



# Federal Health Reform and Utah New Rights and Options for Consumers

A Utah Health Policy Project Issue Brief

August, 2011

## Background

The Affordable Care Act (ACA) makes many changes to the insurance industry that will benefit consumers. What is not yet clear is how consumers can ensure their insurance company is in compliance with the new rules. While we wait for regulations, enforcement of the new law will fall heavily on existing state regulatory and enforcement authority, specifically the insurance commissioner. All insurers are now required by law to notify consumers of changes in their rights. If you have any problems taking advantage of these changes, please contact the Utah Office of Consumer Health Assistance (OCHA) as a first step. Call OCHA toll free: 866-350-6242; Salt Lake Valley (801) 538-3077; or e-mail [OCHA.uid@utah.gov](mailto:OCHA.uid@utah.gov). **If OCHA can't answer your questions, please contact UHPP: (801) 433-2299.** Also see the Insurance Department's helpful website on reform: <http://www.insurance.utah.gov/health/healthreform.html>.

2010	Health Reform Provision: What it Means	Status of Provision in Utah
Planning Stage	<p><b>Insurance companies must justify premium increases.</b></p> <p>Federal and State governments have to come up with a process in which insurers have to justify unreasonable insurance premium increases. (reporting begins in 2011)</p>	Your insurance company should send you information explaining all upcoming rate increases.
	<p><b>Insurance companies are required to report what percent of your premium dollars are spent on administration and profits.</b></p> <p>Medical Loss Ratio (MLR) is the percent of your premium dollar that goes to medical care. The new MLR rule requires that at least 85% of all premium dollars collected by insurance companies for large employer plans and 80% for plans sold to individuals and small employers are spent on health care services and health care quality improvement. (If insurers do not meet these MLRs they will be required to pay rebates to policy holders in 2011).</p> <p><i>Insurance companies have to use more of your premium dollars for medical care!</i></p>	<p>Utah's Department of Insurance puts it this way:</p> <p>"Each year, insurers will report the percentage of Americans' premiums they spend on items other than health care costs, such as bureaucracy, marketing, or executive compensation."</p> <p><a href="http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf">http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf</a></p>
Jan 1	<p><b>Seniors have lower prescription costs.</b></p>	This rebate happens automatically. Because it's a change to Medicare, it happens at the

	<p>A \$250 rebate will be issued to people enrolled in Medicare Part D who reach the “donut hole.” The full donut hole closes by 2019.</p>	<p>federal level. If you, or someone you know, has trouble with the donut hole or questions about the rebate, you should contact your local SHIP (Senior Health Information Program). Call 800-541-7735</p> <p><a href="http://www.hsdaas.utah.gov/insurance_programs.htm">http://www.hsdaas.utah.gov/insurance_programs.htm</a></p>
Jan 1	<p><b>Small business tax credits</b></p> <p>For small business employers that contribute at least 50% of employee premiums. The full 35% credit towards the employer contribution is available to businesses with fewer than 10 employees averaging less than \$25,000 annual wages. Those with fewer than 25 employees and average annual wages of less than \$50,000 are eligible for a sliding-scale credit.</p>	<p>See UHPP’ <a href="#">Reform Nuts and Bolts for Small Businesses</a> and use the <a href="#">tax credit calculator</a> on our website’s Implementation Station.</p> <p>Get more information here:</p> <p><a href="http://www.irs.gov/newsroom/article/0,,id=177937,00.html">http://www.irs.gov/newsroom/article/0,,id=177937,00.html</a></p>
	<p><b>Your choice of doctor protected</b></p> <p>Protects your choice of primary care doctor and allows women to go directly to OB/GYN without prior authorization.</p>	<p>Utah already allows selection of OB/GYN as primary care provider, though only for the small group and individual market. Now families who work for large employers can enjoy this same benefit. Utah’s Department of Insurance indicates that this applies to all new plans.</p> <p><a href="http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf">http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf</a></p>
Apr 1	<p><b>Medicaid coverage for childless adults</b></p> <p>States are given the option to provide coverage to childless adults up to 133% of the poverty level. (Will be required in 2014.)</p>	<p>Utah did not implement this option. Utah does not currently allow childless adults health care coverage through Medicaid. For childless adults with household income &lt;150% FPL the Primary Care Network maybe an option:</p> <p><a href="http://www.health.utah.gov/pcn/">http://www.health.utah.gov/pcn/</a>. This program covers primary and preventive care only. It will be replaced in 2014 with more comprehensive Medicaid benefits.</p>
Jul 1	<p><b>Insurance for people with pre-existing conditions.</b></p> <p>The new federal high-risk pool (HIP) is open to individuals who are uninsurable due to</p>	<p>Utah has elected to run this new federal pool alongside its current state pool. To qualify for the federal pool you must be uninsured for 6 months or longer. When you apply, be sure to</p>

