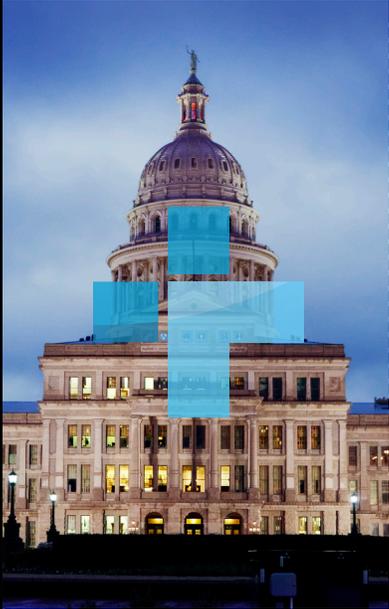
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MUCH TO GAIN



Because 1 of every 4 Texans is uninsured—the highest uninsured rate in the nation—Texas stands to gain more than any other state in newly covered citizens and federal financial support for new coverage.





How Texans Are Already Benefiting by the Numbers

... benefits that would be lost if the Supreme Court strikes down the law.

7.5 M

Texans no longer have a lifetime limit on their health insurance.

300,731

Young adults under age 26 in Texas have stayed on their parent's policy. Nationwide, 2.5 million Americans age 19-25 have gained coverage.

4,029

Texans have enrolled in the Pre-existing Condition Insurance Plan as of December. PCIP provides good coverage at market rates for people with pre-existing conditions who have been uninsured for six months or longer. Just under 49,000 enrolled nationwide.

81%

Share of Texas small businesses (25 or fewer employees) estimated to be eligible for tax credits of up to 35 percent of a small employer's cost of coverage.

11-14%

Range of proposed rate increases for small employer coverage currently under review by the Texas Department of Insurance (TDI). With help from \$1 million in federal Health reform law grants, TDI is determining if increases are reasonable.

\$160 M

TDI estimate of rebates that will be paid by August 1 to individual-market policy holders whose health plans did not spend at least 80 cents of every premium dollar on health care. Rebates will be due for employer-sponsored plans as well. Had 80-20 rule rebates been effective last year, insurers would have also returned \$84 million to Texas employers and employees.

3.8 M

Texans with private insurance who can now get preventive care, such as vaccines, cancer screens, and well-child check-ups, with no copay or deductible.

2.2 M

Texans in Medicare received a check-up or preventive service with no copay in 2011.

\$135 M

Was saved in 2011 on prescription drugs by Texans in Medicare who hit the "donut hole," or coverage gap, with an average savings of \$639 per person.

\$445 M

Has been received by more than 120 of Texas' largest employers—e.g., AT&T, American Airlines, Southwest Airlines, Texas Instruments, and the state of Texas—to make early retiree health coverage affordable.

8,900

Calls have been received by the new Consumer Health Assistance Program at TDI which helps Texans find coverage and understand their rights.

SOURCES As linked; compiled by Center for Public Policy Priorities.

Millions of Texans Already Benefiting

Implementation Timeline

The insurance coverage provisions of the health reform law phase in over a few years. The biggest changes take place in 2014, when Americans can no longer be denied coverage based on their health status or charged more based on their gender or pre-existing conditions. Coverage expansions will also take place in 2014, when adults living in or near poverty will become eligible for Texas Medicaid and new competitive insurance marketplaces, called exchanges, will offer private insurance on a sliding scale to families with moderate incomes. The following timeline shows when many of the Health reform law's key coverage provisions take effect.

2010

New access to coverage:

- Young adults can stay on a parent's policy to age 26
- Children cannot be denied coverage due to a pre-existing condition
- Pre-existing Condition Insurance Plan offers market-rate coverage to people with health conditions who could be turned down in the private market

Improving existing coverage:

- No more lifetime limits and restricted annual limits
- New plans offer high-value preventive care with no copays or deductibles
- Policies can no longer be canceled for minor application errors after you get sick
- Small business tax credits of up to 35 percent of premiums begin
- Early Retiree Reinsurance Program starts
- Grants available to help states plan exchanges

2011

- 50 percent off brand name drugs in the Medicare prescription "donut hole." Donut hole phased out more each year and is closed by 2020.
- 80-20 rule (medical loss ratio) takes effect. If insurers do not use at least 80 percent of premiums for health care and no more than 20 percent on administrative costs, they must pay rebates the following year.
- Preventive benefits in Medicare provided with no copay or deductible
- States begin review of rate increases exceeding 10 percent
- Grants available to help states establish exchanges
- Center for Medicare and Medicaid Innovations begins to test, evaluate and spread the best solutions for delivering higher quality, lower cost care to patients

