



Fact Sheet

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Senate Democrats Are On Your Side Implementing Health Reform that Works for Middle-Class Americans

Earlier this year, Congress passed and the President signed landmark health insurance reform legislation, the *Patient Protection and Affordable Care Act* (**P.L. 111-148**) and the *Health Care and Education Reconciliation Act* (**P.L. 111-152**), and Americans are already experiencing the benefits. These two laws, together referred to as the *Affordable Care Act*, put control over health care decisions in the hands of the American people, not insurance companies. Senate Democrats are committed to implementing health reform that holds insurance companies accountable, brings costs down for everyone, and provides Americans with the insurance security and choices they deserve. This fact sheet provides an overview of recent health reform implementation activity, including:

- [Improving Access to Care](#)
- [New, Draft Form W-2, and Another Assurance that Health Coverage is Not Taxable](#)
- [Helping 1,000 More Businesses Help Early Retirees](#)
- [Ensuring Access to Health Insurance for Children with Pre-Existing Conditions](#)
- [Putting Patients Back in Charge](#)
- [Improving Care and Preventing Abuse in Long-Term Care Facilities](#)
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Previous updates on health reform implementation and other information are available from the DPC. [[DPC](#)]

Improving Access to Care

Community Health Centers

The *Affordable Care Act* creates an expanded and sustained national investment in community health centers by providing \$11 billion over five years to these critical health care providers. [[P.L. 111-148](#); [P.L. 111-152](#)] The country's 1,250 community health centers provide quality health care to 20 million Americans without regard to a patient's ability to pay or health insurance coverage.

[National Association of Community Health Centers, accessed [8/23/10](#)] The *Affordable Care Act's* investment in community health centers will allow them to nearly double the number of patients they serve.

By providing primary care and focusing on preventive services, health centers estimate they save our health care system \$9.9 billion - \$17.6 billion each year.

Recently, HHS announced awards of \$727 million to 143 community health centers nationwide for construction and renovation projects that, when complete, will allow the health centers to provide care for an additional 745,000 patients. [HHS, [10/8/10](#)] Community health centers are a constant source of quality, affordable health care to millions of Americans, but especially during this economic downturn, health centers can be a critical source of care for those who have lost their health insurance, who are in between jobs, or who face other financial difficulties.

School-Based Health Centers

HHS and the Health Resources and Services Administrative (HRSA) also recently announced the availability of \$100 million in funding for the construction and renovation of school-based health centers. [HRSA, [10/4/10](#)] The *Affordable Care Act* includes funding to assist school-based health centers in providing comprehensive and accessible preventive and primary health care services to medically-underserved children and families. HRSA anticipates 200 grants will be awarded to construct, renovate, or purchase equipment in school-based health centers. Grant applications are due December 1, 2010, and more information is available at [Grants.gov](#). [Grants.gov, accessed [10/18/10](#)]

New, Draft Form W-2, and Another Assurance that Health Coverage Is Not Taxable

To provide Americans with more information about the value of their health insurance, the *Affordable Care Act* requires employers to disclose the value of any employer-sponsored health insurance for each employee, on the employee's annual Form W-2. Despite an onslaught of rumors to the contrary, employer-sponsored health benefits are **absolutely not taxable**, and the *Affordable Care Act* does not change the tax-free status of these benefits. Reporting the cost of coverage will be optional in 2011, and, in 2012, all employers who offer health insurance will be required to report the value to each worker on their Form W-2.

Last week, the Internal Revenue Service (IRS) released a draft Form W-2 for 2011. [IRS, [10/12/10](#)] The new draft form looks a lot like the existing Form W-2, except that it includes a space for employers to report the cost of employer-sponsored health coverage. [IRS, [undated](#)] And, the form itself clarifies that the cost is provided for information purposes only:

Cost of employer-sponsored health coverage (if provided by the employer). The reporting in Box 12, using Code DD, of the cost of employer-sponsored health coverage is for information only. **The amount reported with Code DD is not taxable.**

Helping 1,000 More Businesses Help Early Retirees

The *Affordable Care Act* creates a \$5 billion Early Retiree Reinsurance Program to support employer health plans that provide coverage to retirees who are not yet eligible for Medicare, helping to protect access to coverage while reducing costs for employers and retirees. [[P.L. 111-148](#); [P.L. 111-152](#)] HHS recently announced that another 1,000 employers were accepted into the program, bringing the total number of participating employers to nearly 3,000. [HHS, [10/4/10](#)] Participating employers come from all 50 states and the District of Columbia, representing large and small businesses, state and local governments, educational institutions, non-profits, and unions. A fact sheet explaining the program and a list of all participating employers in each state is available at [HealthCare.gov](#) and the list will be updated each week as new employers join the

program. Applications are still being accepted, and more information on the Early Retiree Reinsurance Programs is available at ERRP.gov. This month, participating employers will begin to submit claims and receive reimbursement payments for qualifying expenses.

