



Medicaid and Mandates: State Responses to Federal Health Reform

Christie Herrera

Director, Health and Human Services Task Force

American Legislative Exchange Council

Presentation before the Washington Policy Center's 9th Annual Health Care Conference

Tuesday, June 7, 2011

About ALEC

- ALEC is the nation's largest, nonpartisan membership association of state legislators.
- ALEC has nearly 2,000 legislators across the country, which is about 1/3 of all legislators nationwide, and more than 100 "alumni" members in Congress.
- ALEC's mission is to promote Jeffersonian principles in the states: free markets, individual liberty, limited government, and federalism.
- ALEC promotes its principles through model legislation. Since 2005, 38 states have enacted ALEC health policy legislation.

Medicaid, Mandates, and the States: An Overview

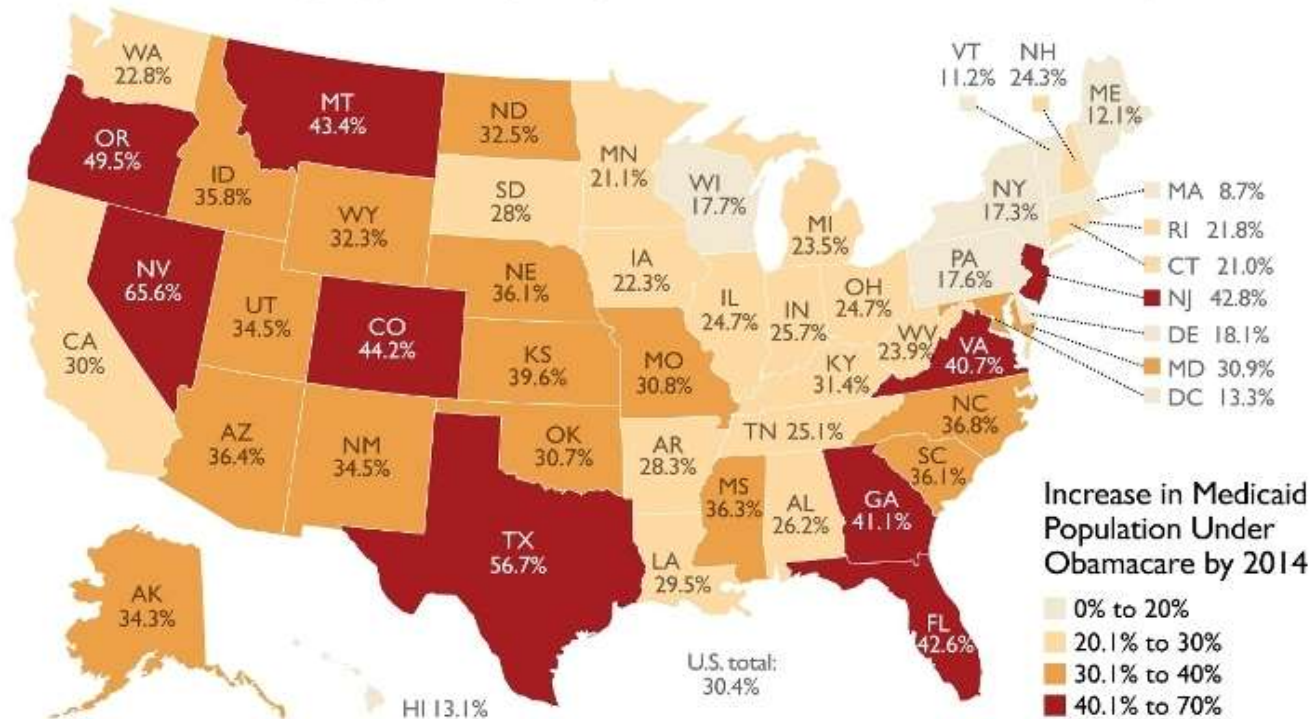


- **PPACA and Medicaid:**
What it means for the states
 - Enrollment
 - Budgets
 - Access to care
 - Health outcomes
 - Emerging reforms
- **PPACA and Mandates:**
What it means for the states
 - Employer mandate
 - Individual mandate
 - ALEC's *Freedom of Choice in Health Care Act*

Skyrocketing Enrollment

A Medicaid Monster

Obamacare increases coverage by adding millions of Americans to the low-quality, low-access Medicaid program, requiring billions of dollars from state budgets.

