

The Impact of the Affordable Care Act on People with Intellectual and Developmental Disabilities: Post Supreme Court Decision

NC Council on
Developmental Disabilities
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North Carolina Institute of Medicine

- Quasi-state agency chartered in 1983 by the NC General Assembly to:
 - Be concerned with the health of the people of North Carolina
 - Monitor and study health matters
 - Respond authoritatively when found advisable
 - Respond to requests from outside sources for analysis and advice when this will aid in forming a basis for health policy decisions

NCGS §90-470



National Health Reform Legislation

- Patient Protection and Affordable Care Act (HR 3590) (signed into law March 23, 2010)
- Health Care and Education Affordability Act of 2010 (HR 4872) (also referred to as “reconciliation”)
 - **The combined bills are often referred to as the Affordable Care Act (or ACA)**

NC Implementation Efforts

- Eight different workgroups examined different aspects of the ACA.
- All the work of the separate workgroups were coordinated by an Overall Advisory group
 - Chaired by: Al Delia, Secretary, NC Department of Health and Human Services;* Wayne Goodwin, Commissioner, NC Department of Insurance.
 - Goal was to ensure that the decisions made in implementing health reform are in the best interest for the state as a whole.
 - More than 260 people from across the state involved.



*Lanier Cansler was co-chair when he was Secretary of NC Department of Health and Human Services

NC Foundations

- Health reform workgroups supported by generous grants from:
 - Kate B. Reynolds Charitable Trust
 - Blue Cross and Blue Shield of North Carolina Foundation
 - The Duke Endowment
 - John Rex Endowment
 - Cone Health Foundation
 - Reidsville Area Foundation

Four Key Health Challenges Facing People with I/DD Addressed by the ACA

- 1) Lack of insurance coverage
- 2) Scope of coverage for services and supports needed by people with I/DD
- 2) Poor overall population health status
- 3) Poor or uneven quality of care

Problem #1: Lack of Insurance Coverage

- Almost 50 million nonelderly people (18%) who were uninsured in the US in 2010.
 - Approximately 1.6 million uninsured in North Carolina (19% of the nonelderly population).
- Being uninsured has a profound impact on health and financial wellbeing.

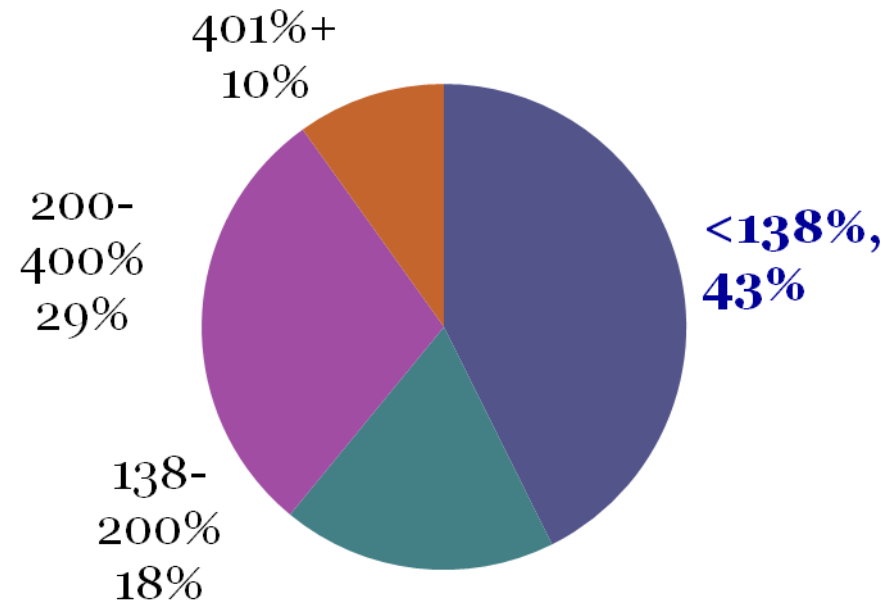
Lack of Insurance Coverage

- Some people with intellectual or other developmental disabilities may be eligible for health insurance coverage under Medicaid, CHIP, Medicare, or private insurance coverage.
- Others, or their family members, are uninsured.