	<p>preexisting conditions. This is a stop-gap measure until 2014, when insurers are no longer allowed to deny coverage to anyone with a pre-existing condition.</p>	<p>ask which pool would best meet your needs.</p> <p>Here's the link to a SelectHealth fact sheet about the federal and state pool:  <a href="http://www.insurance.utah.gov/docs/HIPUtah/Federal-HIPUtah_Fact_Sheet.pdf">http://www.insurance.utah.gov/docs/HIPUtah/Federal-HIPUtah_Fact_Sheet.pdf</a></p>
Sep 23	<p><b>Kids can stay on parents' insurance until age 26.</b></p> <p>Extends dependent coverage for adult children up to age 26 for all individual and group policies. Applies to plan or policy years beginning on or after September 23, 2010</p>	<p>Utah had this in place already, although our law was more restrictive. Under the federal provision it doesn't matter if you are enrolled in school or not, and you can be married and stay on your parents' insurance. As with Utah's current law, if you cannot enroll in your parents' plan if you have access to insurance through your employer.</p>
Sep 23	<p><b>No more lifetime limits</b></p> <p>Insurers can no longer place lifetime caps on coverage. Applies to plan or policy years beginning on or after September 23, 2010 (annual limits eliminated in 2014)</p>	<p>Utah's Department of Insurance (DOI) has a fact sheet that states this applies to <i>all new and existing plans</i>:  <a href="http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf">http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf</a></p>
Sep 23	<p><b>Free preventive care</b></p> <p>New private insurance plans will have to cover preventive services, such as screenings, immunizations, and tests, with no co-payments. <i>This means that if you or your family enrolls in a new health plan on or after September 23, 2010, preventive services must be covered with no co-pay.</i></p>	<p>See what's on the list of covered services <a href="#">here</a>.</p>
Sep 23	<p><b>No more rescission</b></p> <p>Insurers can only rescind coverage in cases of actual fraud. Effective for health plan years beginning on or after September 23, 2010.</p> <p><i>This means your health insurance cannot be canceled if you get sick!</i></p>	<p>Utah's Department of Insurance (DOI) has a fact sheet that states this applies to <i>all new and existing plans</i>:  <a href="http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf">http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf</a></p>
Sep 23	<p><b>Insurers cannot deny coverage to children with pre-existing conditions.</b></p> <p>Effective for health plan years beginning on or after September 23, 2010 for new plans</p>	<p>Utah's Department of Insurance (DOI) has a fact sheet that states this applies to <i>all new and existing plans</i>:  <a href="http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf">http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf</a></p>