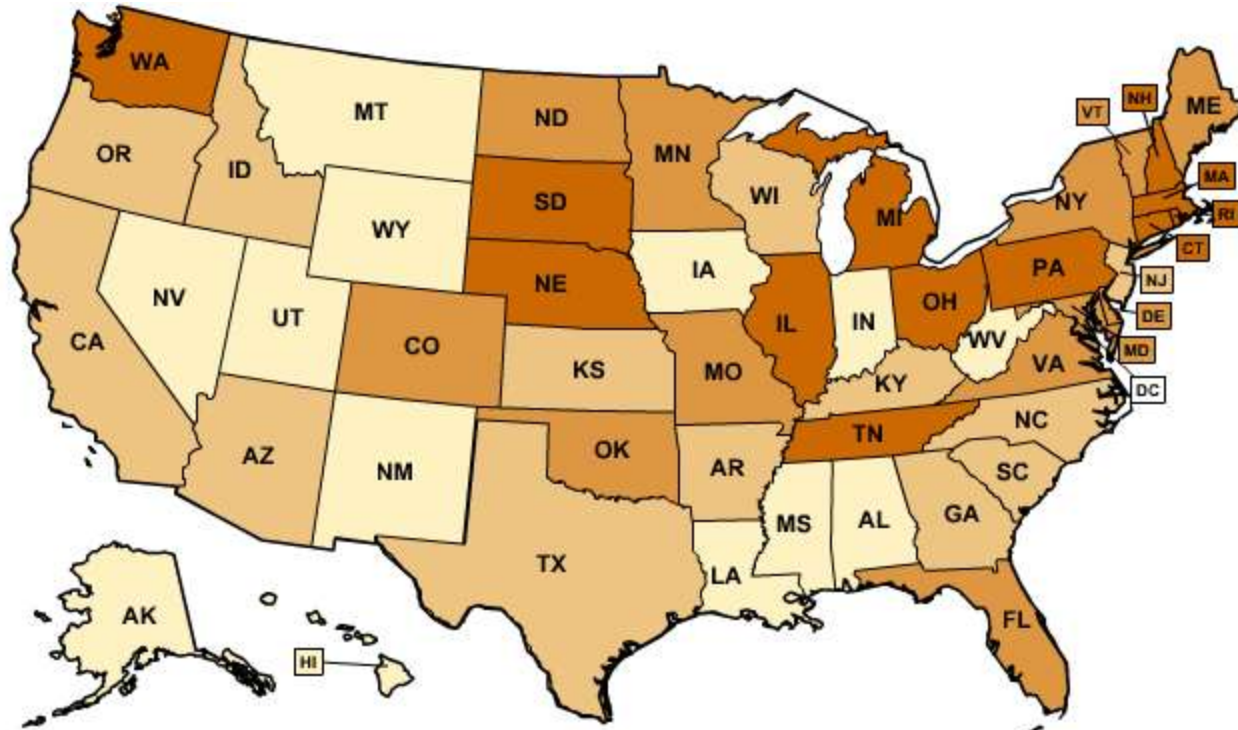


Sources: Centers for Medicare and Medicaid Services, statehealthfacts.org.