Uninsured in North Carolina

- Approximately 1.6 million uninsured nonelderly in North Carolina (~20% of the nonelderly population) in 2009-2010.
- Children in families with incomes below poverty had higher prevalence of developmental disabilities.

Most Uninsured Low or Moderate Income



NCIOM. Characteristics of Uninsured in North Carolina. 2009-2010. http://www.nciom.org/wp-content/uploads/2010/08/Uninsured-Snapshot_0910.pdf. National Center for Birth Defects and Disabilities. <http://www.cdc.gov/ncbddd/features/birthdefects-dd-keyfindings.html>

Overview of Insurance Coverage Provisions (as enacted)

- By 2014, the bill requires most people to have health insurance and large employers (50+ employees) to provide health insurance--or pay a penalty.
 - Builds on our current system of public coverage, employer-sponsored insurance, and individual (non-group) coverage.

US Supreme Court

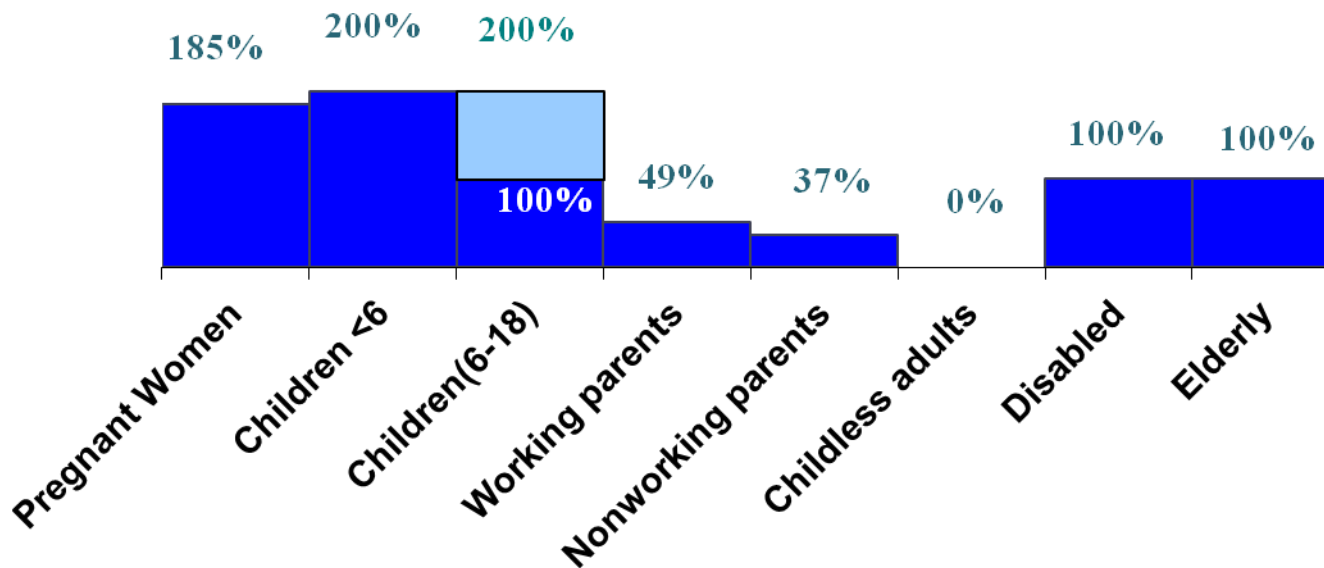
- US Supreme Court heard challenges to the constitutionality of the ACA in March
- Chief Justice Roberts issued the opinion for the majority of the court
 - Upheld the constitutionality of the individual mandate
 - Held that the Medicaid expansion, as initially enacted, was unconstitutionally coercive to the states.
 - Essentially, created a voluntary Medicaid expansion.
 - Left the rest of the ACA intact.

