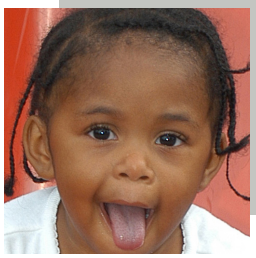

Module 1

INTRODUCTION TO THE AFFORDABLE CARE ACT (ACA)

Overview & History of the Patient Protection and Affordable Care Act (ACA)

Prior to the passage of the Patient Protection and Affordable Care Act (ACA) there were over 47 million uninsured non-elderly individuals in the United States.[i] Additionally, the U.S. health care system faced many complex challenges related to access to care as well as costs and quality of care. When compared to other developed nations, the U.S. spends the most on health care per capita, but fails to produce better health outcomes. In this comparison, the U.S. ranked last in measures including access, patient safety, efficiency, and equity.[ii] With the urgent need to reduce spending, increase health insurance coverage and improve health care outcomes in mind, health care reform became a policy priority for President Barack Obama. The legislative details of the law were crafted jointly by the House and Senate dating back to early 2009.[iii] After several iterations, the ACA was signed into law on March 23, 2010 (Public Law 111-148).

The Affordable Care Act was signed into law on March 23, 2010. Prior to the ACA, there were over 47 million uninsured non-elderly individuals in the United States.[i]

Initial Challenges to the Affordable Care Act

Immediately following the ACA's passage in March 2010, a lawsuit was filed challenging the constitutionality of two key components of the law: the individual shared responsibility provision, also known as the individual mandate, which requires everyone who can afford health insurance to purchase it or face a penalty, and the universal, mandatory expansion of Medicaid eligibility to all individuals with income under 133% of the Federal Poverty Level (FPL). The lawsuit, filed by several states and the National Federation of Independent Businesses, went before the Supreme Court two years later as *National Federation of Independent Business (NFIB) v. Sebelius*. The Supreme Court of the United States (SCOTUS) issued its ruling on June 28, 2012.

Supreme Court Ruling on the Individual Mandate

Under the individual mandate, the ACA requires that everyone carry health insurance coverage that is deemed affordable and meets minimum requirements. Failure to comply with the individual mandate can result in a

[i] Kaiser Family Foundation, Key Facts About the Uninsured Population, http://kff.org/uninsured/fact-sheet/key-facts-about-the-uninsured-population/ , (September 26, 2013)

[ii] The Commonwealth Fund, Mirror, Mirror on the Wall: How the Performance of the U.S. Health Care System Compares Internationally, 2010 Update, http://www.commonwealthfund.org/publications/fund-reports/2010/jun/mirror-mirror-update ,(June 23, 2010)

[iii] Cannan, John, " A Legislative History of the Affordable Care Act: How Legislative Procedure Shapes Legislative History," Law Library Journal 105:2, http://www.aallnet.org/main-menu/publications/llj/llj-archives/vol-105/no-2/2013-7.pdf , (July 2013)

financial penalty in which the greater of $95 or 1 percent of income is assessed on 2014 individual tax returns, $325 or 2 percent of income in 2015, and then increasing yearly to a maximum amount equal to the least expensive level health plans in the state health exchanges for that year.

In the *NFIB v. Sebelius* Supreme Court case, the plaintiffs argued that Congress does not have the power to require the majority of Americans to purchase health insurance. On this matter, SCOTUS recognized that the individual mandate functions similarly to a tax, in that it is collected by the IRS and may produce some revenue for the government. Therefore, the court ruled in favor (5-4) of the individual mandate noting that it does not exceed Congress's constitutional power to levy taxes.

Supreme Court Ruling on Medicaid Expansion

Medicaid is administered by the states and funded jointly by the states and the federal government. As such, the federal government gives states the flexibility to set eligibility thresholds that will cover certain segments of the population. Prior to the ACA, the groups mandated for coverage included low-income children and their parents, low-income pregnant women, low-income elderly individuals, and individuals living with disabilities. These groups had to meet certain income requirements based on family size and income in relation to the FPL.

The ACA sought to expand Medicaid's mandatory coverage by requiring states to cover all individuals under 65 whose household income was below 133 percent of the FPL. This would mean that previously ineligible populations, for example adults who were not disabled, and those who did not have dependent children, could now apply to gain coverage through the Medicaid program. If states expanded Medicaid, the federal government would fund 100 percent of the expansion through 2016 and gradually decrease thereafter, to 90 percent. Failure to meet the new mandatory Medicaid coverage could result in withholding of *all* Medicaid funding for the state, as enforced by the Secretary of Health and Human Services (HHS). In its June 2012 ruling, SCOTUS found that the Medicaid expansion was unconstitutionally coercive because states did not receive appropriate notice to consent to the expansion and the HHS secretary had the power to withhold all Medicaid funds to the state. The Supreme Court found a solution to this violation by restricting the Secretary's enforcement authority, which means that the Medicaid expansion is now optional for the states. Overall programmatic changes to Medicaid as a result of the ACA remain intact.