Obamacare in Pictures heritage.org

Tightening Budgets

PERCENT OF BUDGET SPENT ON MEDICAID, FY 2008



3.5% - 11.9%

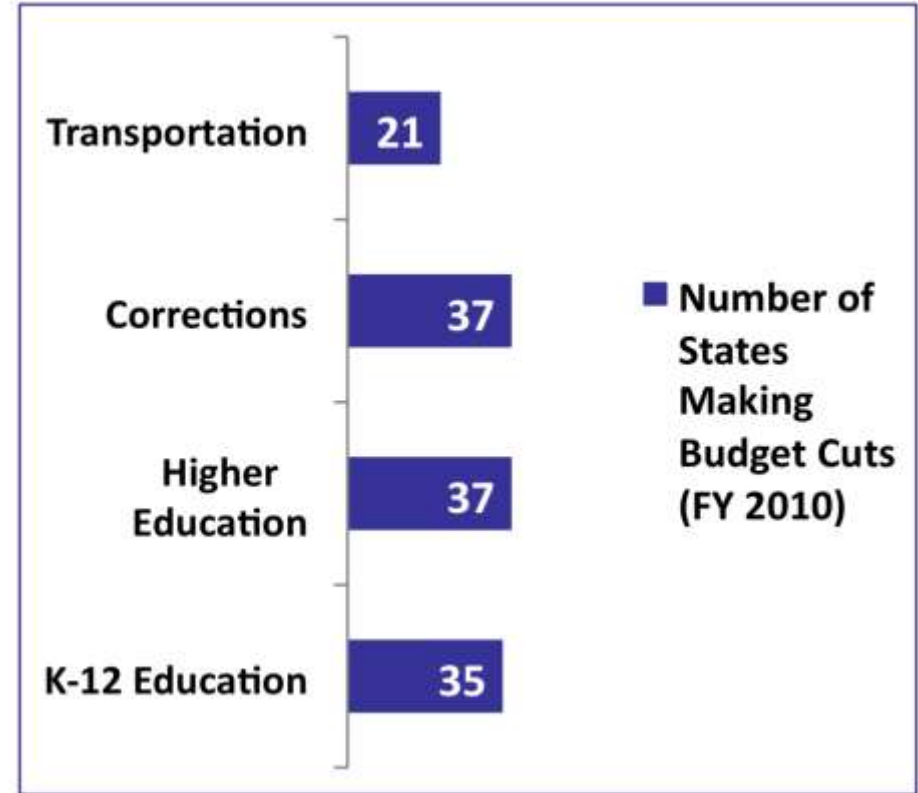
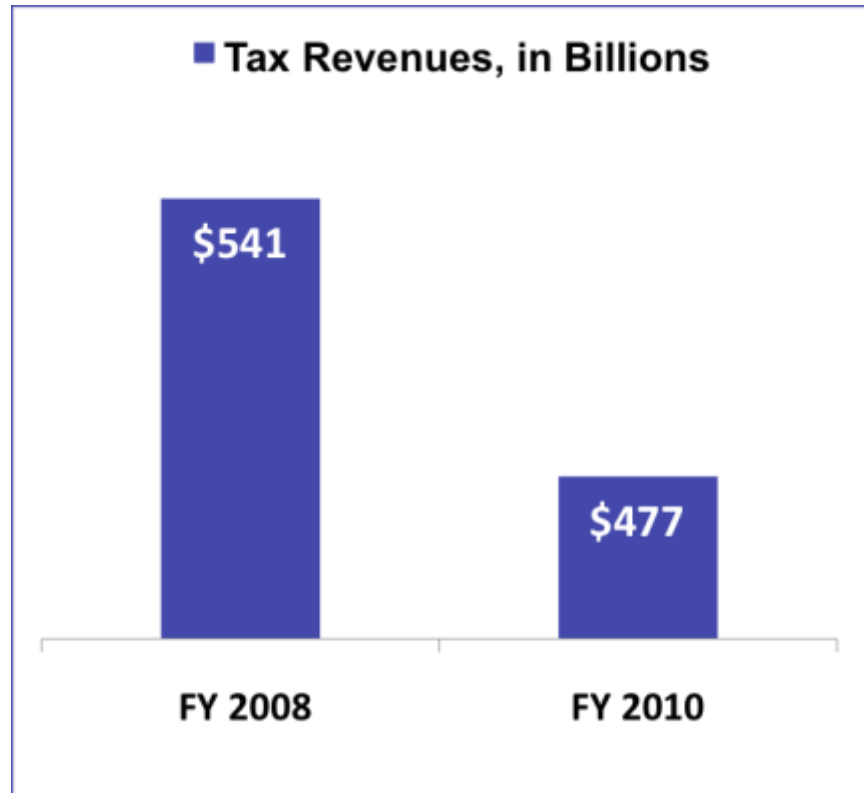
12.0% - 14.4%

