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Health Reform 6-Month Status Report:
More Patient Protections Go Into Effect; Work Continues to Implement & Improve Coverage

September 23, 2010 marks the six-month mark since President Barack Obama signed the Patient Protection and Affordable Care Act (PPACA), a historic comprehensive federal health care reform law.

Several patient protections and other elements of that federal law begin to take effect on September 23rd. The six-month mark also provides an opportunity to review how California consumers are beginning to benefit, what new patient protections are in place or coming soon, and how California is proceeding with efforts to implement and improve upon the new federal law.

PROGRESS TO DATE

Over the next ten years, the new Affordable Care Act will put in place policies to provide new consumer protections and new oversight and rules for insurers; make coverage affordable for individuals, families, and small businesses; and encourage efforts to tame the costs of health care, with benefits for both our economy and our federal deficit.

Some provisions began immediately, many others kick-in on September 23rd, and additional benefits will come online through 2014, when the bulk of reforms are instituted.

Californians are already beginning to feel the effects of reform, including getting additional consumer protections from the most abusive insurance company practices; feeling more secure about their current coverage; and receiving help to afford coverage.

UPDATED: On September 30th, Governor Schwarzenegger signed about a half-dozen bills recently passed by the California State Legislature, both bringing state law into compliance with PPACA, and in some cases extending consumer protections and benefits beyond federal requirements. In addition to reflecting the unique needs of the state and the support for more robust reform, certain elements may serve as models for other states beginning the process of implementing PPACA.

This report details the provisions in federal and state law that have taken effect as of September 23, 2010, the 6-month anniversary of PPACA's signing, and those coming soon, due to the federal law or to pending state legislation. Any bills signed on the Governor's desk will be in force on January 1, 2011.

HEALTH ACCESS

PHASING IN PATIENT PROTECTIONS

INSTILLING CONFIDENCE IN COVERAGE

Even insured families wonder if their coverage will be there for them when they need it. Health reform helps provide more financial security to families by ending insurer provisions and practices that leave insured patients uncovered for the care they need.

Ending Unjustified Rescissions: On April 28th, the national association of health insurers wrote to Congress indicating they would move by May 2010 to stop the practice of rescissions, where coverage is retroactively denied after the patient had been paying premiums for months. In California, rescissions had already decreased to single-digits due to increased media and regulatory oversight.

On September 23rd, the federal law sets an ongoing and clear standard for any insurer to revoke coverage based on problems in the patient's initial health questionnaire.

The California legislature has passed and Governor Schwarzenegger signed AB 2470 (De La Torre) to implement the new federal standards for rescission. California would improve upon federal law with requirements that insurers continue coverage pending determination of rescission.

Ending Annual and Lifetime Caps on Coverage: Over 2.2 million Californians report having medical debt, and 75% of them *were insured* at the time that they incurred the debt. This is in part because many plans had a cap on the amount they would pay toward benefits in a year or over the course of a lifetime. Once an individual reached that limit, they were responsible for the balance of medical costs in a year or for the rest of their life.

Coming into effect on September 23rd, PPACA requires that plans begin phasing out annual limits and bans all lifetime limits to ensure that consumers no longer have to fear running out of insurance.

California legislation, SB890(Alquist), vetoed by the Governor, would have implement into state law the restrictions on annual and lifetime caps on coverage; however, state regulators still have the ability to enforce federal law.

Choice of Providers, Direct Access to Ob/Gyn Care: Beginning September 23, 2010 consumers will be guaranteed the right to choose their primary care provider from any available physicians in their network. In addition consumers will be able to access Pediatricians and Obstetricians/Gynecologists without having to first get

a referral from their primary care provider. *This has been existing California law for over a decade.*

No Prior Authorization for Emergency Services: The PPACA states that insurers will no longer be allowed to require consumers to get prior authorization for emergency services, and new plans can not require higher cost sharing for out of network emergency care. *California law has provided this protection for over a decade.*

Right to Appeal Decisions to Deny Care: The PPACA includes patient rights in relation to insurance company decisions to deny care and coverage. Consumers will be guaranteed the ability to appeal coverage determinations or claims to their insurance company and if necessary, appeal to an external third party. *California law has provided similar protections for over a decade.*

ACCESS TO COVERAGE REGARDLESS OF HEALTH STATUS

Guaranteed Issue for Children with Pre-Existing Health Conditions: As of September 23rd, federal law prohibits insurers from denying children up to age 19 for coverage due to pre-existing conditions, or denying treatment associated with the preexisting conditions. An estimated 576,500 children in California have pre-existing conditions that could lead to denial of coverage. This provision will help ensure access to coverage for vulnerable children and protect their families from medical debt and bankruptcy due to medical bills.

