

Health Advocate

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NHeLP's 2013 Resolutions and Expectations

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Key Resources

- Promoting Community Living: Updates on HCBS & the ACA (Oct. 2012), [here](#)
- *The Huffington Post* featured a blog post by Emily Spitzer, Everyone in the Pool! (Dec. 2012), [here](#)
- NHeLP Matters: Check out some of the great work NHeLP accomplished in the past couple of months (Dec. 2012), [here](#)
- NHeLP Amicus Brief: *Frank O'Brien, Jr., et al v. Department of HHS, et al* (Jan. 2013), [here](#)

Coming in February's Health Advocate:

Primary Care Case Management and Managed Care

The ball has dropped, the confetti has been swept up, and the noisemakers packed away until next year. But there's still time to set our New Year's resolutions. As we look ahead, here are our goals, expectations and hopes for a productive and promising 2013!

Medicaid – Our primary New Year's resolution is to achieve full implementation of the Medicaid Expansion by all 50 states plus the District of Columbia. We look forward to more information from the Centers for Medicare & Medicaid Services (CMS) to help states implement coverage of an additional 17 million individuals through the Medicaid Expansion. We will continue our administrative advocacy as we anticipate CMS will issue a number of new regulations in 2013 that will address topics such as converting current Medicaid eligibility levels to Modified Adjusted Gross Income (MAGI); updating benchmarks in Medicaid; implementing changes to the Federal Medical Assistance Percentage (FMAP), the matching rate states will get for new (and some existing) Medicaid populations; modifying payments to disproportionate share hospitals (DSH); and adopting performance standards that address both enrollee and provider experiences. We also will continue to vigorously defend Medicaid from harmful budget cuts at the federal or state levels and ensure that beneficiaries continue to receive the services to which they are entitled.

Medicaid waivers – States retain the ability to request § 1115 waivers to promote experimental, pilot or demonstration projects that assist in promoting the objectives of the Medicaid Act. We appreciate CMS' recent clarification that states cannot use the waiver process to implement a partial Medicaid Expansion. Those eligible under the Affordable Care Act's (ACA) Medicaid Expansion have already been the subject of experimental projects during the 1980s and 1990s, when a number of states obtained § 1115 approval to provide Medicaid coverage of low-income beneficiaries that included adults with incomes below the federal poverty level. Since the ACA directly mandated coverage of these individuals, § 1115 authority should not be used as an end-run around the requirements for coverage. As the Supreme Court correctly noted, the ACA meant the Medicaid Expansion to be "an element of a comprehensive national plan to provide universal health insurance coverage." *NFIB*, 132 S. Ct. at 2606. We will monitor states' waiver requests and support state allies to ensure waiver proposals do not undermine the protections of the Medicaid Act or undercut the gains achieved in the ACA. We also will continue to advocate that CMS limit § 1115 to experiments and expand the transparency requirements for § 1115 waivers to all waiver proposals under the Medicaid Act.

Health insurance Exchanges – The first open enrollment period begins in less than ten months, offering over 32 million individuals new opportunities to obtain health insurance and assistance paying premiums and cost-sharing. We expect more regulations and sub-regulatory guidance from the Administration to assist in the launch of the health insurance Exchanges. Some of the issues that still need fleshing out include streamlining eligibility categories and due process, notices and appeals. We also expect subregulatory guidance from the Center for Consumer Information & Insurance Oversight (CCIIO) to outline how Exchanges and Qualified Health Plans (QHPs) must assist individuals with disabilities and provide language services for limited English proficient individuals. States will certainly be ramping up their efforts to launch Exchanges (at least in the 20 states expected to have state-based or partnership Exchanges) and we will work vigorously to ensure that all low-income and underserved individuals can take full advantage of all the ACA offers. We will advocate for the policies and procedures needed for a smooth launch of Exchanges and ensure that state Exchanges adopt strong consumer protections.

Essential health benefits (EHB) – NHeLP and many others submitted comments in the waning days of 2012 on the proposed rules governing EHB. Our resolution is to ensure that the intent and spirit of the ACA to provide all individuals receiving coverage through the Exchange with a package of services that meet their health care needs, including robust coverage for all of the 10 statutorily defined categories of essential health benefits. We also will be working to ensure Medicaid enrollees receive generous coverage through the Medicaid Expansion, including the strong EHB minimum coverage and by advocating for states to provide Expansion beneficiaries with all benefits provided to traditional Medicaid beneficiaries. Providing the same benefits to traditional and Expansion Medicaid beneficiaries will ease state administrative tracking and churning between eligibility categories.

