Health Care Reform Proceeds toward an Uncertain Future

*Psychology advocates for the profession’s full inclusion as the Affordable Care Act of 2010 is implemented.*

Even as elements of the 2010 health care reform legislation known as the Patient Protection and Affordable Care Act (ACA) are implemented, the federal law is unfolding in a landscape of growing uncertainty. This article identifies several key environmental factors in play as of September 2011, followed by a brief summary of major aspects of the law and related advocacy efforts by organized psychology.

Much of the uncertainty surrounding health care reform relates to the long timeline for implementation, combined with political dynamics and stark budget realities.

Many of the ACA’s fundamental provisions do not take effect until January 2014—for example, the creation of state-level health insurance exchanges whereby health plans will be made available to individuals and small businesses. ACA is not slated for full implementation until 2015. Even so, several insurance market reforms including the elimination of lifetime and annual visit limits, prohibitions against retroactive cancellation of insurance coverage and denying coverage for children with pre-existing conditions, and benefit appeal rights took effect in September 2010. (See the sidebar on page 4 for more about the law’s basic provisions.)

**Political and economic dynamics**

According to Doug Walter, JD, legislative and regulatory counsel for the APA Practice Organization (APAPO), much of what ultimately happens to ACA will depend on who is president in 2013. “There’s a good chance the law will be re-examined if the White House changes parties following the November 2012 election,” Walter says.

Meanwhile, the partisan bickering in Congress that preceded the law’s passage has extended to its implementation. During the first half of 2011, the newly Republican-controlled House
voted to repeal the law and then to cut off funding, though the Senate countered these actions.

Congress’s legislative focus for the foreseeable future is on deficit reduction. Under the Budget Control Act of 2011, if a bipartisan deficit reduction committee representing both chambers of Congress fails by November 2011 to identify at least $1.2 trillion in savings over the next ten years, automatic cuts to Medicare and other programs will result. Similarly, Medicare and Medicaid services could be vulnerable to substantial payment reductions if the committee identifies the requisite budget savings, according to Walter. President Obama has announced his own ten-year deficit plan with significant cuts to Medicare and Medicaid over that period.

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Given the federal budget situation, another element of uncertainty involves funding for demonstration projects included in ACA. For example, psychologists are eligible to participate in a Community-based Collaborative Care Network Program and a Medicare Independence at Home demonstration project. However, according to Marilyn Richmond, JD, assistant executive director for government relations with the APA Practice Organization, “ACA demonstration project funding is unlikely when Congress is focused on cutting entitlement programs.”

Recent judicial actions also contribute to the uncertain future course of health care reform. As of September 2011, nearly 30 states had filed or signed onto lawsuits challenging ACA, notably the constitutionality of a central tenet: the mandate requiring individuals to have health insurance coverage. Six federal district courts had ruled on the issue and were evenly split on whether the individual mandate was constitutional. Three federal appeals courts had considered lower court decisions and also came to differing conclusions about constitutionality of the individual mandate. Many observers believe the disparate rulings increase the likelihood that the U.S. Supreme Court will consider the issue, perhaps in 2012.

Key elements of reform

Despite this environment, government officials and many others at the federal and state levels are forging ahead with health care reform implementation. Following is a brief summary of key aspects of ACA and related advocacy efforts by the APA Practice Organization and APA:

Integrated primary health care delivery models

ACA encourages accountable care organizations (ACO) and smaller-scale patient-centered medical homes (PCMH) as two models for comprehensive, integrated patient care led by primary care providers. ACOs contract with payers to provide a broad range of services to a designated population, with the goal of reducing costs while ensuring quality care. The PCMH model of care involves an interprofessional team of providers led by a personal physician delivering continuous and coordinated care to patients. Under these models, service delivery focuses on “whole person” care that recognizes the mind-body connection and the importance of integrating physical health services with mental and behavioral health services.

The APA Practice Organization and APA are advocating for psychologists’ ability to participate in these models. APA Chief Executive Officer Norman Anderson, PhD, and Executive Director for Professional Practice Katherine C. Nordal, PhD, commended the Department of Health and Human Services (HHS) for its decision to include psychologists among the providers eligible to participate in Medicare ACOs. In a June 2011 letter, the psychology leaders provided supportive comments to HHS regarding its draft proposal to establish ACOs and implement payments to participating providers, including psychologists, through the Medicare Shared Savings Program.

Recognizing strength in numbers, APA serves on the executive committee of the Patient Centered Primary Care Collaborative (PCPCC), a massive coalition intent on fostering the move toward patient-centered medical homes. The broad range of organizations participating in the PCPCC, numbering in the hundreds, includes health care professional associations, hospitals, large employers and health information technology firms, among others. APA is the sole association of its kind on the PCPCC executive committee and helps the coalition sharpen its focus on integrating mental and behavioral health into primary care, according to Dr. Nordal.
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**Expanded coverage for preventive services**
The APA Practice Organization supported the inclusion of preventive services in ACA. The law requires private health insurers to cover a variety of preventive services such as screenings for depression and counseling related to obesity as well as tobacco and drug use.

