

HEALTH CARE REFORM IN NEW HAMPSHIRE

by
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Although this article is written as a service to our New Hampshire residents, much of what is contained in the article is applicable nationwide. The article is based primarily on a New Hampshire Continuing Legal Education course¹. Although the subject is considered controversial in many quarters, this article is intended to be non-partisan and non-political and only considers factual information.

The Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, was enacted on 23 March 2010; the Health Care and Education Reconciliation Act, (the Reconciliation Act), Public Law 111-185 was enacted on 30 March 2010; together they are referred to as the Affordable Care Act (ACA).

What Were Some of the Immediate (2010) Benefits to NH Residents?²

"Donut Hole" - Part D - In 2009 about 17,400 NH Medicare beneficiaries hit the so-called Part D "donut Hole"; in 2010 NH Medicare beneficiaries who hit the Donut Hole were automatically sent a rebate check for \$250; the phasing out of the donut hole will be described later.

Health Coverage for Early Retirees - About 16,300 NH residents retired before they were eligible for Medicare and had coverage from their employers - BUT firms providing this coverage have been decreasing over time. A \$5 Billion temporary early retiree reinsurance program was included in ACA to help companies continue early retirees health benefits - companies, unions and state and local governments are eligible.

Small Business Tax Credits: - 22,600 NH small business could be helped by this tax credit that makes it easier for businesses to provide health coverage for their workers and makes premiums more affordable.

Consumer Protections: - Insurance companies are no longer able to place lifetime limits on coverage, ensuring that 940,000 NH residents do not have to worry about coverage running out. Insurance companies are no longer able to drop people from coverage when they get sick, protecting 64,000 NH residents. Insurance companies may no longer exclude children for

pre-existing conditions. Insurance plans' use of annual limits are strictly regulated, protecting 846,000 NH residents. Health insurers offering new plans have to develop an appeals process to ease any disputes for denial of services. Patients' choice of doctors is protected by allowing plan members in new plans to pick any primary care provider, prohibiting insurers from requiring prior authorization before a woman sees an ob-gyn, and ensuring access to emergency care.

Health Care for Young Adults: - If there is coverage on their parents' policy, the policy must allow the child to remain on the plan until age 26, bringing relief to about 3,480 NH individuals.

Affordable Insurance for Uninsured with Pre-existing Conditions: - \$19.8 million federal dollars were made available to NH to provide coverage for uninsured residents with pre-existing medical conditions through a new transitional high-risk pool program.

Community Health Centers: - Increased funding for the 57 NH Community Health Centers will help nearly double the number of patients seen over the next 5 years and could support construction of new centers.

Doctors Where People Need Them: - \$1.5 Billion over five years made available for scholarships and loan repayments for doctors, nurses and other health care providers who work in areas with a shortage of health professionals, helping the 5% of NH's residents living in underserved areas.

Medicaid Options for States: - for the first time, NH has the option of federal Medicaid funding for coverage of all low-income populations without respect to age, disability or family status.

THE DONUT HOLE

The prescription drug coverage gap, more commonly known as the "donut hole" will be phasing out until 2020, at which point you will pay the same percentage (25%) as you currently pay after you meet your plan's deductible (if your plan has a deductible). The timetable is as follows³:

YEAR	% YOU PAY FOR NAME BRAND	% YOU PAY FOR GENERIC
2011	50%	93%
2012	50%	86%
2013	47.5%	79%
2014	47.5%	72%
2015	45%	65%
2016	45%	58%
2017	40%	51%
2018	35%	44%
2019	30%	37%
2020	25%	25%

FRAUD, WASTE & ABUSE

Fraud, waste and abuse has been a major problem. In order to combat this problem, \$350 Million has been allocated over ten years - it is shown that for every \$1 invested there is a \$4 return. In a Thompson-Reuters White Paper (10/16/09) it was shown that there is \$700 Billion wasted in the US health care system each year, of which 19% is fraud, consisting of intentional unnecessary services, services not provided, misrepresentation of the cost of care, kickbacks and misbranding of drugs. The remaining 81% consists of provider errors, preventable conditions, lack of coordination and administrative inefficiencies. Fraud and abuse enforcement is active in NH - in October 2009 there was a \$124 Million settlement in a pharmaceutical investigation⁴. You can do your part by always examining your CMS statement to assure that charges are for services provided and that there are not duplicate billings.

MISCELLANEOUS

Medicare now pays for an annual physical exam (euphemistically called a "wellness exam") with no co-pay or deductible - you may have a charge for an office visit. The cap exception (number of allowed visits) for physical therapy and occupational therapy has been extended. The new enrollment dates for changing or enrolling in new coverage has been changed to 15 October to 7 December and the coverage becomes effective 1 January. The ACA also ties "quality of care" to hospital payments so that things that should not happen in a hospital (e.g. - infections, instruments left in body, etc.) will not be rewarded with a higher payment rate, as occurred before ACA. ACA also provides for better care after discharge from the hospital.

CAUTION!

Do not believe everything you read in emails or social networks - fact check them! A typical example of misinformation concerns part B premiums. the fact is that these premiums are income-driven and the income levels were set in 2007, before the passage of ACA, requiring that persons with income greater than \$85,000 (\$170,000 for married couples) pay a higher Part B premium. The premiums are also formula-driven so that the government pays about 75% of the cost and we pay the remaining 25% as determined by the government actuaries, also not part of ACA,

¹ "Health Care Reform - A Legal Perspective", New Hampshire Bar Association CLE, December 3, 2010.

² "The Affordable Care Act: Immediate Benefits for New Hampshire", Christie L. Hager, Regional Director, US Department of Health and Human Services, Boston, MA, December 3, 2010.

³ "Medicare Prescription Drug Coverage - Closing the Coverage Gap", November 2010.

⁴ "Health Reform - Fraud, Abuse and Enforcement Provisions", Attorney Lawrence W. Vergnalia, Foley & Lardner, LLP, Boston, MA and Attorney John J. Farley, US Attorney's Office, Concord, NH, December 3, 2010.