

The Who, What, When and How of Health Reform

First things first

Although provisions of the new law are phased in over the next 5 to 10 years, many of the earliest provisions are designed to make existing coverage broader for consumers.

Paying for preventive services

• **Federal law:** Starting in September, most new individual and group insurance policies must pay for preventive services with no cost-sharing requirements. In addition to recommended screenings, preventive services include things like immunizations.

• **Kansas impact:** State law requires that insurance companies cover many preventive services. But it doesn't prohibit them from requiring that beneficiaries share the cost through deductibles and co-payments.

Extending dependent coverage

• **Federal law:** Also starting in September, young adults can remain on their parents' insurance plan until they're 26. But Health and Human Services (HHS) Secretary Kathleen Sebelius convinced many insurance companies to start this coverage immediately. *Check to see if your carrier is among them.*

• **Kansas impact:** Although there is no state law, historically, most Kansas insurance plans have set the limit at 19 for unmarried children and 23 for students still financially dependent on their parents.

Ending certain insurance company practices

• **Federal law:** Individual and group plans will no longer be allowed to limit the amount they pay in benefits **over a person's lifetime** or suddenly cancel the policies of people who make errors on their applications, unless those errors constitute fraud.

Also, most plans will be prohibited from making children with pre-existing

A Guide for Kansans

Everyone knows something about the new federal health reform law. But most of us need a little help sorting through it and understanding what it will mean to us as consumers.

Because the law is very complex, this summary aims to provide general understanding without overwhelming detail.

For clarifying information or updates to this content, please consult our website: www.healthfund.org.

This material was developed from a summary prepared by Kansas Health Institute, Topeka.



conditions wait for their coverage to begin. All of these reforms are scheduled to take effect in September. A provision that prohibits pre-existing condition exclusions for adults won't take effect until 2014.

• **Kansas impact:** Lifetime limits are not uncommon in Kansas. Even the state's high-risk pool, created to provide coverage to people who can't find or afford insurance in the private market, imposes a lifetime cap on benefits of \$2 million.

In 2009, Kansas was one of 23 states found to have fewer than three rescissions per 1,000 policies. Kansas law allows this practice, but it hasn't been a frequent problem. Even so, *the coming federal reforms will change the way Kansas insurers operate.*

• **Federal law:** The reform bill includes a provision that prevents certain insurers from imposing **annual dollar limits** on paid benefits.

However, until 2014, what are called "restricted" limits, to be defined by the Secretary of HHS, are allowed. Even after 2014, annual – and lifetime limits – can be imposed for certain types of medical care that are not deemed "essential" under the terms of the law.

• **Kansas impact:** In Kansas, many insurance plans currently impose annual limits so this change in federal law will impact many policies in the state.

Changes to health savings arrangements

• **Federal law:** Many consumers contribute to various types of savings accounts to use for medical expenses; these accounts typically receive preferential tax treatment. Beginning this year, the tax penalty for withdrawals made from Health Savings Account (HSA) funds for non-medical expenses will increase from 10% to 20%.

Also beginning this year, consumers with Flexible Spending Accounts (FSAs) and Health Reimbursement Arrangements (HRAs) will no longer receive non-taxable reimbursements for over the counter drugs.

Beginning in 2013, contributions to FSAs will be limited to \$2,500 per year.

• **Kansas impact:** There has been growing momentum nationwide and among Kansas lawmakers to incentivize the use of such savings accounts, though there is not much Kansas-specific data on this issue.

Less than 1% of the approximately 100,000 lives covered by the Kansas State Employee Health Plan are enrolled in the HSA option.

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ADDITIONAL EXPLANATIONS OF THE HEALTH CARE LEGISLATION AND UPDATED INFORMATION IS AVAILABLE AT www.healthfund.org

Stopgap coverage for those hard to insure

• **Federal law:** A new federal high-risk pool will be established this year for people whose health conditions make it hard to purchase affordable coverage in the private market. *Only those with a pre-existing condition who have been uninsured for six months or longer will be eligible.* This pool would be temporary, existing only until 2014, when other coverage avenues become available.

• **Kansas impact:** Kansas already has a high-risk pool. But the new federal pool will have premium and expenditure caps that could make it more affordable than coverage available through the existing pool.

Changes in Medicare drug program

• **Federal law:** Medicare beneficiaries enrolled in the program's Part D drug program who have or are about to reach an initial limit in their coverage – *known as the donut hole* – will immediately be eligible for a \$250 rebate. An infusion of federal funds will close the donut hole over 10 years.

Next year, drug manufacturers will begin providing a 50% discount on brand-name prescriptions.

• **Kansas impact:** An estimated 73,000 Kansas seniors will qualify for the drug coverage rebate.

Medicare incentives for preventive care

• **Federal law:** Preventive services for Medicare beneficiaries will be provided with no cost sharing starting in 2011. Available preventive services will include health risk assessments and personalized prevention plans that include incentives for compliance.