2012

- First of annual rebates from 80-20 rule sent by August 1
- Easy-to-read, standardized summaries of coverage available in September
- By September, states must choose an "essential health benefits" benchmark, the floor for benefits for small employers and individual starting in 2014.
- Accountable Care Organizations begin operating in Medicare
- Medicare payments reduced for preventable hospital readmissions

2013

- Readiness checks for state exchanges. If a state will not be ready to operate an exchange in 2014, the federal government will create an exchange in the state.
- Primary care Medicaid rates raised to match Medicare rates in 2013-14. Fully federally funded.
- Pilot program to test Medicare bundled payments for an episode of care.
- Creation of Consumer Operated and Oriented Plans (CO-OPs), non-profit, member-run health insurance companies.

2014

- Medicaid expanded to cover U.S. citizen adults up to 133 percent of poverty (\$30,700/year for a family of four). Parents of kids on Texas Medicaid and other poor adults qualify for coverage for the first time.
- Exchanges, new competitive insurance marketplaces, open in all states. Sliding scale subsidies available up to 400 percent of poverty (\$92,200 for a family of four).
- No one can be turned down or charged more for insurance due to health conditions.
- Essential health benefits covered in many plans and annual limits prohibited.
- Individual responsibility provision takes effect. Penalties phase in and are \$95/adult or 1 percent of income in 2014.
- Employer responsibility provisions take effect. Apply only to businesses with more than 50 full-time equivalent employees.

Some states have taken a strategic approach, moving forward with a state exchange in a way that maximizes receipt of federal funds to expand coverage and improve the quality of care in 2014. Other states, like Texas, are taking a wait-and-see approach.

How is Texas Doing?

Health Insurance Exchange

The health reform law provides states numerous opportunities to improve their health care systems, and in many areas, considerable state discretion in how health reform is implemented. Arguably states' most significant responsibility is the creation of a health insurance exchange, a competitive private insurance marketplace open to small employers and families in 2014. The federal government will operate exchanges in states that choose not to create an exchange or will not have one ready by 2014.

Some states have taken a strategic approach, moving forward with a state exchange in a way that maximizes receipt of federal funds to expand coverage and improve the quality of care in 2014. Other states, like Texas, are taking a wait-and-see approach. The Governor has said he opposes the creation of an exchange until the Supreme Court rules on its constitutionality. The decision to wait to start building an exchange until after the the high court rules is likely, in effect, a decision for Texas to have a federal exchange, at least in 2014. The federal government must determine by January 2013 if a state will have an exchange ready for open enrollment starting in October 2013. If not, the federal government will create and run the exchange. It is unlikely that Texas can complete all of the necessary policy, technology, and operational development by the end of this year if we wait to get started until July.

Thirty-three states (including some that are suing to overturn the law) have already received exchange establishment grants. Texas has not applied for this funding. Texas received an earlier exchange planning grant, but performed little work under it and returned more than \$900,000 of the \$1 million grant.

Essential Health Benefits

The health reform law requires all plans sold to small employers and individuals starting in 2014 cover "essential health benefits," a new minimum standard for comprehensive coverage. States are tasked with selecting an essential health benefits benchmark, which will define the types of services that must be covered as well as the limits that apply to the scope of services. Texas must make a selection by the end of September 2012, or the default option, coverage equivalent to the largest-enrollment small employer plan in the state, will apply. Some states have already released comparative information on the essential health benefits options under consideration. The Texas Department of Insurance (TDI) has yet to identify all of its options for consideration or release comparative information that would allow the public to understand the tradeoffs and weigh in on this important decision.

Other Areas

Texas has moved forward with securing some additional federal funding under the law. For example, the Health and Human Services Commission has taken advantage of an enhanced federal matching rate—the federal government covers 90 percent—to upgrade the state's eligibility and enrollment system so that it can handle the Medicaid expansion in 2014 and interface with the state or federal health insurance exchange. Texas has also used grant funds at TDI to provide enhanced consumer assistance and review health insurance rate increases that exceed 10 percent.

Millions of Texans Already Benefiting

More Information

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Conclusion

Texas has more to gain from health reform implementation than any other state—and more to lose if the Supreme Court overturns the law. Millions of people across Texas and the nation are already benefiting on the law's second anniversary, and if the law stays intact, Americans will gain many additional benefits and consumer protections in 2014.

The health reform law brings with it some big changes in how people who do not have job-based insurance or Medicare can access coverage. Like landmark legislation that came before it, the law has generated fierce support and opposition. The Social Security Act and the Civil Rights Act generated hostility and were even declared unconstitutional by lower courts before being upheld by the Supreme Court. These laws have been improved over time and have become a central part of American society. The health reform law's path could be the same.



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