

The Impact of the Supreme Court Decision On Medicaid in Pennsylvania



(Adapted from the National Health Law Program and Western Center on Law and Poverty's
The Impact of the Supreme Court Decision on the Medi-Cal Program)

On June 28, 2012, in [*National Federation of Independent Business v. Sebelius*](#), the Supreme Court upheld the Affordable Care Act (ACA). In a surprise move, the Court declared the enforcement mechanism for expanding Medicaid to 133% of the poverty level to be overly coercive. In short, HHS cannot withhold Pennsylvania's existing Medicaid funds if Pennsylvania fails to expand Medicaid (known in Pennsylvania as Medical Assistance). The following represents PHLP's initial analysis of this aspect of the Court's ruling and its implications. As the Centers for Medicare and Medicaid Services (CMS) releases guidance on this matter to state officials, PHLP will issue additional updates.

Frequently Asked Questions about the Court's Decision Concerning Medicaid:

Q: Does this mean the Medicaid expansion for all low-income people up to 133% of poverty is optional?

A: The Court did **not** strike down the Medicaid expansion.¹ It did hold that the Secretary of Health and Human Services could not terminate all Medicaid funding for a state that does not implement the expansion.

Q: Who is affected by the ACA Medicaid expansion?

A: The ACA extends Medicaid coverage to **all** Pennsylvanians under the age of 65 with income below 133% of poverty, including:

- **Children** between the ages of 6 and 18, who currently can only qualify for Medicaid if their monthly household income is less than 100% of poverty;
- **Parents**, or other relatives, raising a minor child, who currently can only qualify for Medicaid if their income is at or below 46% of poverty; and,
- **Healthy adults** without children, who currently **cannot** qualify for Medicaid even if they have no income.

In 2014, federal funds will cover 100% of the costs for newly eligible Pennsylvanians.

Q: If Pennsylvania does not expand Medicaid to 133% of poverty, could low-income Pennsylvanians get subsidies to purchase health insurance in the Exchange?

A: Only a limited number. The ACA extends tax credits primarily to individuals with incomes between 100% and 400% of poverty. The ACA also allows lawfully present immigrants who have been in the United States for less than five years with income under 100% of poverty to obtain insurance and tax credits through the Exchange.

July 10, 2012

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Most Pennsylvanians with annual incomes under 100% of poverty—*i.e.*, less than \$11,170 for a single person and less than \$23,050 for a family of four—will not be eligible for a premium tax credit to purchase health insurance through the health insurance exchange. The ACA assumes that the nearly 400,000 newly eligible Pennsylvanians earning less than 100% of poverty will be enrolled in Medicaid.²

Q: Do the Maintenance of Effort (MOE) provisions still apply?

A: Yes, the MOE requirements for both adults and children in the ACA are unaffected by the Court's holding. MOE prohibits Pennsylvania and other states from constricting eligibility standards or processes for adults on Medicaid until 2014 **and** children on Medicaid or the Children's Health Insurance Program (CHIP) until 2019.³

Q: Does the ACA Medicaid expansion provision authorize states to expand to an income level lower than 133% of poverty?

A: No. The statutory language of the ACA requires that states provide coverage for the new expansion population to 133% of poverty⁴ and this is unaffected by the Court's decision.⁵

Q: What are the benefits of the Medicaid expansion in Pennsylvania?

- ✓ Health coverage for an estimated 682,000⁶ low-income Pennsylvanians who will gain greater financial stability and improved health outcomes.
- ✓ 100% federal funding for the expansion population from 2014 through 2016, scaling down to a still-high 90% federal funding by 2020 and beyond.⁷ For the six-year-period (2014-2020), federal spending on Medicaid expansion in Pennsylvania alone is estimated to be **at least \$17 billion**.⁸
- ✓ The only realistic coverage option for our lowest-income residents. Many will not qualify for subsidized coverage under the Exchange and the county safety-net programs will not be adequate to meet their needs.
- ✓ Medicaid provides needed compensation to hospitals and health systems currently providing care to the uninsured. With a 75% decrease in Disproportionate Share Hospital payments⁹ (DSH), the other main funding source for these systems, not expanding Medicaid places most health systems at significant financial risk.
- ✓ Federal funds to create and sustain jobs for doctors, nurses and other health care workers, in addition to creating greater economic stability for the low-income work-force.

- ✓ Federal tax dollars paid by Pennsylvania residents will return to Pennsylvania, rather than be used to subsidize the expansion of Medicaid in other states.