The Early Retiree Reinsurance Program is another bridge to the Health Insurance Exchanges and reformed health insurance markets effective in 2014, which will make it easier for earlier retirees to access affordable health insurance. Skyrocketing health care costs have made it difficult for employers to continue to provide health benefits for employees and retirees, and this temporary program will provide financial assistance until 2014. Earlier this year, a survey found that 76 percent of large employers that offer retiree benefits planned to pursue participation in the program, and that the average federal reimbursement for each early retiree will represent between 25 and 35 percent of each early retiree's health care costs. [Hewitt Associates, 5/25/10]

Ensuring Access to Health Insurance for Children with Pre-Existing Conditions

On September 23, 2010, the six month anniversary of the enactment of the *Affordable Care Act*, the Patients' Bill of Rights took effect. One of the most critical protections included in the Patients' Bill of Rights prohibits insurers from denying coverage to children who have pre-existing conditions, for all new plans and for existing plans in the group market. Before enactment, insurers were free to deny health insurance to children who had a pre-existing condition, such as asthma, or could offer to cover the child but refuse to pay for any treatment related to the pre-existing condition. The *Affordable Care Act* ended this practice, providing children and their parents the peace of mind that comes with knowing they can always access coverage.

Despite a March 29, 2010, letter in which AHIP expressed its commitment "to make pre-existing condition exclusions a thing of the past," some health insurers are still choosing to deny coverage to children who need it by refusing to offer new "child-only" policies. These types of policies are issued in the individual market and cover only children, not an entire family. Last week, HHS Secretary Sebelius sent a letter to the National Association of Insurance Commissioners outlining efforts by HHS, working with states, to ensure that children with pre-existing conditions continue to have access to health insurance. [HHS, 10/13/10] The letter clarifies a range of insurer practices related to child-only policies that are permissible under the *Affordable Care Act* and highlights answers to frequently asked questions, available online. [HHS, 10/13/10] In addition, the letter outlines steps some states have taken and other states might consider, including the establishment of open enrollment periods, offering unsubsidized buy-in to a state's Children's Health Insurance Program (CHIP), and seeking coverage through existing state high-risk pools. The *Affordable Care Act* also created the Pre-Existing Condition Insurance Plan (PCIP) which is available to eligible children and adults with pre-existing conditions who have been uninsured for at least six months. Information is available at PCIP.gov.

Putting Patients Back in Charge

The *Affordable Care Act* protects consumers by ending some of the worst health insurance industry abuses. One way the *Affordable Care Act* protects consumers and puts patients back in charge of their health care is by providing grants to states to establish or expand offices of health insurance consumer assistance or health insurance ombudsman programs. [P.L. 111-148; P.L. 111-152] These independent offices will assist consumers with enrolling in coverage and with filing complaints and appeals, educate consumers on their rights and responsibilities, and collect, track, and quantify consumer problems and inquiries.

Earlier this year, HHS issued a grant notice, and on October 19, 2010, HHS announced awards of nearly \$30 million for state consumer assistance programs. [HHS, [10/19/10](#)] Thirty-five states, four territories, and the District of Columbia applied for and received this funding. More information about this grant program and summaries of how each grantee will use this new funding is available at HealthCare.gov. [HealthCare.gov, accessed [10/19/10](#); HealthCare.gov, accessed [10/19/10](#)]

Improving Care and Preventing Abuse in Long-Term Care Facilities

In order to improve care and prevent abuse in long-term care facilities, the *Affordable Care Act* requires the Secretary of HHS to establish a nationwide program for national and state background checks on employees with direct access to patients at certain long-term supports and services facilities or providers. [P.L. 111-148; P.L. 111-152] Earlier this month, HHS announced it had awarded \$13 million to six states to design comprehensive applicant criminal background check programs for jobs involving direct patient care. [HHS, [10/6/10](#)] The *Affordable Care Act* provides a total of \$160 million for the background check program, which should allow all states to participate. Another round of grants is expected in the near future.

Legal Challenges to the Affordable Care Act

Since the *Affordable Care Act* became law, several state Attorneys General have filed lawsuits to challenge its constitutionality. Opponents of health reform, having failed to prevent it from becoming law, are now taking their opposition to the courts. But constitutional law scholars are confident these suits have no merit, and that, as President Reagan's Solicitor General Charles Fried wrote, "the health care law's enemies have no ally in the Constitution." [DPC, [3/26/10](#); *Boston Globe*, [3/21/10](#)]

On October 7, 2010, in the first substantive ruling on the individual responsibility policy, Judge George Caram Steeh of the U.S. District Court, Eastern District of Michigan, determined that the *Affordable Care Act* is constitutional. In considering the Commerce Clause, Judge Steeh wrote: "Far from 'inactivity,' by choosing to forgo insurance plaintiffs are making an economic decision to try to pay for health care services later, out of pocket, rather than now through the purchase of insurance, collectively shifting billions of dollars, \$43 billion in 2008, onto other market participants." [Opinion available [here](#)] In dismissing the lawsuit Judge Steeh concluded: "The minimum coverage provision, which addresses economic decisions regarding health care services that everyone eventually, and inevitably, will need, is a reasonable means of effectuating Congress's goal."

On October 14, 2010, Judge Roger Vinson in Florida dismissed four of the six claims brought by several Republican Attorneys General and issued a procedural ruling allowing the two remaining claims to proceed. [Washington Post, [10/15/10](#)] The ruling does not address the merits of the constitutional claims raised by the suit, but allows the process to continue to a summary judgment hearing later this year.

Additional Information

The Democratic Policy Committee has released 13 previous updates on health reform implementation, available on the DPC website [here](#). In addition, DPC maintains a centralized listing of health reform implementation resources which is frequently updated and is available [here](#).