

# Three Years of the Affordable Care Act:

# **Counting the Benefits, Countdown to Coverage**



A Report on ACA Implementation in California:

March 2013 \* UPDATED September 2013

# Over One Million More Californians Covered Under ACA's New Options Urgent Work to Continue Our State's Leadership In Implementing and Improving Health Reform to Be Ready in 2014

In the three and a half years since the enactment of the Affordable Care Act, the law has seen dozens of legislative challenges; judicial challenges leading all the way up to the Supreme Court; and political challenges, including a presidential campaign between two candidates with starkly different positions on whether to move forward with reform. But the Affordable Care Act survived it all.

These high profile fights have obscured the real work of implementing the law to ensure consumers and the health care system reap the full benefits of the law, especially in California. In fact, millions are already taking advantage of new benefits and consumer protections, and more options are forthcoming with full implementation in 2014.

This report tallies the impacts of the Affordable Care Act in California to date; details how California has taken a leadership role in implementing and improving the law; and also lays out the important decisions and actions needed quickly by state policymakers to be ready on January 1, 2014 so Californians can take full advantage of their new rights, options, and benefits. This report includes a "to do" list of state actions taken and those still awaiting action, and a list of legislation passed and pending.

## **COUNTING THE BENEFITS**

The Affordable Care Act has already made a difference for millions of Californians who have new consumer protections, from the removal of lifetime limits and arbitrary caps on coverage to the required coverage of preventative services without co-payments or cost-sharing. Hundreds of thousands of Californians have new financial help to afford care, including seniors on Medicare getting prescription drugs, and small businesses getting tax credits to continue to offer coverage to their workers.

## OVER 1,000,000 CALIFORNIANS HAVE ENROLLED IN NEW COVERAGE

The biggest impact has come from expanding coverage—getting people the care they need and providing economic security from financial ruin. The most recent 2013 estimates are that **over one million**Californians have been able to get coverage through new options provided under the Affordable Care Act.

- Over 21,000 Californians who were denied for coverage by insurers due to their health status now have coverage through California's ACA-funded Pre-existing Condition Insurance Program (PCIP). (PCIP had 16,000 enrolled on July 31, 2012.)
- Over **435,000 young California adults up to age 26** have coverage through their parent's health plan, under the ACA and state conforming legislation. ii
- Over 615,500 Californians in 53 counties have new coverage through Low-Income Health Programs
   (LIHPs) the most expansive early expansion of coverage under the Affordable Care Act in the country.

• Other provisions that have helped more people stay and become insured are the **small employer tax credit, the early retiree reinsurance program**; and the financial relief and savings for the state budget and **maintenance of effort requirements that prevented additional state cuts to eligibility and enrollment**.

## **NEW CONSUMER PROTECTIONS AND FINANCIAL ASSISTANCE**

About **8,978,000** insured Californians, whether getting insurance as an individual or from many types of employer-based coverage, gained new consumer protections. For example, over twelve million saw **removal of lifetime limits on their coverage**. The over two million Californians who buy coverage as an individual now have the security that **insurers are no longer permitted to rescind coverage**, and especially after the patient gets sick.

Some of the ACA provisions provided direct financial assistance, to allow patients and policy-holders, seniors and small businesses, to get relief when paying premiums. Here are specific ways that the ACA has helped consumers better afford the cost of health care:

- **No-Cost Preventative Care: 6,181,000** Californians had their coverage improved to include preventative care without cost sharing, so there is no financial barrier between them are these screenings and services.
- **Rebates:** \$73,905,280 in rebates were issued to the policyholders of 1,877,186 Californians because their insurance companies did not spend enough of their premium dollars on providing health care, under the ACA's "medical loss ratio" provision.
- *Rate Oversight:* Over **1,507,532** Californians saved over **\$175.2** million as a result of the rate review process when Anthem, Blue Shield, and Aetna from rate hikes that were retracted, rolled back, or withdrawn<sup>iv,v,vi</sup>.
- **Prescription Drug Help in Medicare:** 319,429 California seniors and people with disabilities have saved \$453.8 million in prescription drug costs, under the ACA provision that begins the process to close the Medicare prescription drug "donut hole." vii
- Small Business Tax Credit: In the 2011 tax year, over 375,000 California small businesses in California (70% of the total) were eligible for the tax credit to help pay for the cost of coverage of their 2,442,900 California workers. Viii While it will take more time for all eligible small businesses to take advantage, the incentive is significant, as the average credit is \$752 per worker. For the 158,000 businesses who are eligible for the maximum assistance, their average credit is \$1000 per worker.

There are other benefits to the Affordable Care Act that may be less visible to Californians in their everyday lives. They include the state budget savings yielded in the recent Medicaid waiver, which helped prevent further budget cuts. This list doesn't include the millions of dollars in federal grants to enhance public health and prevention efforts, to build capacity in community clinics, to set up Covered California, and to improve consumer assistance programs—all of which have an economic impact as well.