	<p>and existing group plans.</p> <p><i>Insurers will have to cover all children (under 19) who apply – no matter their health status.</i></p>	
Grants awarded October	<p><b>Consumer assistance</b></p> <p>States can apply for grants to build consumer assistance centers to help people navigate the private insurance system.</p>	Utah did not apply for this funding opportunity. To make sure Utahns have the assistance they need, UHPP is launching a new consumer health, assistance program, Take Care Utah. . Get more information <a href="#">here</a> .
	<p><b>Payment for rural health care providers</b></p> <p>Today, 68% of medically underserved communities across the nation are in rural areas, and these communities often have trouble attracting and retaining medical professionals. The law provides increased payment to rural health care providers to help them continue to serve their communities.</p>	<p>Utah’s rural communities have many gaps in access to care, which makes these new payments timely. Use the Health Provider Shortage Area tool to see for yourself: <a href="http://bhpr.hrsa.gov/shortage/">http://bhpr.hrsa.gov/shortage/</a>.</p> <p>Learn more at the Utah Department of Health’s Primary Care and Rural Health website: <a href="http://health.utah.gov/primary_care/">http://health.utah.gov/primary_care/</a></p>
<b>2011</b>	<b>Reform Provision: What it Means</b>	<b>Status of Provision in Utah</b>
Jan 1	<p><b>Seniors have lower prescription costs.</b></p> <p>Seniors who reach the coverage gap will receive a 50 percent discount when buying Medicare Part D covered brand-name prescription drugs. Over the next ten years, seniors will receive additional savings on brand-name and generic drugs until the coverage gap is closed in 2020.</p>	<p>All Utah seniors faced with the donut hole should have received a \$250 rebate check in 2010. Learn how and when the donut hole closes completely: <a href="http://www.healthcare.gov/law/provisions/prescription/drugdiscounts.html">http://www.healthcare.gov/law/provisions/prescription/drugdiscounts.html</a></p>
Jan 1	<p><b>Free Preventive Care for Seniors</b></p> <p>The law provides certain free preventive services, such as annual wellness visits and personalized prevention plans, for seniors on Medicare.</p>	<p>AT the recent Aging Alliance Conference, CMS officials reported that only 42% of Utah seniors are accessing the free preventive services; ONLY 2% ARE GETTING THE ANNUAL WELLNESS VISIT. Please take advantage of these new option...BECAUSE THEY’RE GOOD FOR YOU! Learn more here: <a href="http://www.healthcare.gov/foryou/seniors/index.html">http://www.healthcare.gov/foryou/seniors/index.html</a></p>
Jan 1	<p><b>Wellness for Medicaid Beneficiaries</b></p> <p>Provides 3-year grants to states to develop programs to provide Medicaid enrollees with incentives to participate in comprehensive health lifestyle programs and meet certain</p>	

	health behavior targets	
Jan 1	<p><b>CLASS program</b></p> <p>Establish a national, voluntary insurance program for purchasing Community Living Assistance Services and Supports (CLASS).</p>	
Jan 1	<p><b>Insurance companies required to pay rebates.</b></p> <p>Insurance companies that don't meet Medical Loss Ratio (MLR) rules because their administrative costs or profits are too high must provide rebates to consumers. (MLR rules require that at least 85% of all premium dollars collected by insurance companies for large employer plans and 80% for plans sold to individuals and small employers must be spent on health care services and health care quality improvement).</p> <p>Insurance companies have to pay you back if they spend too much of your premium dollar on administration or profits!</p>	<p>Utah's Department of Insurance puts it this way:</p> <p>"Americans will receive a rebate if their health insurer's non-medical costs exceed 15 percent of premium costs in the group market or 20 percent in the small group and individual market. Using cost data from 2010, rebates will begin in 2011 and the policy applies to all insurance plans, with the exception of self-insured plans. This provision takes effect January 1, 2011."</p> <p><a href="http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf">http://www.insurance.utah.gov/docs/Health%20Reform/healthbill67.pdf</a></p>
(FY2011)	<p><b>Wellness Programs for Small Businesses</b></p> <p>Provides grants for up to five years to small employers that establish wellness programs</p>	
Grants awarded March 23	<p><b>Funding for Health Insurance Exchanges</b></p> <p>Provides grants to states to begin planning for the establishment of American Health Benefit Exchanges and Small Business Health Options Program Exchanges, which facilitate the purchase of insurance by individuals and small employers.</p>	Utah has received a state planning grant for one million.
Mar 23	<p><b>Nutrition labels at fast food restaurants</b></p> <p>Requires disclosure of the nutritional content of standard menu items at chain restaurants and food sold from vending machines.</p>	<p>Implemented at federal level, but you can thank Congressman Matheson for this!</p> <p><a href="http://matheson.house.gov/contact.shtml">http://matheson.house.gov/contact.shtml</a></p>
Oct 1	<p><b>Increase Access to Services at Home + in the Community</b></p>	ARDC (Aging Disability Resource Connection) has been pursuing these options.