AB2244(Feuer), signed by the Governor, would implement and improve upon this protection. Insurers that don't sell "child-only" policies as of January 2011 will be barred from selling new products in the individual market for five years. It would provide more meaningful access by limiting insurers' ability to charge sick children more than twice the premiums for healthy children, either in an "open enrollment" period or when the child's circumstance changes. The bill phases out the cost difference allowed until 2014, when insurers will be required to charge children (and adults) the same regardless of health status.

New Options for Adults with Pre-existing Health Conditions: An estimated 6.5 million Californians under the age of 65 have pre-existing health conditions, and up to 396,000 have been denied coverage from insurance companies at any cost. These denials have been for both major and minor conditions.

For those with pre-existing conditions that don't have access to group coverage through an employer or a public health insurance program, the only option left in California was the Major Risk Medical Insurance Program (MRMIP). But it has recently had a waiting list, despite being expensive and offering a benefit capped at only $75,000 a year.

Under PPACA, insurers will no longer be able to deny coverage for pre-existing conditions by 2014 and beyond. Until then, a new option, alongside this existing MRMIP "high-risk pool," has just recently opened up enrollment. A new California Pre-existing Condition Insurance Plan (PCIP) is now accepting applications.

Under two bills passed and signed into law earlier this year, AB1877(Villines) and SB227(Alquist), the new PCIP will draw down up to $761 million in federal dollars available to California to cover adults with preexisting conditions through 2014 when guaranteed issue regulations and the health insurance exchange goes into effect. These high risk pool program, governed by California's Managed Risk Medical Insurance Board (MRMIB) that runs the state's MRMIP pool as well, will serve up to 30,000 Californians that are otherwise "uninsurable." This quadruples the capacity of our current high-risk pool, which is limited to 7,100 people and $40 million of funding. The CA PCIP started providing coverage in late October.

SECURING AND EXPANDING COVERAGE OPTIONS

New Information to Assist Consumers Choosing Coverage: On July 1st, the U.S. Department of Health and Human Services unveiled a new and evolving website that will help consumers figure out their current (and future) choices in the health insurance marketplace. Later this year, the Department will release funds targeted to help consumers navigate the health care system, and provide ombudsman services. Over the next several years, California will set up a new Health Insurance Exchange will provide a more consumer-friendly market for health coverage.

The California Legislature passed the first-in-the-nation state legislation to create a state exchange (post reform passage) by passing AB 1602(Perez) and SB900 (Alquist/Steinberg), which create the governance and operations of an insurance market place to provide information, access, and subsidies to consumers. Improving upon federal requirements, the exchange will act as an active purchaser negotiating for the best price and values for consumers and small businesses, and provide streamlined, apples-to-apples choices for purchasers.

New Coverage Options for Young Adults: Some young adults are now newly getting coverage under their parent's plans. Previously, over 30% of young adults do not have health insurance, while 47% report being uninsured at some point last year. Federal law now requires that employers providing dependent coverage extend that coverage to dependents up to the age of 26. This is estimated to impact over 4 million young adults nationwide and 196,000 in California.

The Governor signed SB 1088 (Price) which would conform the state law to the federal law with regard to providing this new option for children up to age 26.

Providing Public Health Insurance Options: Beyond the stalled federal debate about a national public health insurance option, California has had county-based managed care plans as options in our Medicaid (Medi-Cal) program for many years.

Governor Schwarzenegger vetoed SB 56 (Alquist), which would allow local plans and coverage options (Knox-Keene licensed) to form joint ventures and expand their networks to create public health insurance options that can be viable choices in the new exchange—but these plans may go ahead to offer this service anyway.

Security for Californians on Medi-Cal and Healthy Families: Over 8 million Californians have more security that they will keep the coverage they have under Medi-Cal or Healthy Families, due to "maintenance of effort" requirements in both PPACA as well as the economic recovery act.

These provisions prohibit California from moving ahead with proposed eligibility and enrollment in these programs (although other cuts are still proposed within these programs.) The law also provides the opportunity for more federal funds for California, as is being negotiated in a new Medi-Cal waiver between the state and federal governments.

Two California bills, AB342 (Perez) and SB 208 (Steinberg) have been written to utilize the Medi-Cal waiver to help build the bridge to full federal health reform implementation, most notably by accelerating the expansion of Medi-Cal coverage of childless adults. Among many other aspects, the waiver would allow counties to get federal matching funds to extend basic coverage to adults under the poverty level. This could potentially mean up to a half-million Californians getting coverage well in advance of 2014, and meaning these Californians will be ready, on day one of 2014, to get full Medi-Cal coverage.

Resources for Clinics, Workforce Development, Prevention Efforts, and More: The U.S. Department of Health and Human Services has announced grant programs worth millions of dollars in investment, including support for community clinics; $250 million in efforts to increase clinicians and other primary care providers; $250 million in strategies to encourage health and health prevention, including funding public health infrastructure, research and tracking, and public health training.

