

# Health Advocate

E-Newsletter of the National Health Law Program

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## Countdown to Open Enrollment 2013

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### Key Resources

Training for Consumer Assistants, available [here](#).

Determining Tax Credit Subsidy Amounts—Subsidy Calculator from Kaiser Family Foundation, available [here](#).

NHeLP's Webinars on Cost-Sharing and Alternative Benefit Plans, available [here](#).

### Coming in October's Health Advocate:

**A Primer on the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program**

When President Obama signed the Patient Protection and Affordable Care Act (ACA) into law, open enrollment was 3 years, 6 months, 8 days away. Now, it's mere days. For many, however, the wait has been closer to 48 years—since enactment of Medicare and Medicaid—to achieve the near universal coverage that is now possible with the ACA.

Let's take a quick look at how far we've come in 1288 days. The ACA:

- creates health insurance marketplaces for individuals, families and small businesses to get health coverage;
- expands Medicaid to all individuals under 133% of the federal poverty level (FPL);
- requires insurance companies to cover people with pre-existing health conditions;
- ends lifetime and yearly dollar limits on coverage of essential health benefits;
- prohibits marketplaces, insurers, federal fund recipients and others from discriminating on the basis of race, color, national origin, sex (including gender identity), age and disability;
- holds insurance companies accountable for rate increases that are not spent on services;
- makes it illegal for health insurance companies to arbitrarily cancel health insurance;
- protects individuals' choice of doctors;
- allows young adults under age 26 to stay on their parents' health plans;
- provides preventive care with no cost sharing; and
- guarantees the right to appeal.

When open enrollment begins October 1, all eyes, ears, media and social media will be tracking what are likely to be daily (if not hourly) reports towards accomplishing the ultimate goal – enrollment of approximately 7 million uninsured individuals. [Estimates from nineteen states find](#) the first open enrollment may actually enroll over 8.5 million. But for now, the focus is on ensuring that the systems and processes are in place by October 1.

Will there be glitches? Of course. Implementing one of the largest health care programs in history is a challenge. Then add the complexity of coordinating the policies, practices and computer systems of at least three federal departments, 50+ Medicaid agencies, 50+ insurance departments and myriad private insurers. So we're

bound to have rough patches. One need only look back to the 2003 launch of Medicare's prescription drug benefit (a recent [report](#) from Georgetown University's Health Policy Institute outlines how the lessons learned from Part D implementation can benefit the ACA's open enrollment launch). But overall, enormous efforts have placed us on the precipice of a date when individuals in every state will be able to contact a health insurance marketplace and apply for insurance. And by March 31, millions of previously uninsured individuals will have enrolled in health plans that will provide a minimum level of services in a cost-effective manner.

What has been achieved is truly amazing. Seventeen states and the District of Columbia will soon open the doors to their own state marketplaces. Seven additional states are collaborating with the federal government to operate partnership marketplaces with the remaining states utilizing federally facilitated marketplaces (FFMs).

## Medicaid Expansion

With the Supreme Court's decision in *National Federation of Independent Business v. Sebelius* (NFIB), what had been a requirement for states to expand Medicaid became an option when the Supreme Court prohibited the federal government from exercising its enforcement authority if a state fails to implement the expansion.

Currently, 24 states (hopefully soon to be 25 after recent actions in Michigan) have committed to expand their Medicaid programs to cover all individuals up to 133% of the federal poverty level. As implementation of the ACA progresses, we expect that other states will adopt the expansion, especially since the federal government pays 100% of the state's costs for providing services through 2016. NHeLP's [Medicaid Expansion Toolbox](#) continues to provide updates on state developments regarding this issue.

## Regulations, Policies & Procedures

The Departments of Health and Human Services, Labor and Treasury have enacted significant new regulations to ensure effective implementation of the ACA. These regulations describe the requirements for marketplaces and qualified health plans; define the essential health benefits that health plans participating in the marketplace must cover; outline appeals and due process requirements; prohibit discrimination in healthcare; streamline residency requirements and require those providing enrollment assistance through the FFMs or with federal funding to do so in a fair and impartial way.