	The new Community First Choice Option allows States to offer home and community based services to disabled individuals through Medicaid rather than institutional care in nursing homes.	<a href="http://www.adrc-tae.org/tiki-index.php?page=CordaMaps&amp;st=UT">http://www.adrc-tae.org/tiki-index.php?page=CordaMaps&amp;st=UT</a>
<b>2012</b>	<b>Reform Provision: What it Means</b>	<b>Status of Provision in Utah</b>
Jan 1	<b>ACO's in Medicare</b>  Allows providers that are organized in ACO's that voluntarily meet quality standards to share in the cost savings achieved.	Implemented at federal level.
Jan 1	<b>Medicare Advantage Plan Changes</b>  Reduces rebates paid to MA plans. See proposed rule by CMS on updates to MA plans.  <a href="http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2010_register&amp;docid=fr22no10-16.pdf">http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2010_register&amp;docid=fr22no10-16.pdf</a>	Implemented at federal level.
Jan 1 (or fiscal or rate year for plan)	<b>Medicare Provider Payment Changes</b>  Adds a productivity adjustment to the market basket update for certain providers, resulting in lower rates than otherwise would have been paid.	Implemented at federal level.
Jan 1	<b>Fraud and Abuse Prevention</b>  Establishes procedures for screening, oversight, and reporting for suppliers and providers who participate in Medicaid, CHIP, and Medicare. Requires entities to register under Medicare. See final rule from CMS:  <a href="http://www.gpo.gov/fdsys/pkg/FR-2011-02-02/pdf/2011-1686.pdf">http://www.gpo.gov/fdsys/pkg/FR-2011-02-02/pdf/2011-1686.pdf</a>	...In the meantime, check out this tool to report Medicaid fraud in Utah: <a href="http://www.health.utah.gov/mpi/">http://www.health.utah.gov/mpi/</a>  <i>If you have witnessed fraud and would like to report it, please get in touch with UHPP's Judi: <a href="mailto:judi@healthpolicyproject.org">judi@healthpolicyproject.org</a>. We are working on incentives to report fraud.</i>
Jan 1	Annual Feed for Pharmaceutical Industry	

Jan 1 (thru 12/16)	<p>Medicaid Payment Demonstration Projects</p> <p>For up to 8 states to pay bundled payments for episodes of care including hospitalizations and pediatric provides organized into ACO's to share in cost savings.</p>	
Mar 23	<p>Data Collection to Reduce Health Care Disparities</p> <p>Enhanced data collection and reporting on race, ethnicity, sex, primary language, disability status, and for underserved rural populations. June 2011 HHS published request for comment on proposed standards:</p> <p><a href="http://www.gpo.gov/fdsys/pkg/FR-2011-06-30/html/2011-16435.htm%20">http://www.gpo.gov/fdsys/pkg/FR-2011-06-30/html/2011-16435.htm%20</a></p>	<p>...in the meantime, check out the data and reports on disparities posted on the website of the Office of Health Care Disparities Reduction:</p> <p><a href="http://health.utah.gov/disparities/">http://health.utah.gov/disparities/</a></p>
Oct 1	<p>Medicare Value Based Purchasing</p> <p>Establishes standards to pay hospitals on quality measures and plans to implement for skilled nursing facilities, home health agencies, and ambulatory surgical centers. See CMS final rule:</p> <p><a href="http://www.gpo.gov/fdsys/pkg/FR-2011-05-06/html/2011-10568.htm">http://www.gpo.gov/fdsys/pkg/FR-2011-05-06/html/2011-10568.htm</a></p>	Implemented at federal level.
Oct 1	<p>Reduced Medicare Payments for Hospital Readmissions</p> <p>For excess/preventable hospital readmissions</p>	Implemented at federal level.
<b>2013</b>	<b>Reform Provision: What it Means</b>	<b>Status of the Provision in Utah</b>
Jan 1	<p>Exchange Certification</p> <p>States indicate to HHS whether or not they will operate an American Health Benefit Exchange. HHS certifies states on implementation of AHBE and SHOP exchanges.</p>	Utah has an Exchange in place. The question is whether Utah will meet federal standards for Exchanges and if Utah will choose to run an American Health Benefit Exchange for individuals seeking affordable coverage.

