

Patient Protection and Affordable Care Act

LONG TERM CARE IN NEW HEALTH LAW

The Patient Protection and Affordable Care Act generates \$500 billion in Medicare savings. The savings come from overpayments to Medicare Advantage plans and reductions in payments to providers. Some of the provider reductions will come as a result of increased efficiencies in the Medicare program, while others will come from reducing the market basket (MB) -- inflationary payments -- to providers. Skilled nursing facilities, home health agencies, inpatient hospitals, hospices and other Medicare providers will see a 1 percent reduction in their annual MB updates in 2011 – 2014. These reductions come from recommendations made by Medicare Payment Advisory Committee (MedPAC), which reviews Medicare financing and health care delivery and issues a report twice a year. The same law also provides for higher payment to rural home health care providers. The law will also require home health agencies, nursing homes, and ambulatory surgical centers to implement Medicare value-purchasing programs, which will further reduce costs for the Medicare program. Apart from streamlining payments to providers, the new health law amends existing programs and enacts several new initiatives to address the long-term care needs of all Americans. The intent of the new provisions is to shift or rebalance Medicaid payments from institutions to home and community-based care.

Community First Choice Act

The new health law establishes the Community First Choice Option, which creates a new state plan option under Medicaid to provide community based attendant supports and services to individuals with disabilities who are Medicaid eligible and who require an institutional level of care. Services would be provided based on a functional assessment of needs. States are freed from the expenditure caps currently applicable in Home and Community Based-Services waiver programs, and those States that choose the Community First Choice Option will be eligible for an enhanced federal Medicaid match rate of an additional six percentage points for reimbursable expenses in the program. States have the option of providing coverage for attendant services necessary to assist eligible individuals with activities of daily living and other health related tasks. States can also use the funds to transition individuals from nursing homes. In those cases, states would be allowed to use the money in a number of ways, including rent and utility deposits, *first month's* rent and utilities, bedding, basic kitchen supplies and other necessities that would facilitate the individual's transition. This provision goes into effect on October 1, 2011. For more information, visit: <http://bit.ly/bR6eQu>.

In 2005, the "Money Follows the Person Rebalancing Demonstration" program was created to help states transition individuals from institutions to the community. The new health law extends this demonstration program – originally set to expire September 30, 2011 -- to 2015 and reduces the minimum nursing home residency requirement to 90 days, rather than 6 months. In 2007, CMS awarded \$1,435,709,479 in grants with states proposing to transition over 34,000 individuals out of institutional settings over the five-year demonstration period. Thirty states and the District of Columbia were awarded grants.

The health reform law also provides an incentive for states to devote more Medicaid funding toward community-based services. Currently, only 4 states spend more than 50% of their Medicaid dollars on HCBS. Under the new health law, states spending less than 50% of Medicaid long-term services and supports (LTSS) dollars on HCBS may receive a higher federal Medicaid match as an incentive to increase their HCBS spending. States spending less than 25% on HCBS as of 2009 must aim to reach 25% no later than October 1, 2015, while all other states must have targeted spending percentages of 50% by October 1, 2015. For more information, please visit: <http://bit.ly/9GdBCM>.

CLASS ACT

The new health law enacts the Community Living Assistance Services Support Act (CLASS Act), which creates a national long-term care insurance program financed through voluntary payroll deductions that will provide cash benefits to enrollees who are unable to perform two or three activities of daily living (ADLs). The program has a 5 year vesting period and would pay enrollees no less than \$50 per day to be used to offset the cost of long-term care services, including covering things like home modifications or paying for home health care aides. To participate, individuals must be age 18 or over and actively working. "Actively working" includes part time workers and is not based on the number of hours an individual works, but by meeting in one year the baseline Social Security earnings requirement for one quarter -- which is currently around \$1,200. The program should be available by October 1, 2012, but payouts will not begin until 2016. For more information, please visit: <http://bit.ly/cO46xC>.