

IMPLEMENTATION OF THE AFFORDABLE CARE ACT

OPPORTUNITIES AND CHALLENGES IN THE U.S. PACIFIC TERRITORIES

OVERVIEW

Over 268,760 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 higher rates of uninsurance and serious health disparities such as high rates of cervical, lung, and stomach cancer, breast cancer mortality, and suicide. While parts of the Affordable Care Act (ACA) carry the potential for significant improvements in service and access, the geographic isolation of the U.S. Territories and existing limitations in Medicaid funding continue to present major barriers for the effective delivery and financing of health care.

On March 23, 2010, President Obama signed the ACA into law. The ACA made several reforms to the nation's health care system that will benefit Americans residing in the U.S. Territories by increasing access, ensuring quality and advancing prevention and public health.

INCREASED ACCESS

The ACA 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. In addition, the law provided the territories with the option to create a health insurance Marketplace.

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. The ACA increases this funding amount to \$6.3 billion, divided among the five territories of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands and Puerto Rico.

Before the ACA, the federal medical assistance percentage (FMAP) was statutorily set at 50%--the lowest match allowable under the Medicaid program. The ACA increased the FMAP for the territories 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%.

These are important improvements to the Medicaid program in the territories, however 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.

OPTION TO ESTABLISH A HEALTH INSURANCE MARKETPLACE

As of January 1, 2014, a new Health Insurance Marketplace (Marketplace) began operating across all fifty states. The Marketplace in these states is run either by the federal government, in cooperation with the federal government, or by the states themselves. The Marketplace allows individuals and families to shop for, compare and select health insurance plans. Depending on an individual's income, they may qualify for financial assistance in the form of a subsidy or tax credit for plans purchased in the Marketplace.

While the territories were permitted to establish their own Marketplace, none took up the option. As a result, the funding allocation for territorial Medicaid programs increased through the addition of \$75 million to the territories of American Samoa, Guam, the Commonwealth of the Mariana Islands and the Virgin Islands Medicaid caps from January 1, 2014 – December 31, 2019.

CONSUMER PROTECTIONS

All of the consumer protections found in Title I of the ACA apply to residents living in the territories, and the territories are eligible for grant programs to help implement and enforce these protections.¹ Beginning in 2014, private insurers are prohibited from excluding individuals from coverage or charging higher premiums because of their health status or pre-existing conditions, including cancer. Private insurers can only 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.

REDUCING DISPARITIES THROUGH DATA COLLECTION, PUBLIC HEALTH AND PREVENTION

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. The ACA makes an investment in the 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, the ACA's Prevention and Public Health Fund provides billions of dollars that can be used to promote prevention initiatives across the country. These funds are available to governments and organizations in the territories. While the fund was originally funded at \$15 billion, it has been cut by over one-third to date.

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 Cultural 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 the ACA represent progress for residents of the U.S. Territories, several challenges remain. One significant challenge is that the individual mandate—the requirement that nearly all persons have

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 I of the ACA), the territories are included in the definition of "State".

health insurance—does not apply to residents of the territories.² In order for risk to be spread across large populations and prevent adverse selection, there must be an individual mandate. Secondly, both the small number and wide geographic spread of residents in the territories made it difficult to establish affordable and viable health insurance marketplaces because the insurance markets of the various jurisdictions are comprised of locally-owned small businesses that have different plans compared to those offered in the mainland. In addition, the number of carriers and plans are very limited.

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. Finally, the lack of capacity of some territorial governments to apply for competitive grants creates a barrier to accessing the resources that can be provided.

RECOMMENDATIONS FOR TERRITORIAL GOVERNMENTS

- 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 to allow for flexibility in administering local Medicaid programs.
- Advocate for Medicaid coverage for Compacts of Free Association Migrants residing in the territories.
- Work with the Health Resources and Services Administration to identify sources of federal funding to strengthen the health care infrastructure in the islands.
- Work with territorial legislatures to pass local laws requiring that all residents of the territories purchase health insurance.
- Work with 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.

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The Marketplace Help Center will assist in various languages. Call them at:

1-800-318-2596

More questions?..

Visit our FAQs at:

www.apiahf.org/healthcare4me or visit www.healthcare.gov for more information.

You can also call the number above to speak to someone.

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.