

Moving Forward

Health Reform in the States

Dan Brown

The Affordable Care Act (ACA) largely survived its Supreme Court challenge, but the court's ruling has significant implications for implementing the ACA, particularly at the state level. First, because the court rejected the challenge to the constitutionality of the so-called "individual mandate," states may be more inclined to move forward in implementing key elements of the ACA. Those elements include adopting benchmark plans for essential health benefits (EHBs) and creating health insurance exchanges. Second, because the court's ruling prohibited the federal government from withholding all Medicaid funds from states that fail to expand Medicaid eligibility, some states may opt not to implement the expansion envisioned by the ACA. How states react to the court's decision will significantly affect the profession of occupational therapy, because it will determine how many consumers have health insurance and what that insurance covers—and thus whether they will have access to occupational therapy.

ESSENTIAL HEALTH BENEFITS

The ACA establishes 10 broad categories of services that it deems EHBs. It requires all health insurance plans sold in the individual and small group markets to provide coverage for EHBs. However, the U.S. Department of Health and Human Services (HHS), which was tasked with establishing the rules related to EHBs, has allowed states to select a benchmark plan from among certain existing health insurance plans to serve as their EHB model. Although the final regulations from HHS regarding EHBs have not been released, HHS's decision empowers states to significantly affect what the EHBs require.

HHS did not identify a process for states to use in selecting benchmark plans, but it did identify a list of eligible plans, a deadline, and a default benchmark if a state fails to make a selection. As a result, states may select benchmark plans in different ways. Some states may pass legislation identifying the benchmark plan. Other states created advisory groups to make the decision. Still others have taken no action. Regardless of the process a state has chosen, occupational therapy practitioners have a significant interest in this issue, because a state's benchmark plan and the related HHS regulations will determine whether and to what extent occupational therapy services are covered for rehabilitation, habilitation, and mental health/behavioral health treatment. The upside for occupational therapy is that the service is covered in virtually every health insurance product now because of the profession's growth and influence over the last 30 years.

HEALTH INSURANCE EXCHANGES

The ACA directs states to create health insurance exchanges, through which consumers may purchase insurance coverage and, if they meet certain income thresholds, receive subsidies. If a state fails to create an exchange, the federal government will create one for them. The exchanges must be fully operational by 2014; however, it is unclear whether the states or the federal government will meet that deadline. Only about a third of the states have taken significant steps toward establishing exchanges, and the federal government's progress to supplement the states' efforts has been called into question.

MEDICAID

The ACA calls for an expansion by 2014 of Medicaid eligibility to all citizens with incomes below a certain level. However, with the Supreme Court ruling as it did, states are no longer at risk of losing all their Medicaid funding for failing to implement the expansion, and as a result, a number of governors have publicly declared that their states will not participate. By one estimate, in five states expected not to participate, approximately 3.9 million fewer people would be able to access Medicaid through new eligibility criteria.

But public announcements by political leaders may not tell the whole story. In many states, Medicaid coverage is provided through private managed care organizations, which will have an incentive to lobby for the eligibility expansion. Similarly, increased Medicaid coverage will reduce the cost to hospitals of providing uncompensated care, motivating hospitals to also push for the expansion. In the near term, with the federal government picking up the whole cost of the expansion, states may find it difficult to avoid implementation. However, some critics argue that absorbing administrative and other costs of the expansion from the beginning will dissuade states from participating, given their budgetary challenges.

The American Occupational Therapy Association and state occupational therapy associations are closely monitoring these issues and advocating for the profession. Your membership enables us to be effective in these efforts to meet your needs and the needs of your clients. ■

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