## **CALIFORNIA AS A LEADER**

These impacts and improvements were not by accident, but part of a concerted effort to take full advantage of all the opportunities for a beleaguered health system that needs all the help it can get. California has not just implemented the law, but improved upon the Affordable Care Act, diligently working to plug loopholes, make adjustments and improvements, and to ultimately ensure the promise of the law is kept to better maximize the benefits.

## Here are some specific examples of California's leadership:

- 1. California was the first state in the nation to establish our insurance marketplace, Covered California, after passage of the ACA, and only one of a handful to give it the negotiating power to bargain for the best value for consumers. Covered California will also standardize benefit packages so consumers can make apples-to-apples comparisons.
- 2. The California Legislature has passed laws requiring new "essential benefits" standards for coverage that will go into place in 2014 so that consumers no longer have to fear the fine print that might exclude the service they need. In addition, California mandated maternity coverage as a basic benefit 18 months early, in July 2012, which revived a benefit that most insurers were no longer providing in the individual insurance market.
- 3. With bipartisan authorship, California created the biggest **Pre-Existing Condition Insurance Program** in the country, a new option for over 16,000 Californians who were denied for private plans due to their health status. (The next highest state has around 10,000 enrollees.) PCIP became a victim of its own success, this month closing to new enrollees until 2014, when such denials will not be allowed. (MRMIP, the more-limited state "high risk pool," will remain an option through 2013.)
- 4. California quickly implemented the ACA provision that banned denials for children with pre-existing conditions starting early in 2010. When insurers balked, state law made it clear that insurers who refused to offer policies to children would be barred from covering adults as well—bringing the major insurers back into the market. The state law also went further than federal law, to also limit what children with pre-existing conditions can be charged to no more than twice any other child for the same policy.
- 5. California has been one of only five states to **expand coverage early**, and has been the leader, using federal matching funds to so that over 500,000 Californians are now getting coverage in county-run Low Income Health Programs. (This total is more than 20 times the other states with early Medicaid expansions.) These enrollees will be shifted to full Medicaid coverage on January 2014.

## **COUNTDOWN TO COVERAGE**

Given the size, diversity, and complexity of California, and the depth of the challenges in our health care system, this leadership role has been a necessity, and needs to be continued to take advantage of the major reforms scheduled for 2014. The major coverage expansions of the ACA will begin January 2014. California can dramatically cut the number of uninsured by half or even two-thirds, and provide more security for those with coverage.

The Medicaid program will be expanded to cover virtually everyone around or below the poverty level, and affordable private coverage will be available for everyone who doesn't get it through an employer. A new market-place for health insurance, Covered California, will offer plans that will make it easy to make apples-to-apples comparisons, and that will be subsidized so those under \$90,000/year for a family of four won't have to pay more than a percentage of income for their premiums, based on a sliding scale.

Models developed at the University of California project that, in five years, between **1.2 to 1.6 million** Californians will newly enroll in Medi-Cal; and that another **1.8 to 2.1** million Californians will enroll in subsidized coverage in the Exchange. <sup>ix</sup> If done correctly, it will be the biggest expansion of coverage since the creation of Medicare and Medicaid in the 1960s, two generations ago.



Open enrollment starts October 2013.

## Implementing and Improving Upon the Affordable Care Act

## **CALIFORNIA LEGISLATION ENACTED 2010-13**

The passage of the Affordable Care Act at the federal level was not the end but the beginning of legislative activity to reform our health system. Since passage, California has enacted the over 20 pieces of legislation listed below so Californians can take advantage of the ACA's new options, benefits, and consumer protections. Italics indicate bills currently pending in the special legislative session. Bills pending in the 2013 regular session are not included.

## **NEW ACCESS FOR CALIFORNIANS WITH PRE-EXISTING CONDITIONS**

## \* AB1887 (Villines)/SB227 (Alquist), 2010

**FEDERAL FUNDING FOR A HIGH-RISK POOL:** Authorizes MRMIB to apply for federal funding for, and to create, a new "high-risk" Pre-Existing Condition Insurance Program (PCIP) to provide coverage to people denied for pre-existing conditions.

### \* AB2244 (Feuer), 2010

**ACCESS AND AFFORDABILITY FOR CHILDREN WITH PRE-EXISTING CONDITIONS:** Requires guaranteed issue, eliminates all pre-existing condition exclusions, and limits premium increases based on health status, phasing in modified community rating for children under age 19 in the individual market. Improving on federal reform: Rating rules of 2 to 1 in open enrollment, providing additional affordability to children with pre-existing conditions.

## \* AB151 (Monning), 2011

**GUARANTEED ISSUE FOR SENIORS:** Assures that those who previously covered by Medicare Advantage plans have guaranteed issue for Medi-Gap coverage.