Insurance Coverage: Post Supreme Court Decision

- Most people will be required to have health insurance coverage in 2014. People can gain coverage through:
 - 1) Medicaid expansion (optional to the states)
 - 2) Employer-based coverage
 - 3) Individual (non-group coverage)

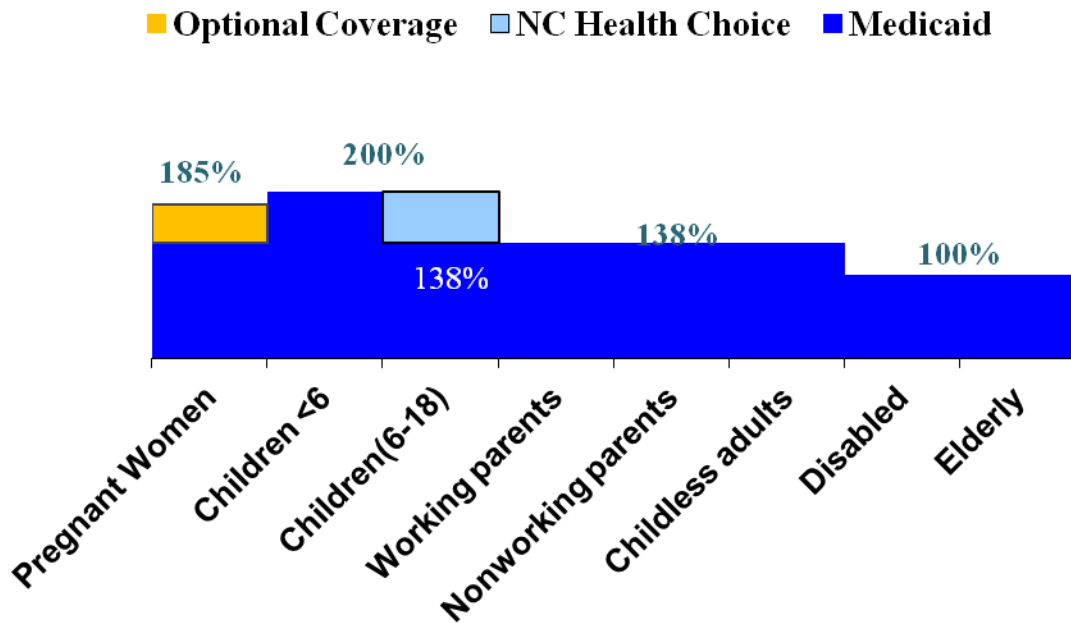
Existing NC Medicaid Income Eligibility (2012)

■ NC Health Choice ■ Medicaid



Currently, childless, non-disabled, non-elderly adults can not qualify for Medicaid

NC Medicaid Income Eligibility if Expanded (2014)



- If the state chooses to expand Medicaid in 2014, adults will be able to qualify for Medicaid if their income is no greater than 138% FPL, (\$31,809 for a family of four (2012)).
- No longer need to show a disability if income is below 138%.

Source: Affordable Care Act (Sec. 2001, 2002). The ACA expands Medicaid for adults up to 133% FPL, but also includes a 5% income disregard. Effectively, this raised the income limits to 138% FPL.

Outreach and Enrollment Assistance

- Medicaid must conduct outreach to vulnerable populations (Sec. 2201)
- Simplified application and verification process.

Employer Based Coverage

- Employers with 50 or more full-time employees required to offer insurance or pay penalty (Sec. 1201, 1513, amended Sec. 1003 Reconciliation)
- Employers with less than 50 full-time employees exempt from penalties. (Sec. 1513(d)(2))

Individual Coverage

- Citizens and legal immigrants will be required to pay penalty if they do not have qualified health insurance, unless exempt. (Sec. 1312(d), 1501, amended Sec. 1002 in Reconciliation)
 - Refundable, advanceable premium credits will be available to individuals with incomes between 100-400% FPL on a sliding scale basis, *if* not eligible for government coverage or affordable employer-sponsored insurance (Sec. 1401, as amended by Sec. 1001 of Reconciliation)



*No individual or family will have to pay more in penalties than they would have paid for the lowest cost bronze plan.

Most Low-Income Uninsured are Ineligible for Subsidies

- The ACA envisioned that most low-income people would gain coverage through Medicaid.
- **If states chooses not to expand Medicaid, low income people (with incomes <100% FPL) will not be eligible for subsidies in the Health Benefits Exchange.**
 - The ACA limits subsidies to individuals with incomes that exceed 100% FPL (Sec. 1401, amending Sec. 36B(c)(1) of the Internal Revenue Code).

