Successful implementation of federal health care reform is the single most viable vehicle for achieving universal health insurance coverage for America’s children. Primary responsibility for the coverage expansion provisions of federal health care reform rests in the hands of the states.

KidsWell, a campaign to ensure successful health care reform implementation on behalf of children, has launched www.KidsWellCampaign.org, a tracking and advocacy tool that monitors state and national health care reform implementation activity.

Drawing from information available on the website, this issue brief serves as a point-in-time roll-up of key state health care reform implementation and opposition activity. Updates to this information, further analyses and a searchable state-by-state and federal database are available at www.KidsWellCampaign.org.

**- TABLE OF CONTENTS -**

1. Exchange Legislation
2. ACA Implementation Funding
3. Litigation
4. Medicaid and CHIP
5. Private Insurance Changes
6. Pre-existing Condition Pool
7. Conclusion
The Patient Protection and Affordable Care Act (ACA) requires states to establish Health Insurance Exchanges by January 1, 2014. Exchanges must be operated by a governmental entity—a state agency or independent—or a non-profit entity. If a State chooses not to establish an Exchange, or if the federal government determines that a State’s Exchange does not meet federal requirements, the federal government will operate an Exchange in that State.

As depicted by the map below, 35 states have undertaken legislative activity toward the establishment of a state-run Exchange and one state has issued an Executive Order.

**EXCHANGE LEGISLATION**
Three waves of federal funding to help states with Exchange related activities have been awarded to date: Exchange Planning grants for planning and implementation activities; Early Innovator grants for the development of replicable Exchange IT models; and Exchange Establishment grants to fund implementation activities through 2014. States also have received grants for establishing consumer assistance programs. While Alaska stands alone as the only state that has not received any federal Exchange planning or implementation funds, a few states have opted to return federal funding.

**ACA IMPLEMENTATION FUNDING**

In January 2011, HHS released a limited competitive funding opportunity for Exchange planning grants available only to Alaska and Minnesota; Minnesota subsequently received a $1 million federal grant to plan for the establishment of a Health Insurance Exchange in Minnesota.

Wisconsin Insurance Commissioner Ted Nickel returned the Consumer Assistance Grant in February 2011.

New England states received an Early Innovator grant as a consortium led by the Univ. of Massachusetts Medical School.

In February 2011, Florida returned its Exchange Establishment Grant.

In March 2011, Louisiana Health and Hospitals Secretary Bruce Greenstein announced that the state will opt out of creating the state-level Exchange and will return the planning grant to the federal government.

In April 2011, Governor Mary Fallin announced that OK will return its Early Innovator grant funding.
Twenty-seven states have joined the two distinct state-based federal court cases challenging the constitutionality of the ACA and the individual mandate, which require individuals to obtain health insurance coverage.

Within states officials are divided on their support of the ACA. For example, in three states Attorney Generals initiated litigation while the Governors have publicly supported ACA.

Early Expansion of Medicaid: Under the ACA, Medicaid eligibility levels will be expanded to newly eligible individuals at or below 133% of the Federal Poverty Level (FPL) in 2014.6 States may implement the Medicaid expansion in advance of 2014.

Maintenance of Effort Waivers: The ACA’s mandates that states maintain 2009 eligibility levels and administrative requirements for Medicaid and CHIP, commonly referred to as Maintenance of Effort (MOE) requirement. In January 2011, governors from 29 states sent a letter to U.S. Health and Human Services (HHS) Secretary Kathleen Sebelius requesting flexibility with MOE requirements,7 citing health and education as primary cost drivers for most state budgets and highlighting severe state fiscal stress and revenue declines since the recession. In addition to signing on to the letter, a number of states have submitted independent letters requesting waivers from the MOE requirements.

CHIP Cost Sharing: MOE provisions require states to maintain 2009 eligibility levels and administrative requirements. However, some states have proposed increased CHIP cost-sharing requirements, which are not subject to the MOE but do require federal approval.
Dependent coverage expansion and ending private insurance discriminatory practices:

The ACA requires insurance carriers to offer dependent coverage up to age 26 and to eliminate policies that exclude children from coverage due to a pre-existing conditions. These requirements became effective on September 23, 2011. States have taken varied action to implement these provisions, issuing administrative guidance and/or introducing conforming legislation.

At least three states, not depicted below, introduced and/or enacted legislation requiring insurance companies to issue child-only plans (Arkansas, California, and Colorado).
Health care reform created the Pre-Existing Condition Insurance Plan (PCIP) to make health insurance available to adults denied coverage by private insurance companies due to a pre-existing condition. States may choose to establish and operate their own PCIP or to rely on a federal PCIP. The PCIP program began on July 1, 2010 and will sunset in 2014 when affordable coverage will become available through Exchanges and the pre-existing exclusion is eliminated. Twenty-seven states have opted to operate their own pre-existing condition plan while 24 states are relying on the Federal PCIP. The map below depicts the breakdown of states.

Conclusion

The maps in this issue brief will be continually updated and available at www.KidsWellCampaign.org. The website provides information on state and federal activities tracked and sorted by geography, topic area, and type of guidance. The website also posts a weekly newsletter of notable ACA implementation and opposition activity across states and at the federal level.

End Notes

1 ACA §1311(b)
2 ACA §1311(d)
3 ACA §1321(c)
6 ACA §2001(a)(1)(C)
7 ACA § 2001(gg) and § 2101(b)

- ACKNOWLEDGMENTS -

Support for this brief and for KidsWell is provided by The Atlantic Philanthropies.

Manatt Health Solutions authored this brief and powers www.KidsWellCampaign.org.

For more information about this brief or the Campaign contact info@kidswellcampaign.org.