#### AB1x2 (Pan); SB1x2 (Hernandez), 2013

**BAN ON PRE-EXISTING CONDITIONS AND OTHER INDIVIDUAL INSURANCE MARKET REFORMS:** Prevents insurers from denying or discriminating for pre-existing conditions, and institutes other market rules/consumer protections for those who purchase health coverage on their own. Limits different premiums on age to 3:1.

### **NEW OVERSIGHT ON INSURER PREMIUMS**

## \* SB1163 (Leno), 2010

**PROVIDING TRANSPARENCY ON RATES:** Requires 60 days public notice of rate hikes and requires health plans to provide to the public information about their rate methodology. Improving on federal reform: Requires review of all rate hikes in individual and small group market, rather than just "unreasonable" increases. Also, collects additional information on underlying cost increases.

## \* SB51 (Alquist), 2011

**REQUIRING PREMIUM DOLLARS TO BE SPENT ON HEALTH CARE:** Allows state regulators to enforce the Medical Loss Ratio provision of the Affordable Care Act that requires insurers in the large group market to spend 85% of premium dollars on health care and insurers in the small group and individual markets to spend 80% of health care dollars on actually providing health care rather than for administration or profit.

## \* AB1083 (Monning), 2012

**REFORMING THE SMALL GROUP MARKET:** Conforms new insurance market reforms for small businesses, particularly so small employers don't get additional premium spikes based on the health of their workers.

## **BETTER BENEFITS**

## \* AB2345 (De La Torre), 2010

**COVERING PREVENTIVE SERVICES:** Requires insurers to eliminate cost-sharing for some preventive services such as pap smears, mammograms, other cancer screenings, and immunizations. Conforms to federal reform.

## \* SB222 (Evans/Alquist) & AB210 (Hernandez), 2011

**GUARANTEEING MATERNITY COVERAGE:** Requires that health plans sold in the individual and small group markets, respectively, stop discriminating against women and provide as a basic benefit, maternity care and maternity-related care. Ensures Californians get needed care, preventing them from falling onto taxpayer-funded programs. Improving on federal law: Starts in July 2012, eighteen months earlier than the maternity requirement as part of the federal essential benefits package in 2014, allowing for a smoother phase-in.

## \* SB 951 (Hernandez) & AB1453 (Monning), 2012

**ESSENTIAL HEALTH BENEFITS:** Protects consumers from underinsurance and junk insurance by requiring that health plans and insurers cover a minimum set of essential health benefits, including ten categories of benefits defined in the ACA. The bill sets the minimum floor for benefits to be equivalent to the Kaiser small group HMO.

## **SECURITY TO STAY ON COVERAGE**

## \* AB2470 (De La Torre), 2010

**REGULATING RESCISSIONS AND MEDICAL UNDERWRITING:** Sets standards for rescission, the insurance industry's practice of terminating coverage as if the coverage had never been issued. Improves on federal reform by continuing coverage pending determination of rescission, and providing more notice.

## \* SB1088 (Price), 2010

**ALLOWING YOUNG ADULTS TO STAY ON THEIR PARENTS' COVERAGE:** Requires group health, dental, and vision plans to allow dependent children to continue on their parents' coverage through age 26.

#### \*AB36 (Perea). 2011

#### ALIGNING TAX CODE FOR YOUNG ADULTS STAYING ON PARENTAL COVERAGE:

Aligns state tax code to conform to federal law related to parents covering young adult children.

## **MEDI-CAL EXPANSIONS AND REFORMS**

#### \* AB342 (Perez), 2010

**MEDI-CAL WAIVER: EARLY EXPANSIONS FOR LOW-INCOME ADULTS:** Expands county-based "coverage initiatives" using federal matching funds to provide better access for low-income Californians, as a bridge to full expanded Medicaid under health reform in 2014. Improving on federal reform: Allows hundreds of thousands of Californians to get coverage prior to 2014, and to be ready for full Medi-Cal coverage on day one.

#### \* SB208 (Steinberg), 2010

**MEDI-CAL WAIVER: SYSTEM CHANGES:** Implements a new Medicaid waiver with the federal government, in order to draw down new federal funds, to encourage better coordinated care, including shifting seniors and people with disabilities to mandatory managed care, with certain consumer protections.

#### \* 1296 (Bonilla), 2011

**STREAMLINING ELIGIBILITY AND ENROLLMENT:** Requires the California Health and Human Services Agency establish a standardized single application form and related renewal procedures for Medi-Cal, Healthy Families, the Exchange, and county programs. Sets a framework so that millions of Californians gain meaningful and easy access to coverage under the ACA. (Modified by Assemblywoman Bonilla's AB1580 in 2012).