Health Benefits Exchange

- States (or the federal government) will create a Health Benefits Exchange for individuals and small businesses. (Sec. 1311, 1321)
- Exchanges will:
 - Provide standardized information (including quality, costs, and network providers) to help consumers and small businesses choose between qualified health plans.
 - Determine eligibility for the subsidy.
 - Facilitate enrollment for HBE, Medicaid and NC Health Choice through use of patient navigators.

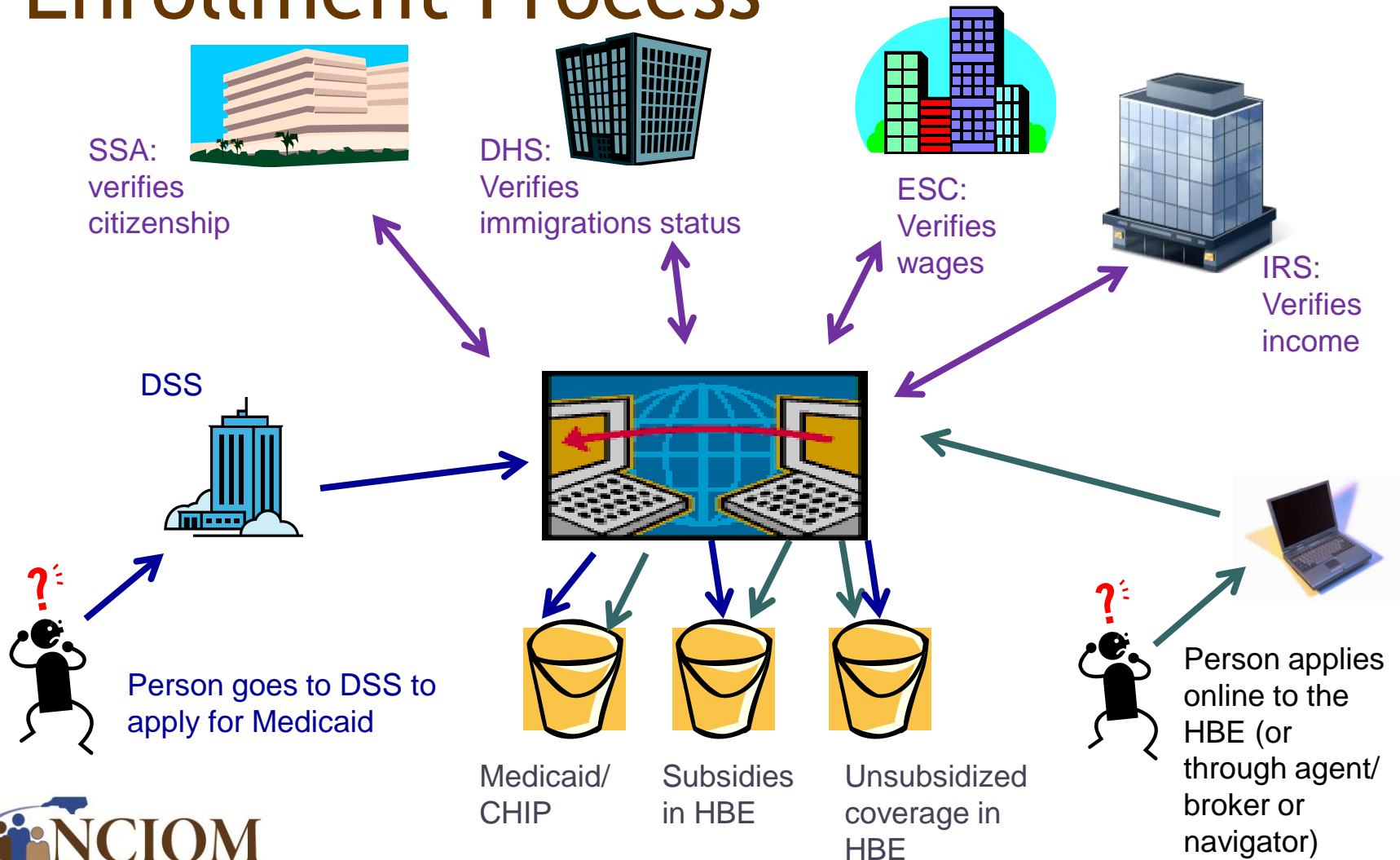
Outreach and Enrollment Assistance

- Health Benefit Exchange must:
 - Operate toll-free hotline.
 - Provide information to help people understand their insurance options.
 - Contract with patient navigators to help individuals enroll into plans.