As the process moves forward, California communities and institutions will be the recipient of hundreds of millions of dollars of these funds in the next few months.

MAKING HEALTH CARE MORE AFFORDABLE

Making Prescription Drugs More Affordable for Seniors: Seniors who currently fall into the coverage gap or "donut hole" in the Medicare Part D prescription drug coverage program have started receiving rebate checks in the amount of $250.

California will benefit more than any other state as California seniors who fall into the donut hole spend $381,636 out-of-pocket for prescription drugs. Already, 80,000 checks have been mailed to date, and more will go out as more seniors reach the coverage gap. Approximately 382,000 California seniors will receive checks.

Help with Coverage for Early Retirees: About $5 billion dollars have been allocated toward a new reinsurance program will provide financial assistance to employers and union-based plans around the country, to assist in the costs of covering early retirees ages 55-65, including the 430,000 Californians that retired before they were eligible for Medicare. Reinsurance has been successfully used by a number of states to lower premiums for small businesses. Savings for the plans will be required to be used to lower costs for the enrollees.

Free Preventive Care for Seniors: Preventive services such as colorectal cancer screenings, mammograms, and annual wellness visits are available to seniors enrolled in Medicare without any copayments, coinsurance, or deductibles. This will mean savings to 4.5 million seniors in California.

Free Preventive Services through Private Health Plans: 31 million Americans are estimated to benefit from the requirement that new private health plans offer preventive services with no cost share for consumers. Many screenings, immunizations, and other preventive services are now available to consumers with no copayments, coinsurance, or deductibles

The California legislature has passed, and the Governor signed, AB2345(De La Torre) which would put the federal regulations into California law.

Helping Small Businesses Cover Their Employees: Small businesses now have an incentive to cover (or continue to cover) their workers. While many small business owners say that they would like to provide insurance to their workers, the cost can be prohibitive. Californians are less likely than Americans in other states to be offered employer based coverage. A 2009 survey of California small business owners, 55% reported that they did not provide coverage for their workers, 97% of them said that they could not afford to.

Effective immediately upon passage of the health reform law, small businesses were able to take advantage of tax credits up to 35% of premiums. 503,000 California small businesses may be eligible for tax credits.

Scrutinizing Rate Hikes: Anthem Blue Cross' proposed 39% rate hikes last year highlighted the importance of greater scrutiny and transparency of insurance rates. The rates were not made public until subscribers who got a 30-day notice went to the media; and even with the red-hot presidential spotlight on these increases, the Department of Insurance needed to go to an outside actuary that eventually found problems with the math. The new federal law PPACA has awarded grants to states, up to $1 million to start, to help conduct further actuarial reviews of insurance rates.

The California legislature has passed SB1163(Leno), on the Governor's desk, to require insurers to make public rate increases with 60 days notification, and to provide more information to the Department of Managed Health Care and the Department of Insurance for review.

CONCLUSION

While the biggest changes from the federal health reform law don't kick in until January 2014, Californians are already beginning to feel the first benefits of the new law. Many more improvements to the state's health system will come online in the next weeks and months, not just from the federal law but also from some state laws that could be signed and implemented in the next few months.

The California legislature has taken the initiative to begin the arduous process of implementing federal health reform. While in many cases, the laws simply conform state law to the new federal standards, in some instances the state proposal has also taken advantage of the opportunities to improve upon federal law. These proposals include: providing additional disclosure requirements; categorizing plans so consumers get a better sense of the plans they are purchasing; phasing in minimum benefit requirements like maternity and mental health parity; and instituting "community rating" affordability protections for children with pre-existing conditions.

California's efforts to implement the federal law early and aggressively serve multiple purposes: first of all, it ensures that Californians get the benefits and protections they are entitled to as soon as possible. Secondly, these efforts allow for a smoother transition from the current insurance market, and for California to have the time to adjust to new rules for insurers and new expectations for consumers. Finally, by starting early, California can be sure to be ready on day one in 2014 to take full advantage of new eligibility rules, federal funds, and new protections.

In 2014, the implementation will include new rules preventing insurers from denying any patient due to pre-existing conditions, a dramatic expansion of coverage to over four million Californians through fully-federally funded expansions of Medi-Cal, and the new availability of affordability subsidies for low- and moderate-income families.

Health Access will produce future reports to update on the progress, to both inform Californians about what they may be entitled to, and to alert policymakers to additional actions needed to implement and improve health reform, all toward the goal of an improved and more affordable health system. We also hope to provide a model for consumer oriented implementation and improvement of health reform law that may be useful to other states.

