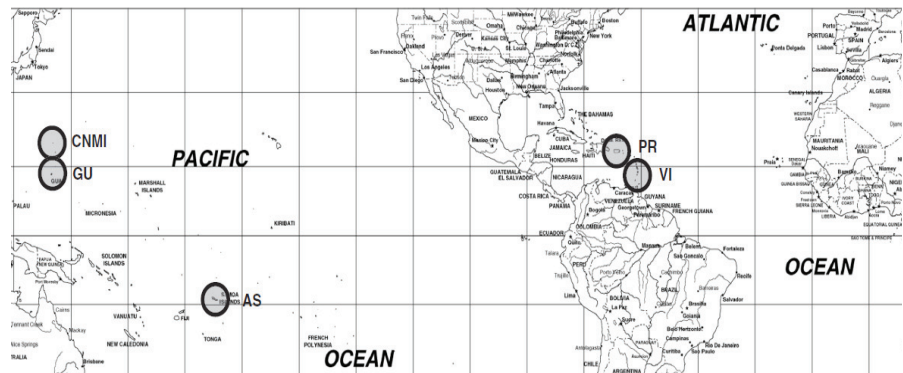


OPPORTUNITIES AND CHALLENGES: IMPLEMENTATION OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND THE U.S. PACIFIC TERRITORIES

OVERVIEW

Over 331,000 people live in the U.S. Territories of Guam, the Commonwealth of the Mariana Islands and American Samoa. Located in the Pacific and about 8,000 miles from the continental United States at its farthest, residents of these jurisdictions face serious health disparities such as high rates of cervical, lung, and stomach cancer, breast cancer mortality, and suicide. While specific provisions of the Patient Protection and Affordable Care Act (PPACA) carry the potential for significant improvements in service and access, the geographic isolation of the U.S. Territories continue to present major barriers for the effective delivery and financing of health care.

On March 23, 2010, President Obama signed the PPACA into law. PPACA made several reforms to the nation's health care system, and contains numerous provisions that will benefit Americans residing in the U.S. Territories by increasing access, ensuring quality and advancing prevention and public health. Improving access to health insurance coverage and preventive services, in combination with better management and coordination of care, will lead to better health outcomes for Americans residing in the territories. Health advocates should become engaged as the federal agencies implement health care reform in these territories.



Source GAO Report "U.S. Insular Areas: Multiple Factors Affect Federal Health Care Funding" GAO-06-75, Oct 14, 2005

INCREASED ACCESS

PPACA makes significant changes to how individuals can gain access to health insurance and federal health programs. Of particular interest to the territories is the increased funding for Medicaid and the ability to establish Health Insurance Exchanges (HIE) under the law. Both these programs will provide increased health insurance coverage and health care services for Americans residing in the territories.

FUNDING INCREASES FOR THE MEDICAID PROGRAM

Guam, the Commonwealth of the Northern Mariana Islands and American Samoa operate their Medicaid programs differently compared to the states. These jurisdictions have different funding mechanisms and different coverage levels. The Medicaid programs in the territories operate like "block grants," with an annual funding cap. Under PPACA, these amounts will be significantly increased to \$6.3 billion and divided among the five territories of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands and Puerto Rico. The U.S. Department of Health and Human Services is currently in the process of determining these funding allocations.

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Before PPACA, the federal medical assistance percentage (FMAP) was statutorily set at 50%--the lowest match under the law. Under PPACA, the FMAP for the territories will be increased to 55%. This new FMAP means that the federal government will pay for the majority of Medicaid expenditures, and territorial governments will be responsible for the remaining 45%. While PPACA makes improvements to the Medicaid program in the territories, challenges persist. For example, while states use measures like the Federal Poverty Level (FPL) to determine who can be eligible for Medicaid, the territories do not use these measurements and rely on local determinations. These local determinations are not uniform among the Pacific territories and create eligibility and enrollment difficulties in the administration of Medicaid. As a result, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands each rely on different measures to determine who is qualified for Medicaid.

OPTIONS TO ESTABLISH HEALTH INSURANCE EXCHANGES (HIE)

One hallmark feature of PPACA is the establishment of the HIE on January 1st, 2014 which will increase coverage options for segments of the population who meet eligibility criteria based on income and citizenship/immigration status. These HIEs will function as a marketplace, offering subsidies to aid individuals and families in purchasing insurance. There will be special rules that apply to the territories in establishing their HIEs. These are:

- Territorial governments can choose to elect a health insurance exchange that mirrors the requirements for the states
- Territories must submit this election to the Secretary of the Department of Health and Human Services by October 1, 2013
- Funding for the territories will be limited to \$75 million (to be shared among Guam, the Commonwealth of the Northern Mariana Islands, American Samoa and the U.S. Virgin Islands) once the plan is approved, beginning in 2014
- If a territory chooses not to establish an exchange, their allocation will be added to their Medicaid cap funds