No Wrong Door

- No wrong door approach” between Medicaid and HBE (Sec. 1311, 1411, 1413)
 - Individuals who apply for health insurance through the HBE will have their eligibility determined for Medicaid.
 - Those who apply for Medicaid will have their eligibility determined for HBE subsidies.

Simplified Application and Enrollment Process



Coverage Expansion: Impact on North Carolina

- State data suggests that 700,000 uninsured people could gain coverage in 2014. Of these,
 - 300,000 (~43%) would be eligible for subsidized coverage through a newly created Health Benefits Exchange. (Milliman report, 2011)
 - 400,000 (~57%) would gain coverage through the Medicaid expansion, if the state chooses to expand Medicaid. (Division of Medical Assistance, preliminary estimates, 2011)
- Because of the Supreme Court decision, Medicaid expansion is now optional to the state.

Coverage Expansion: Impact on North Carolina

- State must decide if it will expand Medicaid to individuals with incomes up to 138% FPG.
 - Would provide coverage to some people with IDD who are currently uninsured.
 - Would extend coverage to many parents or family members of people with IDD who are currently uninsured.
 - Could also extend coverage to the direct care workers who provide services and supports to people with IDD.
- If state does not to expand coverage, lowest income people will not gain coverage under the law.

Other ACA Changes Affecting Insurance Coverage

- Currently, insurers:
 - Must allow parents to cover children on their health insurance plans until the child reaches age 26
 - May not discriminate against children on the basis of their preexisting health status
- In 2014, insurers will be prohibited from:
 - Discriminating against people or charge them more based on preexisting health problems (Effective 2014; Sec. 1201)
 - Including annual or lifetime limits for essential benefits (Sec. 1001, 10101)

Problem #2: Lack of Coverage for Long-Term Services and Supports

- Commercial health insurance coverage historically lacked coverage for habilitative or long-term services and supports.
- North Carolina Medicaid program emphasizes institutional care rather than community-based services and supports.

Commercial Insurance Coverage

- Historically, commercial insurance coverage did not cover:
 - Long term services and supports (such as direct care workers, housing supports, assistive technology)
 - Habilitative services.
- Coverage of mental health and substance abuse services generally more limited than coverage for physical health services.

Essential Benefits Package

- Beginning 2014, qualified health plans offered to small employers or people purchasing health insurance directly (non-group plans) must provide essential health care benefits package that includes:* (Sec. 1302)
 - Hospital services; professional services; prescription drugs; mental health and substance use disorders; and maternity care
 - Must also cover rehabilitative and **habilitative services**.
 - No guidance yet on what insurers must cover for habilitative services.



* With some exceptions, existing grandfathered plans not required to meet new benefit standards or essential health benefits.

Most Private Plans Must Cover Preventive Services*

- Most insurance must also cover:
 - Well-baby, well-child care, oral health and vision services for children under age 21 (Sec. 1001, 1302)
 - Includes developmental and autism screenings, and developmental surveillance for children.
 - Recommended preventive services with no cost-sharing and all recommended immunizations (Sec. 1001, 10406)
 - **Mental health and substance abuse parity law applies to qualified health plans (Sec. 1311(j))**

North Carolina More Reliant on Institutional Care than Other States

- “North Carolina relies on developmental centers, community ICFs/MR, nursing homes and adult care homes to serve people with intellectual and other developmental disabilities to an extraordinary extent. As a result, opportunities for individuals to receive services in the most integrated setting are reduced.” (Responding to the Needs of People with Intellectual and Other Developmental Disabilities in North Carolina. Planning Context. August 2011).

New Medicaid Options to Expand Home and Community-Based Services

- ACA provides states with greater opportunities to provide home and community based services to individuals in need:
 - *Community First Choice Option.* States can provide home and community-based attendant services and supports to people eligible for Medicaid whose income does not exceed 150% FPL, or higher if they would otherwise need institutional care. (Effective Oct. 2011; Sec. 2401, amended by Sec. 1205 of Reconciliation; 6 percentage point increase in FMAP for specific services)

New Medicaid Options to Expand Home and Community-Based Services

- *State Balancing Incentive Program*. States can expand services and supports to people who would not otherwise need institutional level of care. Division of Medical Assistance has a workgroup to examine use of this option for people with IDD. (Effective Oct. 2011 – Sept. 2015; Sec. 10202; eligible for 2 percentage point increase in FMAP for non-institutionally based services and supports.)