<p>Jan 1</p>	<p>Closing Medicare Drug Gap</p> <p>Begins phasing-in federal subsidies for brand-name prescriptions filled in the Medicare Part D coverage gap (reducing coinsurance from 100% in 2010 to 25% in 2020, in addition to the 50% manufacturer brand-name discount.)</p>	<p>Federal Implementation</p>
<p>Jan 1</p>	<p>Medicare Bundled Payment Pilot Program</p> <p>Establishes a national Medicare pilot program to develop and evaluate making bundled payments for acute, inpatient hospital services, physician services, outpatient hospital services, and post-acute care services for an episode of care.</p>	<p>Federal Implementation</p>
<p>Jan 1</p>	<p>Medicaid Coverage of Preventive Services</p> <p>Provides 1% increase in FMAP for preventive services for states that offer Medicaid coverage with no patient cost sharing for services recommended (rated A or B) by the U.S. Preventive Services Task Force and recommended immunizations.</p>	<p>State option.</p>
<p>Jan 1 (thru 12/14)</p>	<p>Medicaid Payments for Primary Care</p> <p>Increases Medicaid payments for primary care services provided by primary care doctors to 100% of the Medicare payment rate for 2013 and 2014 (financed with 100% federal funding).</p>	
<p>Jan 1</p>	<p>Flex Spending Accounts &amp; Itemized Deductions for Medical Expenses</p> <p>Increases the threshold for the itemized deduction for unreimbursed medical expenses from 7.5% of adjusted gross income to 10% of adjusted gross income; waives the increase for individuals age 65 and older for tax years 2013 through 2016.</p> <p>Limits the amount of contributions to a flexible spending account for medical expenses to \$2,500 per year, increased</p>	



	annually by the cost of living adjustment.	
Jan 1	<p>Medicare Tax Increase</p> <p>Part A- increase tax rate on wages from 1.45% to 2.35% on earnings over \$200,000 for individual and \$250,000 for married couples filing jointly. Imposes a 3.8% assessment on unearned income for higher-income taxpayers.</p>	Federal Implementation
Jan 1	<p>Employer Retiree Coverage Subsidy</p> <p>Eliminates the tax-deduction for employers who receive Medicare Part D retiree drug subsidy payments</p>	
Jan 1	<p>Tax on Medical Devices</p> <p>Imposes a 2.3% excise tax on the sale of taxable medical devices.</p>	
By July 1	<p>CO-OP Health Insurance Plans</p> <p>Creates Consumer Operated &amp; Oriented Plan. HHS proposed rules 7/11:  <a href="http://www.gpo.gov/fdsys/pkg/FR-2011-07-20/pdf/2011-18342.pdf">http://www.gpo.gov/fdsys/pkg/FR-2011-07-20/pdf/2011-18342.pdf</a></p>	There are Utah based groups looking into this option.
Fiscal Year 2013	<p>CHIP Extension</p> <p>Extends authorization and funding for the Children's Health Insurance Program (CHIP) through 2015.</p>	
<b>2014</b>	<b>Health Reform Provision: What it Means</b>	<b>Status of the Provision in Utah</b>
Jan 1	<p>Expanded Medicaid Coverage</p> <p>Expands Medicaid to all individuals not eligible for Medicare under age 65 (children, pregnant women, parents, and adults without dependent children) with incomes up to 133% FPL and provides enhanced federal matching payments for new eligibles</p>	Utah submitted an 1115 waiver to CMS July 2011 for payment and delivery system reform. This reform may help Utah prepare for the Medicaid expansion.