Key Provisions of the ACA

The ACA is an historic law aimed at addressing key challenges facing the U.S. health care system including:[iv]

Increasing access to health care by:

- Providing enhanced federal funding to support states opting to expanding Medicaid to all non-elderly individuals at or below 133% of the FPL
- Creating state-based health insurance Marketplaces (Exchanges) that offer subsidized health insurance plans
- Extending coverage for young adults through age 26
- Implementing an individual shared responsibility provision (individual mandate). This requires most[1] individuals to acquire a minimum level of health care coverage for themselves and their legal dependents
- Incentivizing employment in primary care (physicians, nurses, physician assistants) through scholarships and loan repayment
- Strengthening and expanding support for community health centers, school-based health centers, and workplace wellness programs
- Providing higher reimbursements to rural health care providers
- Creating essential health benefits, which requires all new insurance plans and existing plans offered through marketplaces to cover the following benefits: ambulatory patient services (outpatient care without admission to hospital); emergency services; hospitalization, maternity and newborn care; mental health and substance use disorder services (including behavioral health treatment); prescription drug coverage; rehabilitative and habilitative services/devices; laboratory services; prevention and

[iv] U.S. Department of Health and Human Services, Key Features of the Affordable Care Act by Year, http://www.hhs.gov/healthcare/facts/timeline/timeline-text.html

[1] Exemptions may apply to individuals in certain religious groups, individuals that are undocumented, or those that are incarcerated.

wellness services; chronic disease management; and pediatric services (including oral and vision care).[v]

Improving quality of health care by:

- Requiring reporting on health disparities, which will be used to reduce existing disparities
- Promoting integrated health care systems (i.e., Accountable Care Organizations)
- Establishing the Center for Medicare and Medicaid Innovation to analyze and assess strategies for quality improvement and health care cost containment
- Supporting patient-centered medical homes (PCMH)
- Creating value-based purchasing that ties physician and hospital payments to improved health outcomes

Protecting consumer rights by:

- Prohibiting discrimination based on pre-existing conditions and gender
- Eliminating annual dollar limits on coverage of essential benefits
- Making it illegal for insurance companies to rescind coverage based on an inadvertent omission or technical mistake in the application
- Creating the 80/20 rule requiring insurers to spend 80% of premiums (or 85% depending on size of company) on health care services and quality improvement

Lowering health care costs by:

- Reducing paperwork/administrative costs through electronic health records
- Promoting preventive health care services through investment in the Prevention and Public Health Fund
- Bundling payments based on one episode of care
- Investing in demonstration projects that test new models of care designed to improve outcomes and lower costs

The ACA and Implications for the MCH Population

The majority of the provisions of the ACA impact the MCH population of women and infants, children and youth with special health care needs (CYSHCN), and children and adolescents. Some examples:

- The ACA ends gender rating that previously allowed insurance companies to charge women higher premiums than men for the same insurance plans.
- The ban on denial of coverage due to pre-existing conditions offers protections for the CYSHCN population.
- Young adults will gain access to coverage through their parents' health care plans up to age 26.
- Youth aging out of foster care can retain Medicaid benefits to age 26.
- CYSHCN on Medicaid or CHIP may receive both hospice care and care related to their illness simultaneously.
- Essential health benefits apply to all plans sold on the marketplaces or all new non-grandfathered plans sold outside of the marketplaces. Essential health benefits include maternal and newborn care and pediatric dental and vision care for children.
- In the states that are moving forward with Medicaid expansion, women who were previously ineligible may now gain coverage.
- There are no co-payments for preventive care. New insurance plans are required to cover screening for breast and/or cervical cancer, well woman exams, screenings/vaccines for HPV and/or sexually transmitted infections, and screening for domestic violence.[vi]
- Coverage for reproductive health services, including contraception and abortions, is variable and subject to change.

[v] U.S. Department of Health and Human Services, What Marketplace Health Insurance Covers, https://www.healthcare.gov/what-does-marketplace-health-insurance-cover/

[vi] Healthy Generations, The Affordable Care Act: Goals and Mechanisms, http://www.epi.umn.edu/mch/wp-content/uploads/2012/05/HG_Fall20132.pdf , (Fall 2013)

- Maintenance of Effort (MOE) stipulations, in effect until 2019, prohibit states from changing the income eligibility criteria of Medicaid and CHIP that were in place when the ACA took effect.
- In 2010, 1.5 billion dollars in initial funding for the Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV) was authorized under the ACA.[vii]
- Seventy-five million dollars is provided annually between 2010-2014 for the Personal Responsibility Education Program (PREP) to provide comprehensive sexual education to youth.
- Reinstated funding—$50 million annually between 2010-2014—for the Title V abstinence-only education program

[vii] http://mchb.hrsa.gov/programs/homevisiting/homevisiting.pdf

Test your knowledge

1. Under the ACA, new insurance plans will not charge co-pays for preventive care. Which of the following is considered a preventive service?

   a. Screening for domestic violence
   b. Screening for HPV or sexually transmitted infections
   c. Screening for breast and/or cervical cancer
   d. All of the above

2. True or False: Under certain circumstances, an individual may be exempt from the individual mandate.

3. Which of the following is false?

   a. The ACA contains several provisions to increase access to care.
   b. The ACA seeks payment reform by promoting a fee for service reimbursement model.
   c. The ACA prohibits discrimination based on pre-existing conditions.
   d. The ACA is incentivizing workforce development in primary care.

Find Out in Your State

1. What is the status of contraceptive coverage services in your state? Are new insurance plans covering these services? Are pre-ACA insurance plans expanding coverage for these services?

2. What services are covered in your state's essential health benefit benchmark plan? Are there any gaps in coverage of services deemed important for your state's population?

3. Is your state using ACA funds to develop and expand community health programs? If yes, how can MCH populations better utilize those services?

Test Your Knowledge Answers: 1. d
2. True
3. b

This document is part of *The Affordable Care Act: A Working Guide for MCH Professionals*, available in its entirety on the Web at http://www.amchp.org/Transformation-Station/Pages/ACA-101.aspx

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