14.4% - 19.3%

19.5% - 36.3%

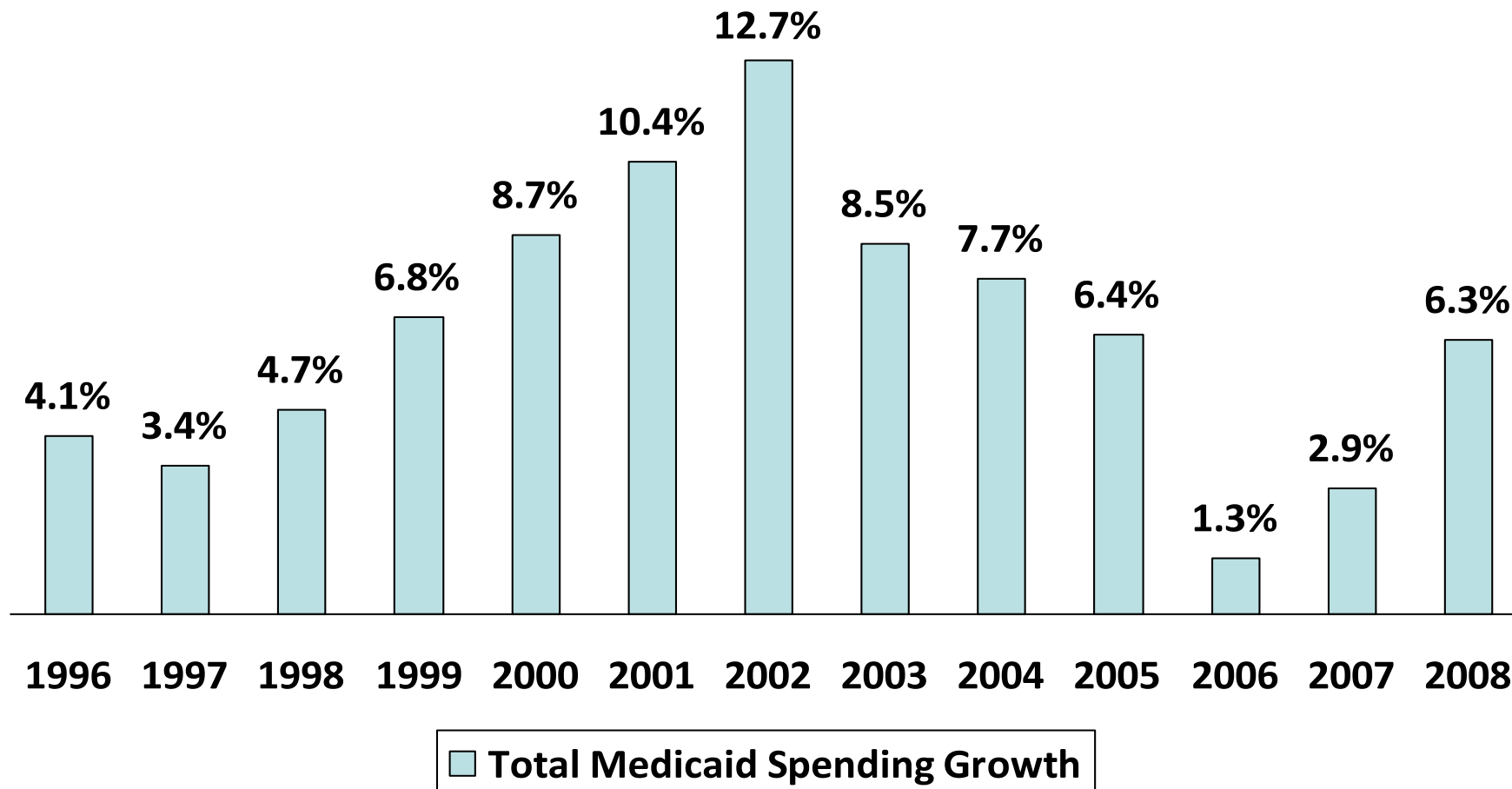
Source: StateHealthFacts.org

Possible Cuts in Other Areas



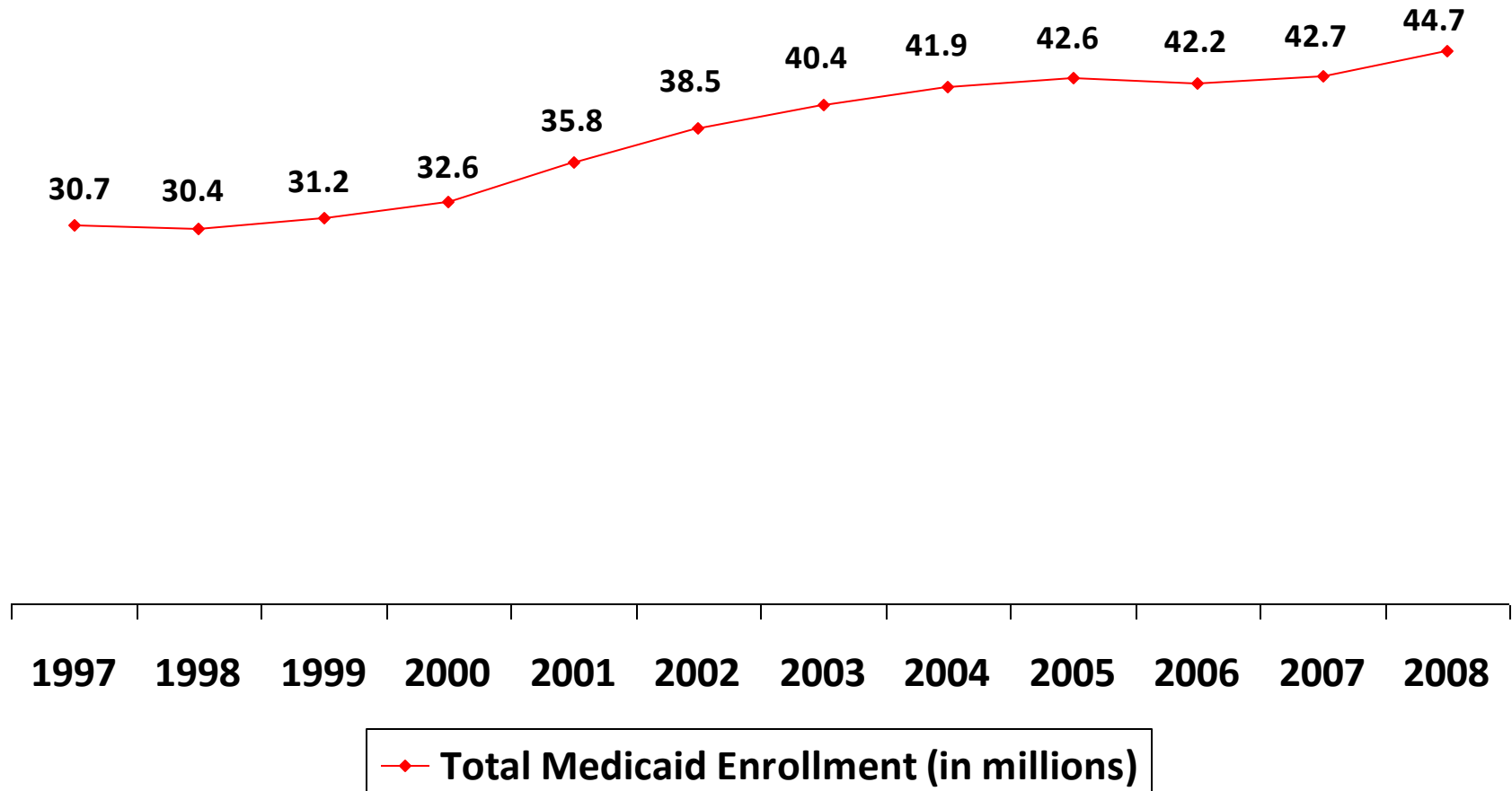
Medicaid Grows in Bad Times ... and Good.

TOTAL MEDICAID SPENDING GROWTH, 1996-2008



Medicaid Grows in Bad Times ... and Good.

TOTAL MEDICAID ENROLLMENT, 1997-2008



Source: Kaiser Commission on Medicaid and the Uninsured

The Problem with Federal Funding



- **Federal money isn't "free"** — everyone pays federal, state, and local taxes.
- **It doesn't cover everyone.** One in four uninsured are already eligible for Medicaid, but not yet enrolled. When they do, states won't get enhanced funding.
- **PPACA's Medicaid "doc fix"** fully subsidizes provider reimbursement rates up to Medicare levels until 2015—when states will face political pressure to pick up the tab.
- **Administrative costs** add 5.5% to total benefit costs, so states are still on the hook even with enhanced federal funding.