Also, the income threshold for Part B premiums will be held at 2010 levels from 2011 to 2019. Part B is the portion of Medicare, paid for with premiums, which covers outpatient care such as office visits. Hospitalization is covered under Medicare Part A, which is paid for with tax revenue.

• **Kansas impact:** Approximately 416,000 Kansas seniors will be eligible for the new cost-free preventive services.

Incentives for employers

• **Federal law:** Employers with fewer than 25 workers who offer them health insurance and pay a certain percentage of their premiums are immediately eligible for variable tax credits. The smallest – those with 10 or fewer employees – will be eligible for the largest credits of up to 35% of the employer's contribution to premium costs. Bigger employers – those with 50 or more employees who either don't offer insurance or offer coverage that doesn't meet federal guidelines – will start paying penalties in 2014.

• **Kansas impact:** The tax credits could help reduce the number of uninsured Kansans if businesses find them cost effective. Nearly 67% of Kansans get health insurance through an employer. Still, *more than 20% of those who work for the 43,000 Kansas small businesses that are eligible for the credit are uninsured.* Finally, only 25% of Kansas businesses are large enough to be subject to the penalties and many of them already offer coverage to their employees.

Consumer information

• **Federal law:** The reform bill also aims to better arm consumers with the knowledge they need to choose the most appropriate health insurance plan for their needs. State insurance departments will be tasked with greater consumer education and information provision – and the Secretary of HHS is charged with developing an insurance information web portal, in consultation with the states.

Within 12 months of enactment, many insurance plans must begin to use a standardized form to explain coverage provisions. These standards will be developed with input from a cadre of stakeholders including consumers and providers.

• **Kansas impact:** The Kansas Insurance Department (KID) already plays an important role in the education and protection of consumers. It releases consumer publications, maintains a website, and even alerts consumers to potentially fraudulent insurance activity occurring in the state. However, the new federal guidelines will impose a much greater responsibility on the insurance companies themselves to provide clear and concise information to consumers.

Individual and Small Group Plans to be offered in the Exchanges

BRONZE

This plan represents the required minimum creditable coverage standard; **60% of the benefit costs will be covered by the plan**

SILVER

70% of the benefit costs will be covered by the plan

GOLD

80% of the benefit costs will be covered by the plan

PLATINUM

90% of the benefit costs will be covered by the plan

CATASTROPHIC

Provides catastrophic coverage along with limited preventative and primary care benefits (only available in the individual market for persons under 30 and those exempt from individual coverage requirement)

Changes coming later

Many of the provisions meant to expand coverage and ensure adequate benefits for consumers will take effect later -- most in 2014. **Here is a summary of the changes:**

▶ **Federal law: Beginning in 2014, everyone -- with some exceptions granted including for religious beliefs and income levels -- will be required to have health insurance.**

Those who do not have adequate coverage will be assessed penalties beginning in 2014. The full penalty will apply in 2016; for individuals it will be the greater of \$695 per year or 2.5% of income. Household penalties will be capped at \$2,085.

• **Kansas impact:** Approximately 340,000 Kansans are uninsured. These individuals will be required to purchase qualifying health insurance coverage unless exceptions apply. Approximately 17% of Kansans at or below 400% of FPL (Federal Poverty Level) are uninsured. These individuals may be eligible for subsidized coverage.

▶ **Federal law: By 2014, states will create health insurance exchanges through which eligible consumers can purchase coverage.** These state-regulated exchanges will provide private coverage to individuals and small employers (fewer than 100 employees).

Four specified tiered plans will be offered through the exchange -- each with varying premiums, benefits and co-payment requirements. State officials can choose to open up the exchange to employers with more than 100 workers in 2017.

• **Kansas impact:** Both the Kansas Insurance Department and the Kansas Health Policy Authority will likely play a role in establishing and operating the Kansas exchange.

▶ **Federal law: Premium credits and subsidies will be made available starting in 2014 to people who earn less than 400% of FPL --** about \$73,240

for a family of three. These subsidies will help low- and moderate-income people purchase insurance through the exchanges. For those below 400% of FPL, annual out-of-pocket costs will range from \$1,983 per individual and \$3,967 per family to \$3,987 per individual and \$7,974 per family, based on income.

• **Kansas impact:** The 84% of uninsured Kansans below 400% of FPL may be eligible for credits and subsidies to help them purchase insurance through the Kansas exchange. Some may also be eligible for no-cost coverage through the state's expanded Medicaid program.

▶ **Federal law: People earning up to 33% more than FPL -- about \$24,352 for a family of three -- will be eligible for Medicaid starting in 2014.** The expansion of this federal health insurance program that is operated by the states will take effect in 2014 and is estimated to provide coverage to many of the nation's uninsured.

• **Kansas impact:** This one provision may add as many as 87,000 to the Medicaid rolls. An additional 33,000 who are already eligible, may choose to enroll when the individual mandate takes effect. Kansas currently has one of the lowest eligibility thresholds in the nation for adults with dependent children. Childless and non-disabled adults aren't eligible at all.

▶ **Federal law: In 2014, legislation will establish a minimum set of services that must be covered under a health insurance plan,** though certain plans are exempt from this new rule.