We will need to monitor the open enrollment process to ensure individual's rights and privacy are protected, consumers understand their options and are enrolled in the right program and plan, fraud is prevented, women have access to the full range of contraceptive coverage required by the ACA and consumers with disabilities or limited English proficiency receive needed assistance to ensure meaningful access to marketplaces and insurance programs. We also need to ensure that consumers are not bounced back-and-forth between marketplaces and Medicaid/CHIP agencies and information is verified in a timely and efficient way that does not add burdens on to individuals. The system is supposed to be seamless and electronic, and should not result in requiring individuals to make up for any deficiencies with paper documentation or other delays.

## Single, Streamlined Application

One of the ACA's hallmarks is a "no wrong door" policy so that individuals can apply at a marketplace, Medicaid or CHIP agency without being turned away and told to apply at another site or agency. The federal government has created a model [three-page streamlined application](#) to collect the information needed to determine eligibility. The

application will be available in English and Spanish and a tool to help limited English proficient individuals complete the application is expected to be available in over 30 languages.

In addition to the 27 FFM states, CMS expects seven states (AL, CT, ID, LA, MO, NJ and VT) to use the model application; the rest will submit an alternative application form for CMS approval. Monitoring the application process will be critical to ensure that individuals enroll in the program that best fits their health and economic needs. This is particularly critical for individuals who may be eligible for the expansion Medicaid or private insurance but with further investigation may actually be eligible for traditional Medicaid based on disability or other factors. Enrollment in the appropriate program can have a significant impact on available services as well as costs. Legal services and protection and advocacy organizations will have an important role in assisting individuals who encounter difficulties in enrollment or seek to appeal an eligibility determination.

## Benefits

The rollout of essential health benefits (EHB) has created a new baseline of insurance coverage for all those enrolling. Advocates will need to monitor coverage of these EHBs by private plans and work to ensure effective implementation of Alternative Benefit Plans (ABPs) in Medicaid.

The ACA also expands the coverage of preventive services, offering significant progress toward helping to ensure early detection and treatment of conditions and diseases which, if left untreated, can lead to significant costs and loss of life or function. These preventive benefits include:

1. [Preventive care for adults](#): 15 preventive services;
2. [Preventive care for women](#): 22 preventive services;
3. [Preventive care for children](#): 25 preventive services; and
4. [Medicare preventive care](#): 23 preventive services.

Further, the ACA's uniform Summary of Benefits and Coverage (SBC) offers consumers a meaningful way to compare health insurance plans with apples-to-apples information about benefits covered and deductibles, co-pays and other out-of-pocket expenses. And as of January 1, 2014, all insured individuals will no longer face annual limits on essential health benefits.

## Enrollment Assistance

In mid-August, the Centers for Consumer Information and Insurance Oversight awarded \$67 million in Navigator Cooperative Agreements to 105 entities to serve in the FFM and State Partnership Marketplaces. Further, the Health Resources and Services Administration awarded approximately \$150 million to 1,159 community health centers to enroll uninsured individuals. States operating state-based or partnership exchanges are also setting up their own navigator and consumer assistance programs to ensure eligible individuals have the resources they need to help enroll.

The federal government developed [training](#) for navigators and in-person assisters although states can also develop their own trainings. All navigators and in-person assisters must complete training and pass certification examinations. This ensures that these entities and individuals will provide fair, accurate and impartial information and have the necessary training and resources to effectively assist individuals through the application process.

Additionally, a shorter training is available for “[Certified Application Counselors](#)” (CACs). CACs volunteer to help people understand, apply and enroll in health coverage through the Marketplace. Each CAC organization must agree to make sure that designated individuals complete required training and that they comply with privacy and security laws and other program standards. For federally facilitated marketplaces, CACs can include community health centers and other health care providers, hospitals, and non-federal governmental or non-profit social service agencies.

In addition to the enrollment assistance coordinated through marketplaces, agents, brokers and insurers also likely will be involved in enrollment assistance.

## Conclusion

We’ve come a long way in a little over three years. Now we must commit to ensuring the next six months meets the promises of enrolling millions of uninsured individuals. These uninsured individuals only have to wait 92 days (at most) for coverage to start, a long way from the original 1488 days.

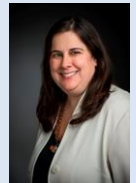
## About Us

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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