This factsheet was prepared by Linda Leu and Anthony Wright of Health Access, a statewide coalition of consumer, labor, ethnic, senior, faith, and other organizations that has been dedicated to achieving quality, affordable health care for all Californians for over 20 years. To follow-up, contact lleu@health-access.org. Please visit our website at www.health-access.org, and read our daily blog at http://blog.health-access.org. More materials, including the most up-to-date version of this report are available there. Health Access is also on Twitter (www.twitter.com/healthaccess), and Facebook (www.facebook.com/healthaccess).

APPENDIX: Bills Passed by the Legislature

Creating a Consumer-Friendly & Transparent Individual Insurance Market & Exchange		
AB 1602 Perez	**CREATING A NEW EXCHANGE:** Would specify the operations of the California Health Benefit Exchange which would be an independent state agency tasked negotiating for the best prices and values for consumers and providing information regarding health benefit products. *Improving on federal reform:* The Exchange is an Active purchaser, protects against adverse selection.	***Signed***
SB 900 Alquist/ Steinberg	**RUNNING A NEW EXCHANGE:** Would establish governance of the Exchange by a 5 member board appointed by the Governor 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.	***Signed***
Setting Minimum Benefit Standards		
SB 890 Alquist/ Steinberg	**TRANSITIONING TO A MORE TRANSPARENT & STANDARDIZED MARKET:** Standardizes and simplifies the individual insurance market, so that consumers can understand their coverage choices, make comparisons based on actuarial value, and have the security that coverage does not have lifetime and/or annual caps. Also conforms to federal law on medical loss ratios, ensuring that 80-85% of premium dollars go to patient care, rather than administration and profit. *Improving on federal reform:* Standardizes individual health insurance early, additional disclosure.	*Vetoed*
AB 1825 De La Torre	**ENSURING MATERNITY CARE:** Would phase-in a requirement that all health plans to cover maternity services. *Improving on federal reform:* Early implementation of coverage of maternity care.	*Vetoed*
AB 1600 Beall	**REQUIRING MENTAL HEALTH PARITY:** Would require most health plans to provide coverage for the diagnoses and treatment of a mental illness. *Improving on federal reform:* Early implementation of coverage of mental health services.	*Vetoed*
Reviewing Insurance Company Rates		
SB 1163 Leno	**PROVIDING TRANSPARENCY ON RATES:** Would require 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.	***Signed***
AB 2042 Feuer	**PROHIBITING MID-YEAR RATE HIKES:** Insurers and HMOs cannot change or increase premiums, cost sharing or benefits more often than once a year. *Improving on federal reform:* Federal law silent.	*Vetoed*

Regulating Underwriting and Providing Access for Those with Pre-Existing Conditions

AB 2244 Feuer	**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.	***Signed***
AB 2470 De La Torre	**REGULATING RESCISSIONS AND MEDICAL UNDERWRITING:** Set standards for rescission, the insurance industry's practice of terminating coverage as if the coverage had never been issued. *Improving on federal reform:* Continues coverage pending determination of rescission. Provisions regulating notice.	***Signed***
AB 2540 De La Torre	**POSTCLAIMS UNDERWRITING:** Enacts a fine for rescinding, canceling, or limiting of a policy or certificate due to the insurer's failure to complete medical underwriting before issuing the policy or certificate or after a claim has been filed. *Improving on federal reform:* Fines for insures who violate rescission.	*Vetoed*

Other Consumer Protections and Health Reform Implementation

SB 1088 Price	**ALLOWING YOUNG ADULTS TO STAY ON THEIR PARENTS' COVERAGE:** Would require group health, dental, and vision plans to allow dependent children to continue on their parents' coverage through age 26. *Improving on federal reform:* Requires notice and disclosures.	***Signed***
AB 2345 De La Torre	**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.*	***Signed***
SB 56 Alquist	**FACILITATING PUBLIC HEALTH INSURANCE OPTIONS:** Would authorize county-organized health plans and other county-based local initiatives to form joint ventures in order to create integrated networks of public health plans that pool risk and share networks, subject to the requirements of the Knox-Keene Act. *Improving on federal reform:* Builds on federal reform.	*Vetoed*
AB 542 Feuer	**NO PAY FOR NEVER EVENTS:** Creates a process for ending Medi-Cal payments for never events (events that should never happen, such as surgery on the wrong body part), and requires insurers to stop paying for never events. *Improving on federal reform:* Requires stakeholder process for developing the standards.	*Vetoed*

Federal Medicaid Waiver

AB 342 Perez **SB 208** Steinberg	**MEDI-CAL WAIVER:** The state's 1115 Medicaid Waiver would draw down up to $2 billion in federal funding to assist our safety net providers to expand coverage to new medically indigent populations. The waiver would also move seniors and people with disabilities to Medi-Cal managed care. The waiver is intended as a bridge between the existing Medi-Cal program and the full access expansion that will happen in 2014 as a result of federal reform. *Improving on federal reform:* Moving toward Medicaid coverage of adults without children at home before 2014.	***Signed***

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