



NEWS RELEASE

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NEARLY ALL STATES HAVE TAKEN ACTION ON AFFORDABLE CARE ACT'S PATIENTS' BILL OF RIGHTS AND OTHER EARLY HEALTH INSURANCE MARKET REFORMS

Arizona Is Only State That Has Not Passed Legislation or Taken Other Action to Implement Early Reforms

March 22, 2012, New York, NY—As the second anniversary of the Affordable Care Act approaches, a new Commonwealth Fund report finds that 49 states and the District of Columbia have already taken action supporting the law's implementation, such as passing legislation, issuing regulations or other guidance, or actively reviewing insurer filings. Early insurance market reforms in the law include new rules for insurers such as bans on lifetime limits on benefits and dependent coverage for young adults up to age 26.

The report, *Implementing the Affordable Care Act: State Action on Early Market Reforms*, by Katie Keith, Kevin W. Lucia, and Sabrina Corlette of the Georgetown University Health Policy Institute's Center on Health Insurance Reforms, is the first to assess state action on 10 early reforms, including those known collectively as the Patients' Bill of Rights, that went into effect in September 2010. The researchers found that between January 1, 2010, and January 1, 2012, 23 states and the District of Columbia had taken new legislative or regulatory action on at least one of these reforms, and an additional 26 states had taken other action to promote compliance with the reforms, such as issuing bulletins to insurers.

The reforms in the study include:

- expanding dependent coverage for young adults up to age 26,
- prohibiting lifetime limits on health benefits,
- phasing out annual dollar limits on health benefits,
- prohibiting preexisting condition exclusions for children under age 19,
- prohibiting rescissions (cancelling insurance, except in cases of fraud or intentional misrepresentation),
- covering preventive services without cost-sharing,

- expanding coverage of emergency services,
- allowing choice of primary care provider,
- allowing choice of pediatrician, and
- allowing access to obstetricians and gynecologists without a referral.

“In just a year and a half since these early reforms took effect, nearly all states have moved ahead on the new coverage options and consumer protections now available to their residents under the Affordable Care Act,” said Sara Collins, Vice President for Affordable Health Insurance at The Commonwealth Fund. “With these actions, states across the country are taking steps to make sure that insurance carriers subject to the reform law provide American families with the new benefits guaranteed under the law.”

The report finds that states took the following actions:

- Twelve states—Connecticut, Hawaii, Iowa, Maine, Maryland, Nebraska, New York, North Carolina, North Dakota, South Dakota, Vermont, and Virginia—passed new legislation or issued new regulations that addressed all 10 of the reforms.
- The District of Columbia and 11 states—California, Delaware, Indiana, Louisiana, Michigan, New Hampshire, New Jersey, Oregon, Utah, Washington, and Wisconsin—passed a new law or issued a new regulation on at least one early market reform.
- Fifteen states—Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Kentucky, Massachusetts, Minnesota, Missouri, Montana, New Mexico, Pennsylvania, South Carolina, and Texas—issued new subregulatory guidance, such as a bulletin to advise insurers of the reforms.
- Eleven states—Alaska, Idaho, Kansas, Mississippi, Nevada, Ohio, Oklahoma, Rhode Island, Tennessee, West Virginia, and Wyoming—reported that regulators were actively reviewing insurer filings for compliance with the reforms even though the state had not otherwise passed a new law or issued new regulations or other guidance.
- Only Arizona had taken no action.

The authors identified a variety of reasons why states may have chosen to address only some of the early market reforms in new legislation or regulations. Some states already had existing state laws that they viewed as consistent with the Affordable Care Act; some took action only on reforms where their existing state laws were in direct conflict with the federal law.

According to the authors, states had a relatively short turnaround time to implement the early market reforms. The legislation was signed into law on March 23, 2010, and implementation of the early market reforms went into effect just six months later. The mixed approaches to implementing the reforms may also have been a result of timing issues, including such factors as: reforms going into effect after most state legislatures had adjourned for 2010; short 2011 legislative sessions; changes in the state’s political environment following midterm elections;

and state budget crises. Others may have been cautious given the pending decision on the constitutionality of the law by the U.S. Supreme Court.

“These findings show not only that the vast majority of states have taken action on the early market reforms but that states have adopted a range of pragmatic approaches to help ensure that their residents receive the full benefits of the consumer protections promised under the Affordable Care Act,” said Keith.

Looking Ahead to 2014

States have a much longer lead time going into implementation for the 2014 reforms. But the authors caution that states may need to be more aggressive in their approaches with these reforms given that many are entirely new and do not exist in state law.

“Unlike the early market reforms, many of the 2014 reforms—such as a ban on denying insurance coverage based on preexisting conditions, and new rating requirements—do not exist in state law. State standards may also be inconsistent with these reforms more often than with the early market reforms. Addressing these gaps will likely require states to make legislative or regulatory changes,” the authors say.

Thus, to implement the 2014 reforms, states will likely have to go above and beyond the approach of reviewing insurer filings for compliance with the early reforms that some have taken. This is, in part, because states that only review insurer filings may be limited in their ability to hold insurers accountable to the new rules.

“It is encouraging that state policymakers are taking advantage of early reforms in the Affordable Care Act to improve health care coverage and access to needed health care, and provide protections for residents that are especially needed during these challenging economic times,” said Commonwealth Fund President Karen Davis.

The Commonwealth Fund is a private foundation supporting independent research on health policy reform and a high performance health system.