More Crowded ERs



- **40% of doctors restricted access to Medicaid** due to low reimbursement rates.
- **50% of doctors accept new Medicaid patients** compared with the 70% that accept new Medicare patients.
- **2/3 of ER “frequent fliers” were covered by Medicaid/Medicare.**
- **Medicaid patients are twice as likely** as the uninsured, and **five times as likely** as the privately-insured, **to be an ER “frequent flier.”**
- **Medicaid patients are twice as likely** as the uninsured, and **four times as likely** as the privately-insured, **to use the ER.**

Questionable Health Outcomes

- **Medicaid patients are 50% more likely to die after bypass surgery because of poor follow-up care.**
- **Medicaid patients with cancer are two to three times more likely to die from the disease.**
- **Medicaid patients who need surgery are 13% more likely to die than the uninsured, and 97% more likely to die than those with private insurance.**
- **Medicaid patients needing lung transplants were 8.1% less likely to survive 10 years after surgery than their uninsured and privately-insured counterparts.**
- **Florida: Medicaid patients are 31% more likely to have late-stage breast cancer, and 81% more likely to have late-stage melanoma.**

Emerging Reforms: Early Expansion

- Allows states to “opt in” to the Medicaid expansion early
- An option for states who currently fund optional populations
- Expansion population mostly childless adults under 133% FPL
- States may not use an asset test while determining eligibility
- Funding: Regular FMAP until 2014; then PPACA-enhanced FMAP

CONNECTICUT

- April 2010: Became the first early expansion state
- 45,000 adults earning under 56% FPL will be shifted to Medicaid
- Estimated savings: \$53 million/year

DISTRICT OF COLUMBIA

- May 2010: Became the second early expansion “state”
- 35,000 adults shifted to Medicaid; savings of \$53 million/year

MINNESOTA

- January 2011: Became the third early expansion state via EO
- 95,000 adults earning under 75% FPL will be shifted to Medicaid
- Estimated savings: \$32 million/year

Sources: Families USA; *The Hill's* Healthwatch Blog; Stateline.org

Emerging Reforms: Healthy Indiana

- Expands Medicaid for women/children up to 200% FPL
- Expands SCHIP up to 200% FPL
- Subsidizes all uninsured up to 200% FPL with “PoWeR Accounts”
- Eligibility: Uninsured for six months and without access to ESI
- Accounts fund standard benefits packages, have lifetime limits
- State funds \$500 for preventive care and guarantees \$1500
- Beneficiaries can also fund the account, up to 5% of income
- Unused account funds roll over if preventive care is completed
- HIP funded with tobacco tax and federal Medicaid/CHIP dollars

HEALTHY INDIANA TODAY

- **62,000 Hoosiers enrolled in either Medicaid or SCHIP**
- **50,000 on a waiting list for PoWeR Accounts**
- **1/3 of beneficiaries do not contribute to PoWeR Accounts at all**

THE FUTURE

- **Waiver expires in 2012; Gov. Daniels uncertain of extension**
- **State wants to use HIP’s structure for 2014 Medicaid expansion**
- **Conservatives have criticized HIP for its similarities to PPACA**

Emerging Reforms: Florida's Medicaid Pilot

- **2005:** Medicaid reform pilot went live in Broward & Duval Co.
- **2007:** Medicaid reform pilot went live in Baker, Clay, Nassau Co.
- **2010:** Legislature enacts a bill for a waiver extension
- **2011:** Legislature enacts a bill for a statewide rollout
- **Insurance companies compete** in “Medicaid marketplace”
- **Beneficiaries get core benefits** and choose “customized” ones
- **Workers can opt-out** and get premium assistance for ESI
- **Healthy behaviors earn money** in “Enhanced Benefit Accounts”
- **Multilingual “choice counselors”** help beneficiaries pick a plan