Q: Pennsylvania's Medicaid program, like other states, is experiencing budgetary stress. Will the administrative burden of expanding Medicaid be too high?

A: The Court decision still requires states to change how they determine eligibility for Medicaid and CHIP for current and new eligibles. The ACA requires electronic verification systems, real-time eligibility determinations, and prompt enrollment into coverage. Pennsylvania's current method—documentation of eligibility through paper proof—is expensive and inefficient. These new requirements will increase state administrative efficiencies.

There is an unprecedented opportunity for federal support to meet the ACA's requirements for a fully accessible Medicaid program. HHS has made funds available for states to make Medicaid eligibility system upgrades, with a match rate of 90 percent. To date, 28 states have received match grants for upgrades to their eligibility systems.¹⁰ Pennsylvania has not submitted a plan or applied for funding for Medicaid eligibility system upgrades. For more about these particular ACA requirements and opportunities see [*Meeting the Expectations of the Affordable Care Act: Implications for Eligibility, Enrollment & Renewal in Pennsylvania's Medicaid and CHIP Programs*](#), A WHITE PAPER CO-AUTHORED BY COMMUNITY LEGAL SERVICES AND PHLP (March 2012) (available at www.phlp.org).

Summary

Pennsylvania now confronts a new landscape. Expansion of Medicaid programs to cover low income eligible residents (*i.e.*, annual income of \$14,404 for a single person, and \$30,657 for a family of four) is a lynchpin for successfully providing insurance coverage and bending the cost curve. The coverage expansion gives Pennsylvania the opportunity to provide health insurance to an estimated 680,000 of its lowest income residents and drive new revenue to health care providers—almost entirely funded by the federal government. To decline the Medicaid expansion would destabilize Pennsylvania's health care industry and fail its most vulnerable citizens.

Citations

¹ See Nat'l Fed'n of Indep. Bus. v. Sebelius, No. 11–393, slip op. at 59 (567 U.S. ___ (2012)) (“The remedy for that constitutional violation is to preclude the Federal Government from imposing such a sanction. That remedy does not require striking down other portions of the Affordable Care Act.”)

² *Opting-Out-of-the-Medicaid-Expansion-Under-the-ACA*, URBAN INSTITUTE <http://www.urban.org/UploadedPDF/412607-Opting-Out-of-the-Medicaid-Expansion-Under-the-ACA.pdf> (last visited July 9, 2012) (estimating nearly 400,000 Pennsylvanians below 100% of poverty will be newly eligible under the ACA)

³ Patient Protection and Affordable Care Act of 2010 §2001b

⁴ Patient Protection and Affordable Care Act of 2010 §2001a)1)c

⁵ See Nat'l Fed'n of Indep. Bus. v. Sebelius, No. 11–393, slip op. at 58 (567 U.S. ___ (2012)) (“Congress may offer the States grants and require the States to comply with accompanying conditions”).

⁶ *Pennsylvania Health Insurance Status*, KAISER STATE HEALTH FACTS <http://www.statehealthfacts.org/profileind.jsp?cat=3&sub=39&rgn=40&cmprgn=29> (last visited July 9, 2012)

⁷ Patient Protection and Affordable Care Act of 2010 §2001a)3

⁸ *Medicaid Coverage and Spending in Health Reform*, KAISER COMMISSION ON MEDICAID AND THE UNINSURED <http://www.kff.org/healthreform/upload/medicaid-coverage-and-spending-in-health-reform-national-and-state-by-state-results-for-adults-at-or-below-133-fpl.pdf> (last visited July 9, 2012)

⁹ Patient Protection and Affordable Care Act of 2010 §2551; See also *The Potential Impact of Affordable Care Act-Mandated Medicare DSH Cuts on Urban Safety-Net Hospitals*, NAT'L ASS'N OF URBAN HOSPITALS (January 2011) <http://www.nauh.org/doc/1/raw.html> (“The reduction of Medicare disproportionate share hospital payments by as much as 75 percent, mandated by the Affordable Care Act to take effect in 2014, will have a damaging impact on private, non-profit urban safety-net hospitals and may be great enough to jeopardize access to care in the low income urban communities these hospitals serve”)

¹⁰ *Pennsylvania's Adoption of Key Medicaid Options*, THE KAISER FAMILY FOUNDATION, STATEHEALTHFACTS.ORG, <http://www.statehealthfacts.org/profileind.jsp?rep=120&cat=4&rgn=40> (last visited July 9, 2012)