## AB1x1 (Speaker Perez); SB1x1 (Hernandez/President Pro Tem Steinberg

**MEDI-CAL EXPANSION AND STREAMLINING:** Expands Medi-Cal to all legal residents up to 133% of the poverty level, including over one million adults without children at home. Puts in place eligibility and enrollment reforms to make it easier to get on and stay on Medi-Cal coverage.

## AB1x3 (Hernandez)

**BRIDGE PLAN OPTION:** Allows those in Medi-Cal to stay in the Medicaid managed care plan as their incomes fluctuate and qualify them for Covered California. Conceptual goal is to improve continuity of care, affordability for lower-income families, and more stability for safety-net health providers.

## SETTING UP NEW SYSTEMS TO BETTER ASSIST CONSUMERS IN 2014 AND BEYOND

## \* AB1602 (Speaker Perez), 2010

**CREATING A NEW EXCHANGE:** Establishes the operations of the California Health Benefit Exchange which would be an independent state agency tasked in negotiating for the best prices and values for consumers and providing information regarding health benefit products. Improving on federal reform: The California Exchange will be an active purchaser, with protections against adverse selection.

## \* SB900 (Alquist/Steinberg), 2010

**RUNNING A NEW EXCHANGE:** Establishes the governance of the Exchange by a 5 member board appointed by the Governor Schwarzenegger and Legislature. The board will serve the individuals and small businesses seeking health care coverage through the Exchange. Improving on federal reform: Creates independent state agency with conflict of interest protections.

## \* AB922 (Monning), 2011

**IMPROVING CONSUMER ASSISTANCE:** Improves the Office of Patient Advocate to provide better assistance to California health care consumers by providing a central, enhanced center to handle consumer questions and complaints, and for them to be triaged to the appropriate agencies, whether regulatory or administrative, state or federal, etc. The bill also transfers the Office of Patient Advocate, and the Department of Managed Health Care, to the Health and Human Services Agency.

### \* AB174 (Monning), 2012

**SYSTEMS INTEGRATION:** Establishes funding for Office of Systems Integration to establish information-sharing between the Franchise Tax Board and the Employment Development Department to specified health care agencies and county departments to verify applicant eligibility for state health care programs as well as claims data information.

#### \* AB792 (Bonilla), 2012

**NOTICE OF COVERAGE OPTIONS DURING LIFE CHANGES:** Requires insurers to provide information to consumers who are dropping off group coverage about their coverage options including at Covered California. Also provides notice at family court, when adoption, divorce, and other life changes are key moments when consumers should seek coverage options.

#### \* AB1761 (Speaker Perez), 2012

**DECEPTIVE MARKETING:** Prohibits any individual or entity from falsely representing themselves as the Exchange, Covered California.

This report was compiled by Linda Leu and Anthony Wright of Health Access Foundation, the statewide health care consumer advocacy coalition, working for quality, affordable health care for all Californians for 25 years.

To follow up, contact Anthony Wright at awright@health-access.org.

More information is available on our website at <a href="www.health-access.org">www.health-access.org</a>, including our daily blog on health policy issues.

Health Access also posts on Twitter (<u>www.twitter.com/healthaccess</u>) and Facebook (<u>www.facebook.com/healthaccess</u>).

#### **Endnotes**

#### **HEALTH ACCESS SACRAMENTO OFFICE**

1127 11th Street, Suite 234 Sacramento, CA 95814 Phone: 916-497-0923 Fax: 916-497-0921

### **HEALTH ACCESS LOS ANGELES OFFICE**

1930 Wilshire Blvd., Suite 916 Los Angeles, CA 90057 Phone: 213-413-3587

Fax: 213-413-8631

#### **HEALTH ACCESS OAKLAND OFFICE**

414 13th Street, Suite 450 Oakland, CA 94612 Phone: 510-873-8787 Fax: 510-873-8789

http://www.mrmib.ca.gov/MRMIB/PCIP/Jan 13/Agenda Item 8.a PCIP Enrollment Report for January 2013.pdf

<sup>&</sup>quot; http://www.healthcare.gov/news/factsheets/2012/06/young-adults06192012a.html

ttp://www.dhcs.ca.gov/provgovpart/Documents/LIHP/12.20%20LIHP%20Enrollment%20Y8%20Q1.pdf

iv http://www.insurance.ca.gov/0400-news/0100-press-releases/2012/subject.cfm#Health Care

v http://www.dmhc.ca.gov/library/reports/news/rrc1.pdf

vi http://www.insurance.ca.gov/0400-news/0100-press-releases/2013/release016-13.cfm

vii http://www.whitehouse.gov/files/maps/aca/aca-map-v6.html

viii http://familiesusa2.org/assets/pdfs/health-reform/CA-Small-Business-Health-Care-Tax-Credit.pdf

ix http://laborcenter.berkeley.edu/healthcare/aca\_implemented12.pdf