THE RESULTS

- **Beneficiaries can choose from up to 10 competing plans**
- **Plans are offering benefits not covered by Medicaid**
- **79% of benefit packages don't require a copayment**
- **72% of beneficiaries are voluntarily choosing their own plan**
- **96% of beneficiaries are satisfied with choice counseling**
- **Beneficiaries earn over \$721k/month in Benefit Accounts**

Emerging Reforms: Rhode Island's Global Waiver

- **August 2008: Original proposal** requested TANF-like block grant, allowing the state to keep saved federal dollars and determine benefit and eligibility structures; was rejected by CMS
- **July 2009: Approved waiver** structured like traditional Medicaid, but capped federal/state spending at \$12 billion for five years and gave the state more freedom to customize benefits
- **Rolls 10 existing waivers into one** global Medicaid waiver
- **Enrolls beneficiaries** into a patient-centered medical home
- **Promotes HCBS** rather than more expensive nursing homes
- **Establishes healthy choice accounts** for healthy behaviors

THE RESULTS

- **Emergency room utilization down by 30%**
- **1,500 individuals transitioned out of institutional care**
- **RI on track to spend only \$9.3 billion of the \$12 billion budget**
- **\$156 million in savings in first two years of waiver**
- **Under original proposal, RI would have saved \$220 million**

PPACA's Employer Mandate



- If you have a business with more than 50 workers, you must provide federally-approved coverage, or pay a \$2,000 fine.
- 50% of all businesses, and up to 80% of small businesses, must drop current coverage for more costly insurance.
- States, who collectively employ more than 3.8 million workers, will also be subject to the mandate, raising costs for state employee health plans and fostering calls for “opt out.”
- NFIB: PPACA's employer mandate will result in a loss of 1.6 million jobs by 2013—with 66% of those lost jobs coming from small businesses.

PPACA's Individual Mandate



- The uninsured, or those who have insurance not meeting new federal criteria, must pay:
 - 2013: \$95 or 1% of income
 - 2014: \$325 or 2% of income
 - 2015 and beyond: \$695 or 2.5% of income
- Never before has Congress used the Commerce Clause to require individuals to engage in economic activity. Never before has Congress imposed a penalty on some and then called it a “tax.”
- ***Commonwealth v. Sebelius***: Now at 4th Circuit Court of Appeals; District Court ruled mandate “beyond the historical reach of the Commerce Clause”
- ***Florida v. U.S. DHHS***: Now at 11th Circuit Court of Appeals; District Court ruled mandate unconstitutional and struck down PPACA
- ***Kinder v. Geithner*** (LTG Peter Kinder): Dismissed in April; on appeal
- **Oklahoma's Lawsuit** (AG Scott Pruitt): Awaiting hearing

ALEC's Freedom of Choice in Health Care Act

- ***ALEC's model Freedom of Choice in Health Care Act*** protects an individual's right to pay directly for medical care, and blocks a government requirement to purchase health insurance.
- ***Freedom of Choice in Health Care Act, if passed by statute:***
 - Can provide standing to a state in a current lawsuit.
 - Allows a state to launch future litigation if current ones fail.
 - Allows an attorney general to litigate on behalf of individuals harmed by the mandate, starting in 2014.
- ***Freedom of Choice in Health Care Act, if passed by amendment:***
 - The above three things, plus ...
 - Prohibits a state-level mandate if PPACA is repealed or overturned.
 - Prohibits Canadian-style single-payer if PPACA is upheld.

The Stats Today



- ALEC spurred the introduction of the *Freedom of Choice in Health Care Act* in 44 states
- Ten states enacted it statutorily: VA, ID, AZ, GA, LA, MO, TN, ND, KS, IN
- Two states enacted it via constitutional amendment: AZ, OK
- Three states will have it on the 2012 ballot: WY, FL, MT
- One governor vetoed it: NC
- Two states have active petition initiatives: MS, OH
- Serves as basis for Virginia's *Commonwealth v. Sebelius*
- Virginia: First state to pass with D-controlled chamber
- Louisiana: First state to pass with D-controlled legislature

Contact Us!

Christie Herrera
Director, Health and Human Services Task Force
American Legislative Exchange Council
1101 Vermont Avenue, N.W. #1100
Washington, D.C. 20005
(202) 466-3800
christie@alec.org
<http://www.alec.org>