According to the legislation, the following services must be included in the so-called "essential health benefits package":

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

However, these categories have not been further defined and leave much room for interpretation. The Secretary of HHS is tasked with developing more detailed guidelines for plans to follow.

• **Kansas impact:** In Kansas, aside from the few mandates that require provision of very specific services, there is not a definition of minimum services that plans are required to meet. Kansas does require that some major medical plans follow the National Association of Insurance Commissioners' (NAIC) general guidelines for coverage relating to premiums spent -- an insurer must provide a minimum amount of coverage relative to the amount of the insured's premium. *This guideline, unlike the new federal law, does not specify which services are to be provided.*

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2010 Federal Poverty Levels (FPL)

FAMILY SIZE	100%	133%	200%	300%	400%
1	10,830.00	14,403.90	21,660.00	32,490.00	43,320.00
2	14,570.00	19,378.10	29,140.00	43,710.00	58,280.00
3	18,310.00	24,352.00	36,620.00	54,930.00	73,240.00
4	22,050.00	29,326.50	44,100.00	66,150.00	88,200.00

THE WHO, WHAT, WHEN AND HOW OF HEALTH REFORM

Changes coming later continued

▶ **Federal law:** Most new insurance plans, except those funded by large businesses exclusively for their employees (ERISA plans), will be required by 2014 to offer coverage to anyone who applies – a practice known as “guaranteed issue.”

In addition, all group plans will be required to eliminate waiting periods for new employees that are longer than 90 days. And the number of factors that insurance companies can use to calculate premium rates will be reduced to only four – tobacco use, age, family composition, and geographic variation.

• **Kansas impact:** Kansas requires guaranteed issue in the small-group market, but not for individuals. Persons with medical conditions attempting to purchase coverage in the individual market also will benefit from the reduction in rating restrictions, which are intended to make insurance more affordable.

▶ **Federal law:** People under 30 and those otherwise exempt from the requirement to have health insurance will be eligible for limited policies that cover catastrophic events and some preventive services.

The premiums for these plans will be relatively low and out-of-pocket expenses will be capped at levels similar to Health Savings Accounts: \$5,950 for individuals and \$11,900 for families.

• **Kansas impact:** A startling 40% of the uninsured in Kansas are young adults between 19 and 34. These catastrophic plans are intended to give these 135,000 Kansans an affordable option when the federal mandate takes effect in 2014.

▶ **Federal law:** Some of those with high out-of-pocket, unreimbursed medical expenses will no longer be able to deduct them for federal income tax purposes. Beginning in 2013, the threshold for deductions will be raised from 7.5% to 10% of income. That same year, the Medicare Part A tax

rate will increase for individuals making over \$200,000 annually and for families making more than \$250,000 annually. (Part A is the portion of Medicare that pays for hospitalizations.) High earners will also be subject to a 3.8% tax on unearned income beginning in 2013.

• **Kansas impact:** Median Kansas income is approximately \$46,000, according to the most recent data. Only about 4% of Kansas families earned more than \$200,000, meaning a majority of Kansans will not be affected by this tax increase.

▶ **Federal law:** Beginning in 2014, the legislation dictates that many insurance plans will not be able to deny an individual coverage for participation in an approved clinical trial for cancer or a life-threatening disease or condition.

• **Kansas impact:** According to the National Cancer Institute, 28 states – not including Kansas – have either enacted legislation or have reached agreements with insurers in the state to provide coverage for certain clinical trials. This new coverage requirement could have a significant impact on Kansans seeking trial therapy for cancer or other conditions.

▶ **Federal law:** The federal bill outlines many approaches to increase the transparency of medical costs and healthcare delivery. Among other requirements, hospitals will be asked to publish the standard charges for average services and physicians will be subject to stricter disclosure requirements of ownership and other financial interests.

• **Kansas impact:** Many states have enacted price transparency laws. These range from requirements that patients be provided written estimates of the price of their care prior to receiving treatment, to requirements that average charges of hospitals be made public knowledge.

Kansas does not have a transparency law in place; a transparency bill was introduced in the 2010 Legislative Session but was not passed.

▶ **Federal law:** The bill contains a provision allowing the interstate sale and purchase of health insurance, subject to certain rules.

Beginning in 2016, states may form what are called “interstate health care choice compacts”, allowing for sale of insurance plans between states. The compacts must be approved by the Secretary of HHS and only if she determines that the compact will provide coverage that is at least as comprehensive and affordable as that offered through the state Exchange.

A concern raised with regard to interstate sale and purchase of health insurance was that if a consumer – such as a Kansas resident – purchased a policy from another state and the policy was somehow inadequate, the Kansas resident would have no recourse against the provider of the policy. The bill grants consumers protection by the insurance department in their state of residence.

• **Kansas impact:** Kansas residents rely on the Kansas Insurance Department (KID) for consumer protection, but under existing law, KID does not have jurisdiction over insurance plans housed in other states. The language of the reform bill ensures that if a Kansas resident purchases a policy from an insurer in another state, he or she will be adequately protected.

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