While pleased that the federal government is implementing new requirements for preventive services as a result of the law, organized psychology is addressing a problem with psychologists not being included among the “primary care professionals” eligible to provide these services in Medicare. In response to related decision making by the Centers for Medicare and Medicaid Services, Dr. Nordal has formally asked the federal agency to incorporate psychologists as eligible providers for services related to obesity and smoking cessation.

**Electronic health record keeping**
ACA builds on the 2009 law known as the Health Information Technology for Economic and Clinical Health (HITECH) Act, which substantially expanded the federal government’s effort to establish a national electronic health records (EHR) system by 2014. Proponents believe that, due to administrative and other efficiencies associated with health information technology, electronic records will substantially lower health care costs. Yet these record-keeping systems are expensive to implement.

The HITECH Act included incentive payments for designated providers—only physicians, dentists, podiatrists, chiropractors and optometrists, or those defined as “physicians” for purposes of Medicare law—to adopt EHR in their practices. The APAPO has since pursued legislation to include psychologists. A 2011 bill (S. 539) introduced by Sen. Sheldon Whitehouse (D-RI) would make psychologists and other excluded mental health providers eligible for the Medicare and Medicaid incentive payments. But the bill, along with companion legislation pending introduction in the House, faces an uphill climb toward passage. Any legislation that would increase federal health program costs is subject to intense scrutiny.

The APAPO’s multi-pronged legislative advocacy strategy would address the limitation in HITECH through yet another key initiative: adding psychologists to the Medicare definition of “physician.” As a result of persistent advocacy with members of Congress, including visits to

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**BASICS OF THE AFFORDABLE CARE ACT**

The Patient Protection and Affordable Care Act (ACA) passed in March 2010 preserves the U.S. system of employer-based health insurance while mandating a number of insurance market reforms. Health coverage is expanded to an estimated 32 million more Americans, while costs are lowered over the long term (according to the Congressional Budget Office).

The law seeks to transform the U.S. health system from one that reacts to health problems as they arise to one that focuses on addressing whole-patient health through initiatives that promote primary and integrated care, improve quality and emphasize prevention.

Several additional provisions of ACA supported by the APAPO and APA are particularly significant for practicing psychologists and consumers of psychological services:

- Restoration of Medicare payments for psychotherapy services following reductions in 2007
- New opportunities for psychologists to participate in primary and integrated care such as through community-based, interprofessional health teams
- Mandatory coverage of mental health and substance use disorder services, covered at parity with physical health services, as part of the essential benefit packages offered by plans participating in state-level health insurance exchanges
- Required inclusion of mental health as “basic services” in state Medicaid plans, also covered at parity with physical health services
- Prohibition against health plans excluding psychologists or other categories of health professionals from its network.

For additional details, see the article, “What the New Health Care Reform Law Means for You,” in the Summer 2010 issue of *Good Practice* magazine from the APA Practice Organization.
Capitol Hill by several hundred participants during the APAPO’s 2011 State Leadership Conference, bills in both the House (H.R. 831) and Senate (S.483) that would provide for this change in Medicare definition have growing numbers of cosponsors.

Focus on state-level implementation
Under ACA, states have particularly important roles regarding Medicaid expansion, the creation of health insurance exchanges (HIE) and regulations governing insurance companies that offer products through those exchanges. Medicaid programs and HIEs, along with the Children’s Health Insurance Program, serve as the predominant mechanisms whereby ACA will expand coverage to tens of millions of uninsured individuals. ACA puts the onus on states to be innovators in creating models of care through medical home grants and other integrated care initiatives.

So the APA Practice Organization has begun collaborating with state psychological associations to generate resources and expertise that state leaders can use to position psychology for maximal participation in health care reform. In its early stages, the joint initiative will focus on a few concrete issues that psychology needs to be knowledgeable about and plugged into: Medicaid redesign, state health exchange committees, partnering with primary care associations and accountable care organizations.

“State psychological association leaders need to be involved to help ensure that emerging models of care at the state level include behavioral health and psychological services. If we aren’t at the table, it’s because we’re on the menu.”  – Katherine C. Nordal, PhD

She and many other leaders at the national and state levels are working to ensure that professional psychology is well represented as ACA and state regulations related to health care reform are developed and implemented, and that psychologists are well positioned to participate fully in the evolving health care system.

ONLINE RESOURCES

apa.org/health-reform
American Psychological Association website content on health care reform

apapracticecentral.org/advocacy/reform/index.aspx
APA Practice Organization website content on health care reform

HealthCare.gov
Federal government website devoted to health care reform managed by the U.S. Department of Health and Human Services

healthreform.kff.org
Health Reform Source, The Henry J. Kaiser Family Foundation

pcpcc.net/providers-and-clinicians
Information for providers and clinicians at the Patient Centered Primary Care Collaborative website

statereforum.org
National Academy of State Health Plans website