Jan 1	<p>Presumptive Eligibility for Medicaid</p> <p>Allows all hospitals participating in Medicaid to make presumptive eligibility determinations for all Medicaid-eligible populations.</p>	
Jan 1	<p>Individual Requirement</p> <p>Requires U.S. citizens and legal residents to have qualifying health coverage (there is a phased-in tax penalty for those without coverage, with certain exemptions).</p>	Utah has stated that they do not want to be in charge of enforcing a mandate. Utah is part of a lawsuit challenging the constitutionality of an individual requirement.
Jan 1	<p>Health Insurance Exchanges</p> <p>Creates state-based American Health Benefit Exchanges and Small Business Health Options Program (SHOP) Exchanges</p>	Utah has an Exchange. The question is whether Utah's will meet federal standards and if Utah will choose to run an American Health Benefit Exchange for individuals.
Jan 1	<p>Health Insurance Premium and Cost Sharing Subsidies</p> <p>Provides refundable and advanceable tax credits and cost sharing subsidies to eligible individuals. Premium subsidies are available to families with incomes between 133-400% of the federal poverty level to purchase insurance through the Exchanges, while cost sharing subsidies are available to those with incomes up to 250% of the poverty level.</p>	Regulations out 8/11. See at <a href="http://www.ofr.gov/OFRUpload/OFRData/2011-19719_PI.pdf">http://www.ofr.gov/OFRUpload/OFRData/2011-19719_PI.pdf</a>
Jan 1	<p>Guarantee Issue of Insurance</p> <p>Requires guarantee issue and renewability of health insurance regardless of health status and allows rating variation based only on age (limited to a 3 to 1 ratio), geographic area, family composition, and tobacco use (limited to 1.5. to 1 ratio) in the individual and the small group market and the Exchanges.</p>	HB 128 (2011) requires Utah insurance laws to be in line with federal insurance laws.
Jan 1	<p>No Annual Limits on Coverage</p>	HB 128 (2011) requires Utah insurance laws to be in line with federal insurance laws.
Jan 1	<p>Essential Health Benefits Package</p>	Regulations are expected to be out fall 2011. Utah has no ranking of insurance in the Utah

	Creates an essential health benefits package that provides a comprehensive set of services. Creates four categories of plans to be offered through the Exchanges, and in the individual and small group markets, varying based on the proportion of plan benefits they cover.	Health Exchange.
Jan 1 (thru 12/16)	Temporary Reinsurance for Health Plans  Creates a temporary reinsurance program to collect payments from health insurers in the individual and group markets to provide payments to plans in the individual market that cover high-risk individuals.	
Jan 1	Basic Health Plan  Permits states the option to create a Basic Health Plan for uninsured individuals with incomes between 133-200% FPL who would otherwise be eligible to receive premium subsidies in the Exchange.	
Jan 1	Employer Requirements  Assesses a fee of \$2,000 per full-time employee, excluding the first 30 employees, on employers with more than 50 employees that do not offer coverage and have at least one full-time employee who receives a premium tax credit. Employers with more than 50 employees that offer coverage but have at least one full-time employee receiving a premium tax credit, will pay the lesser of \$3,000 for each employee receiving a premium credit or \$2,000 for each full-time employee, excluding the first 30 employees.	?
Jan 1	Medicare Advantage Plan Loss Ratios  Requires Medicare Advantage plans to have medical loss ratios no lower than 85%.	Federal Implementation
Jan 1	Fees on Health Insurance Sector	Federal Implementation
Jan 15	Medicare Independent Payment Advisory	Federal implementation

	<p>Board Report</p> <p>Establishes an Independent Advisory Board, comprised of 15 members, to submit legislative proposals containing recommendations to reduce the per capita rate of growth in Medicare spending if spending exceeds a target growth rate. First Recommendation due.</p>	
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Source: Text in the left column based on material from the following sources:

<http://www.healthcare.gov/law/timeline/index.html>

<http://healthreform.kff.org/timeline.aspx>

<http://www.insurance.utah.gov/docs/Health%20Reform/healthbill65.pdf>