Federal budget – While the immediacy of the fiscal cliff is behind us, 2013 will bring renewed attention to addressing the deficit through further revisions to the tax code or budget cuts. And the President will release his FY 2014 budget early in February, initiating the FY 2014 appropriations process. Throughout the budget and deficit negotiations, NHeLP's resolution is to protect Medicaid and other safety net programs from the budget ax. The difficult choices needed to address the deficit should not be saddled on the backs of the most vulnerable. In particular, any cuts to Medicaid or shifting costs to the states will undermine efforts to fully expand Medicaid. Further, we will monitor the federal budget process to ensure Congress allocates sufficient resources for implementing health reform, monitoring its progress and enforcing its protections for enrollees.

Women's health – We expect 2013 will bring final federal and state regulations that will determine whether women can access contraceptive coverage and abortion services. We have worked to ensure that any exemptions to the ACA's contraceptive coverage requirement are limited, and we have supported the Department of Justice as it defends litigation from employers who want to deny birth control coverage to their employees. We also will continue to focus on raising awareness about the broad scope of preventive services now available to women through ACA § 2713. We resolve to push to ensure that Medicaid enrollees will benefit from the prohibition on cost-sharing for these services. We will continue to advocate for policies that make abortion coverage widely available and that minimize the hurdles imposed by the ACA to ensure that women do not lose the abortion coverage they now have. Finally, we are working with allies to request that the President support women's reproductive health in his FY 2014 budget by omitting all language that would restrict coverage of abortion care.

Health disparities – Our hope for 2013 is for greater focus on addressing health disparities both within health reform and without. We will work to ensure comprehensive demographic data is collected on the single streamlined application for health insurance coverage and that the data is shared with insurers, navigators, assisters, and providers to help them identify and implement necessary mechanisms to ensure full accessibility to health care for all individuals regardless of disability, race, ethnicity, national origin, language, gender, sexual orientation, gender identity, and age. We await further information from the Office for Civil Rights, Office of Minority Health and CCIIO to implement the ACA's nondiscrimination provision, improve data collection through Medicaid and

Medicare, and ensure full access to Exchanges for everyone. We also hope to see reintroduction and movement on the Health Equity and Accountability Act in Congress during 2013.

Immigrants – We were very unhappy with the Administration's decision to prohibit Deferred Action for Childhood Arrivals (DACA) recipients from getting insurance coverage through the Exchange, Medicaid, CHIP and the high risk insurance pools. We hope that 2013 will “put the ACA back in DACA” and bring a change of Administration policy. We also hope 2013 provides opportunities for meaningful immigration reform that does not restrict immigrants' eligibility for healthcare programs.

Individuals who are dually eligible for Medicare and Medicaid – 2013 will bring the launch of the first duals demonstration programs. NHeLP will continue to raise awareness of the need for consumer protections in the memoranda of understanding between CMS and the states, including funding for an Ombuds office to monitor and respond to complaints. And as states and CMS begin drafting their contracts with managed care and other provider entities, we will push for strong language protecting consumers. We also want CMS to engage in comprehensive oversight to ensure that individuals who may be eligible to participate in the demonstration programs understand their options and are not forced into programs or plans that may not meet their needs. Overall, CMS and states must implement and monitor these demonstrations in a manner that improves integration between Medicare and Medicaid services, enshrines the principles of person-centered care, and does not sacrifice the provision of high quality care in the name of saving money.

Judiciary – We believe that it is crucial that the Obama Administration play a much more active role in filling vacancies on the federal bench. We hope 2013 brings a larger number of judicial confirmations to fill the 39 vacancies currently without nominations as well as all existing vacancies. Federal judges are critical to protecting the Constitution, placing a check on overzealous legislatures, and helping individuals find justice and enforce their rights. Now that the 113th Congress has convened, the Administration should urge the Senate to jump-start the confirmation process for pending nominees, as well as put forward additional qualified candidates. The Administration should also prepare for the 20 new vacancies expected this year. We urge the White House to focus more attention and resources to nominating and confirming highly qualified judges for these slots.

We wish all of you a happy and healthy 2013. And we look forward to working with you to achieve the promises of full implementation of health reform by year's end!

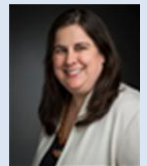
About Us

The National Health Law Program protects and advances the health rights of low income and underserved individuals. The oldest non-profit of its kind, NHeLP advocates, educates and litigates at the federal and state level.

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