

Federal Health Reform and State Insurance Regulation

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- Preemption
- Immediate Market Reforms
- 2014 Market Reforms
- State-Based Exchanges
- Grandfathering
- Flexibility
- Implementation Process

Preemption

Provisions of PPACA will potentially preempt state laws

- Similar to HIPAA:

Nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.
PPACA § 1321(d)

- Exceptions:
 - Mandated benefits: States must cover cost of mandated benefits beyond essential benefits package
 - Grandfathered plans: States may not require grandfathered plans to be pooled with post-reform plans.

Federal Fallback

HHS could be responsible for:

- High risk pool program
- Exchange operation
- Rate and form review
- Market conduct
- Internal / external review of disputes
- MLR enforcement

Immediate Reforms

High risk pool program

Consumer protections:

- Extended dependent coverage to age 26
- No preexisting condition exclusions for children
- Restrictions on rescissions
- No lifetime limits, restricted annual limits
- Internal and external appeals
- First dollar coverage of preventive services
- Medical loss ratios

HHS web portal

Disclosure of premium increases and other data

2014 Reforms

- Exchanges open and provide subsidies
- Individual mandate
- Employer responsibilities
- Essential benefits package
- Single risk pools in individual and small group markets
- No preexisting condition exclusions
- Guaranteed issue
- Rating rules:
 - No health status
 - 3:1 maximum age rating
 - 1.5:1 tobacco use

Exchanges

- Facilitate comparison and purchase of coverage
- Administer subsidies
- Mandatory Core functions:
 - Certify qualified plans
 - Operate toll-free hotline
 - Provide standard comparative information on qualified plans
 - Rate plans based upon cost and quality
 - Certify exemptions from individual mandate
 - Establish “Navigators” program
 - Coordinate with Medicaid & CHIP programs to provide eligibility determinations
- Outside market remains intact

Grandfathered Plans

- Coverage in which individuals were enrolled prior to March 23, 2010 are exempt from most provisions of the bill.

Exceptions:

- Lifetime limits
 - Restrictions on rescissions
 - Extension of dependent coverage
 - Minimum loss ratios
 - Annual limits (group only)
 - Preexisting condition exclusions (group only)
- Pooled separately from newly sold plans.
 - State laws that attempt to include them in single risk pools are preempted.
 - Grandfathered plans will satisfy individual mandate.

Areas of Flexibility

- High risk pool program
- Exchanges
- Basic Health Plans for individuals between 100% and 200% FPL
- Waivers of requirements for:
 - Plans offered through the Exchanges
 - Administration of the Exchanges
 - Reduced cost-sharing in plans offered through the Exchanges
 - Premium subsidies
 - Employer and individual mandates

Implementation

- HHS Office of Consumer Information and Insurance Oversight (OCIO) opened April 19
- Formal rulemaking has begun on several issues:
 - Medical loss ratios
 - Rate review procedures
- NAIC is responsible for:
 - Uniform definitions of insurance terms
 - Minimum loss ratio definitions and methodologies
 - Development of rate review standards
 - Standards for interstate compacts
 - Temporary individual market reinsurance program
- NAIC is updating model laws and regulations to reflect federal minimum standards
- NAIC is providing technical assistance to states and HHS as requested



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