

Update on the Affordable Care Act

By Theresa M. Varnet, Esq.

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act (ACA) into law. Included in the historic law are comprehensive prevention provisions supported by The Arc and leading experts in population health and prevention. The enactment of the Affordable Care Act (also known as Obamacare) begins to shift our health system from one that focuses on treating the sick to one that focuses on keeping people healthy. The June 2012 Supreme Court decision upholding the constitutionality of the Affordable Care Act allows for the long-overdue changes made possible by the law to move forward without question or further delay.

While the ACA has been extremely controversial and divisive on the political front, I am convinced that once the law is fully implemented, even opponents of this law will begin to understand that the ACA will enhance the quality of health care received by all in this country, including those currently covered under private health plans. The law creates a major overhaul of how health care is received in the U.S.

Critical to the law's success and financial security is the need to insure as many persons as possible, not just those who are in ill health and in need of care. The ACA was modeled after the Massachusetts mandatory health insurance program. The larger the pool of persons who enroll in the program, the more cost-effective the program will be. The program will fail if only sick people purchase the plans offered. For this reason it is important that younger and healthier individuals receive information about the ACA. For those who believe they cannot afford the premiums for the mandatory coverage and would prefer to pay the fine rather than enroll, information is available about generous subsidies that make the coverage affordable. Persons earning 133% of the federal poverty level (FPL) will qualify for expanded Medicaid benefits. Subsidies are also available for families with incomes up to four times the FPL. That means a family of four earning up to \$94,200 per year could be eligible for a federal subsidy to pay premium costs. The ACA is not just for the poor but will provide great benefit to the working middle class. Unfortunately, not everyone eligible for subsidies will sign up for health coverage because many Americans are still skeptical of or in the dark about the ACA. All Americans will be required to carry health insurance as of January 1, 2014. Out of ignorance or due to the spread of misinformation about this legislation, many will opt to pay the penalty rather than sign up for coverage. That is a shame, as the maximum cost of the penalty is no more than the cost of the bronze (lowest-level) health care plan.

The ACA may also minimize the need for some individuals to qualify for Medicaid. Beginning January 1, 2014, insurance companies can no longer discriminate and refuse to sell policies to persons with preexisting medical needs. Unless an individual is dependent on a Medicaid waiver program or requires residential care, self-insuring may be in his or her best interest. For some individuals, purchasing coverage under the ACA may be a viable alternative to relying on Medicaid coverage. For example, in some cases, private insurance may be available to cover the 24-month waiting period under Social Security Disability Insurance (SSDI) for Medicare. The necessity of an OBRA trust will need to be reviewed on a case-by-case basis to see if purchasing health insurance is better than having to transfer one's assets to an OBRA trust.

While the ACA will help many typical working families in America, it is even more critical for the welfare of individuals and families with special needs children. The Arc refers to the ACA as the most significant law for people with disabilities since the enactment of the Americans with Disabilities Act in 1990. It will bring about comprehensive reforms that will benefit Americans with disabilities by prohibiting discrimination based on health status and improving access to care. Below is an excerpt from the Arc's website (thearc.org) that describes the key points of the ACA and will help you better understand and appreciate this well-thought-out and long-fought-for legislation.

HOW THE AFFORDABLE CARE ACT HELPS PEOPLE WITH DISABILITIES

- Reforms Health Insurance Practices
- Eliminates preexisting condition exclusions
- Bans annual and lifetime limits
- Ends insurance companies retroactively denying coverage
- Improves the appeals process when a person is denied coverage of a treatment or service
- Requires that at least 80% of health insurance premium dollars are paying for health care
- Helps states limit unfair increases in insurance rates
- Prohibits considering health status in calculating premiums (starting in 2014)
- Requires guaranteed issue and renewals of insurance plans (starting in 2014)
- Prohibits discrimination based on health status (starting in 2014)

EXPANDS AND IMPROVES LONG-TERM SERVICES & SUPPORTS

- Establishes the Community First Choice Option for states to cover comprehensive community attendant services under the state's Medicaid optional service plan and avoid more costly nursing home and other institutional care
- Improves the existing Medicaid Section 1915(i) option for home- and community-based services by making it easier for individuals to qualify for services, allowing states to target specific populations, and avoiding more costly nursing home and other institutional care
- Reduces Medicaid's institutional bias by creating new financial incentives for states to rebalance their services from more costly institutional settings toward home- and community-based services
- Extends Money Follows the Person Demonstration Program that provides additional federal payments to help people transition from more costly institutions to home- and community-based services

EXPANDS ACCESS TO HEALTH INSURANCE COVERAGE

- Establishes temporary high-risk pools to cover those who are currently uninsured (until 2014)
- Allows coverage for dependents until age 26
- Creates private health insurance exchanges for individuals and small employers to purchase insurance (starting in 2014)
- Provides significant subsidies to assist low-income individuals to purchase coverage in the exchanges and tax credits to help small employers provide insurance to their employees
- Includes coverage of dental and vision care for children in health insurance plans sold in the exchanges
- Includes mental health services, rehabilitative and habilitative services and devices, and other critical disability services in the health plans sold in the exchanges

IMPROVES MEDICAID AND MEDICARE

- Expands Medicaid eligibility to childless adults with incomes up to 138% of the federal poverty level (federal government pays 100% of the cost until 2016, phases down to 90% by 2020)
- Creates an option to provide health homes for Medicaid enrollees with chronic conditions (health homes are intended to be person-centered systems of care that integrate primary, acute, behavioral health and long-term services)
- Allows a free annual Medicare well visit with assessments and individualized prevention plan
- Eliminates Medicare Part D (drug coverage) co-pays for persons who are dually eligible for Medicaid and Medicare and are receiving Medicaid waiver services
- Expands Medicare Part D coverage of anti-seizure, anti-anxiety and anti-spasm medications
- Allows states in partnership with the federal government to try new models of care to provide better health care at lower costs to people with complex health care needs who are eligible for both Medicare and Medicaid

EXPANDS ACCESS TO PREVENTION SERVICES AND OTHER IMPROVEMENTS

- Eliminates co-pays for critical prevention services
- Creates the Prevention and Public Health Fund to greatly expand wellness, disease prevention and other public health priorities
- Increases opportunities for training of health care providers (including dentists) on the needs of persons with developmental and other disabilities
- Improves data collection on health care access for people with disabilities
- Requires the establishment of criteria for accessible medical diagnostic equipment

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