

# Affordable Care Act

## cost, quality, and consumer benefit

John V. Jacobi

Dorothea Dix Professor of Health Law & Policy

Seton Hall School of Law

[john.jacobi@shu.edu](mailto:john.jacobi@shu.edu)

# ACA structure

- Title I: insurance shift from risk selection to administration of delivery and payment
- Title II: Public programs (mostly Medicaid)
- Title III: Payment reforms, including Medicare C + D
- Title IV: Chronic and preventive care
- Title V: Workforce issues

# Overview

- High risk pools
- State role in insurance regulation
- Pressing Medicaid issues
- Workforce issues

# High risk pools

- § 1101 goal: immediate relief for those shut out of market
- NJ (+4): already have guaranteed issue/renewal
- Don't need HRP?
- ... but subsidy funding of \$141 m available
- ... and NJ IHC program very expensive
- Gov steps up
  - Submits plan for creation of “HRP”
  - Lemonade out of lemons
  - Listened to consumer advocates

# High risk pools: outline of proposal

- Uses existing IHC coverage
- Applicants must qualify under ACA criteria
  - Uninsured for 6 months
  - Citizen/documentated
  - Has pre-x medical condition
- Applicant enrolls in one of qualifying IHC plans
- Premium for enrollee at “standard rate” – premium *as if* there were medical underwriting
- Subsidy funds used to supply balance of cost to plans to recognize higher risk

# Private insurance regulation: feds role

- HHS
  - Award grants to states to create exchanges
    - For individual and small group markets; may be combined
  - Establish criteria for Qualified Health Plans
    - QHPs must include essential community providers; use standardized forms; sufficient provider network; (no AWP)
    - Develop rating system for health plans
  - Define (by regulation) improved coverage design
    - § 1001 (creating new § 2717 of PHA)
    - Requires plan reporting on:
      - Chronic care management
      - Preventive care
      - Patient safety

# Private insurance regulation: feds role

- Define content of Essential health benefits
  - Ambulatory patient services
  - Emergency services
  - Hospitalization
  - Maternity and newborn care
  - *Mental health and substance use disorder services, including behavioral health treatment*
  - Prescription drugs
  - Rehabilitation and habilitation services and devices
  - Laboratory services
  - *Preventive, wellness, and chronic disease services*
  - Pediatric services including oral and vision care

# Private insurance regulation state role

- Designate/create entity to act as exchange
- Create risk adjustment structure
- Exchange will have substantial regulatory authority
- Exchanges may certify a health plan for participation if:
  - The health plan meets federal certification criteria (as applied by Exchange); and
  - Exchange determines that offering the plan is “in the interests of qualified individuals and qualified employers”
    - The Exchange *shall* take into consideration justifications for premium growth before certifying plan, but
    - The Exchange *may not* impose “premium price controls”

# Medicaid: key issues

- Medicaid is vehicle for much of the expansion to lower income persons by 2014
  - § 2001 : eligibility to all to 133% FPL
  - § § 2201, 2202: enrollment simplification
- § 2703: health homes for people with chronic conditions
  - Critical feature of modern health finance/delivery system; can greatly improve care, might reduce cost
- Problem to address by 2014: Fragility of Medicaid provider network
  - Need collaborative effort to rethink delivery of care in Medicaid

# Workforce issues

- The problems
  - Lack of primary care physician to care for:
    - Care for newly insured
    - Management of care in coordinated care programs
  - Shortage of nurses
    - RNs
    - APRNs
  - Shortage of other professional providers
    - OT, PT, Speech
    - Shortage in part driven by reimbursement difficulties

# Targeted workforce support

- Title V contains a series of grant, loan, education provisions
  - §§ 5201 – 5206: loan, loan forgiveness programs
  - §§ 5301 – 5308: grants/program to educational settings
  - §§ 5311, 5508: support for nursing education, primary care physician training

# Expanding/empowering the nursing pool

- § 5102: competitive grants for states to undertake comprehensive health workforce development, administered by HRSA
- Support for AP nurses, eg, § 5308, nurse education grants in support of nurse midwifery
- Support for nurse-educators
  - § 5309: grant to nursing schools to support nurse education/retention
  - § 5310: improves loan/scholarship programs for nurse-educators
  - § 5311: creates loan forgiveness program for nurse-educators
- § 5208: grant program to support nurse-managed health clinics

# Conclusion

- Much of the success of ACA depends on state-level action
- Two-tier regulatory structures, with HHS setting framework and state administering/enforcing
- State-level action essential
  - Exchanges: can be powerful forces for quality and cost-control
  - Medicaid must be reexamined
    - Rethink care delivery models
    - Strengthen/update provider network structure
  - Workforce issues
    - New roles for providers (eg, APRNs) require work on licensure laws
    - States must lead in attracting/retaining health personnel