CONSUMER PROTECTIONS

The Secretary of Health and Human Services issued a letter to the Governors of the territories on July 29, 2010 stating that consumer protections found in Title I of PPACA applied to residents living in the territories, and that the territories were eligible for grant programs to help implement and enforce these protections.¹ Beginning in 2014, private insurers will be prohibited from barring individuals or charging higher premiums because of their health status or pre-existing conditions, including cancer. Private insurers will only be able to rescind policies in the case of fraud or intentional misrepresentation. All new plans must provide coverage for cancer screening, treatment, and follow-up care. Insurers can no longer set lifetime limits on coverage and annual limits will be phased out by 2014.

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¹ Letter to Territorial Governors from Secretary Sebelius of the U.S. Department of Health and Human Services dated July 29, 2010 "I have concluded that, with respect to the provisions at issue (Title 1 of the ACA), the territories are included in the definition of "State"

Like their counterparts in the states, residents of the territories face significant health disparities in diabetes, cancer, heart disease and obesity. These chronic diseases are further challenged because of the geographic isolation and underdeveloped health infrastructures in the territories. PPACA makes an investment in prevention and public health for all Americans through provisions that strengthen existing public health interventions and promote culturally and linguistically appropriate services in health care. Further, PPACA provides \$15 billion through the Public Health and Prevention Fund that can be used to promote prevention initiatives across the country. These funds are available to governments and organizations in the territories. Other major disparities initiatives include:

- Strengthened data collection standards by race, ethnicity, primary language, sex and disability status (Section 4302)
- Grants for Cultural Competence Education and Culturally Competency Training for Primary Care Providers (Section 5307)
- Resources to increase Workforce Diversity in the Health Professions (Various Sections)
- Grants to promote public health and prevention like childhood obesity, diabetes and tobacco cessation (Sections 4306, 10501, 4002)
- Community Transformation Grants to help local governments and community-based organizations implement, evaluate and disseminate effective public health prevention strategies (Section 4201)
- No cost sharing for preventive care (Section 2713)

MAJOR CHALLENGES

While the gains made in PPACA represent progress for residents of the U.S. Territories, several challenges remain. One significant challenge is that the individual mandate does not apply to residents of the territories.² In order for risk to be spread across large populations, there must be an individual mandate. Secondly, the small populations in the territories and their geographic locations create problems in establishing exchanges because the health insurance markets of the various jurisdictions are locally-owned small businesses that have different plans compared to those offered in the mainland. Another issue is the varying levels of quality and the accessibility of the health delivery systems in these jurisdictions. Workforce shortage issues, the paucity of hospitals and the lack of state of the art treatments force residents to seek care off-island. The presence of Compact Migrants—individuals from the Freely Associated States—in the territories also is a challenge as they have a unique status that allows them to enter the United States without a visa. Their status prevents them from accessing federal health programs like Medicaid, causing local governments to be responsible for 100% of their indigent care. Finally, the lack of capacity of some state governments to apply for competitive grants creates a barrier to accessing the resources that can be provided.

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² Section 1501 of the Patient Protection and Affordable Care Act states:

“INDIVIDUALS RESIDING OUTSIDE UNITED STATES OR RESIDENTS OF TERRITORIES.—Any applicable individual shall be treated as having minimum essential coverage for any month—

“(A) if such month occurs during any period described in subparagraph (A) or (B) of section 911(d)(1) which is applicable to the individual, or

“(B) if such individual is a bona fide resident of any possession of the United States (as determined under section 937(a)) for such month.

- Work with the U.S. Department of Health and Human Services to determine HIE and Medicaid coordination.
- Survey the landscape of private insurance options and the interplay of the exchange. Will the limited population necessitate the creation of an exchange?
- Determine eligibility criteria and essential benefits that can be accessed under the Medicaid program, taking into account the unique needs of the territory.
- Work with the Centers for Medicare and Medicaid Services to request waivers if necessary. Work with the Centers for Medicare and Medicaid Services (CMS) to extend “j” waiver authority to all U.S. Territories to allow for flexibility in administering local Medicaid programs.
- Advocate for Medicaid coverage for Compacts of Free Association Migrants residing in the territories.
- Request that the Secretary of Health and Human Services include “geographic location,” as a category in data collection.
- Work with the Health Resources and Services Administration to identify sources of federal funding to strengthen health infrastructure in the islands.
- Work with territorial legislatures to pass local laws requiring that all residents of the territories purchase health insurance, given the absence in federal laws.
- Work with the Congress to modify the Federal Medical Assistance Percentage so that it accurately reflects the economic conditions in the territories, rather than relying on a statutorily set percentage.

For more information about the health care reform law, please visit our Health Care Reform Resource Center at www.apiahf.org/hcr.

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