- *Money Follows the Person (MFP)*. North Carolina received additional funding to support moving people from institutional settings to community based settings (Sec. 2403).
 - Since 2009, 89 people with IDD moved out of institutional settings.

Problem #3: Population Health

- North Carolina ranks 32nd of the 50 states in population health measures. (America's Health Rankings, 2011)
- Compared to adults without disabilities, adults with IDD in North Carolina:
 - Are more likely to report leading a sedentary lifestyle and having inadequate emotional support.
 - Are more likely to report being in fair or poor health.
 - Have similar or greater risk of having chronic health problems.

Havercamp S, et. al. Health Disparities Among Adults with Developmental Disabilities, Adults with other Disabilities, and Adults Not Reporting Disability in North Carolina. 2004.

Affordable Care Act

- Prevention and Public Health Fund to invest in prevention, wellness, and public health activities (Sec. 4002)
 - Appropriates \$1 billion in FY 2012 increasing to \$2 billion over time.
 - Priority areas for the national public health agenda includes health promotion and disease prevention to address lifestyle behavior modification (including smoking cessation, proper nutrition, exercise, mental health, behavioral health, substance use disorder, and domestic violence screenings). (Sec. 4001)

ACA Prevention Grants

- North Carolina has received ACA funds to support greater investment in prevention and health promotion. For example:
 - ~\$7.5 million in Community Transformation Grant (CTG) funds to support multi-faceted interventions for tobacco free living, active living and healthy eating, and use of evidence-based clinical and other preventive services.
 - DPH has another grant to ensure that communities understand and consider the needs of people with disabilities as they develop their regional CTG plans.

Impact on People with IDD

- Greater emphasis on prevention for all North Carolinians, including people with disabilities.
- May be future funding options to focus on prevention activities on people with disabilities, including people with IDD.

Problem #4: Quality

- *To Err is Human* estimated that preventable medical errors in hospitals led to between 44,000-98,000 deaths in 1997. (Institute of Medicine, 1999)
- People only receive about half of all recommended ambulatory care treatments. (E. McGlynn, et. al. *NEJM*, 2003; Mangione-Smith, et. al. *NEJM*, 2007)

Affordable Care Act

- The ACA directs the HHS Secretary to establish national strategy to improve health care quality.
(Sec. 3011-3015, 10305, 10331)
 - Funding to CMS to develop quality measures.
 - Plan for the collection and public reporting of quality data.
 - Move towards value based purchasing.
 - Funding to support comparative effectiveness research.
 - Funding for new models of care which change reimbursement to reward quality and health outcomes.

Affordable Care Act

- Opportunities to test new models of care delivery and payment models
- New models of care will reward health professionals and health care systems for:
 - 1) Improving population health
 - 2) Improving health care quality and health outcomes
 - 3) Reducing health care costs

Impact on People with IDD

- None of the “new models” specifically target people with IDD.
 - However, people with IDD will be included in many of the state’s efforts that involve people with disabilities.
- Several of the ACA provisions are likely to benefit people with IDD.
 - Patient centered medical homes
 - Care transitions (to prevent hospital readmissions).
 - Primary care and mental health/substance abuse integration.

Other Provisions to Improve Quality for People with Disabilities

- ACA requires the development of new standards for medical diagnostic exam equipment to ensure it is accessible for people with disabilities. (ACA, Sec. 4203. <http://www.access-board.gov/mde/nprm.htm>)
- New standards for data collection in national surveys requires collection of data on disability status (ACA Sec. 3101).
- Potential for new funding to develop model curricula to increase ability of health professionals to work with people with disabilities. (ACA, Sec. 5307)

Summary: ACA Opportunities

- Opportunities:
 - More people with IDD and their family members will gain insurance coverage and coverage will be more affordable to many.
 - Greater emphasis on prevention.
 - Greater emphasis on measuring and improving quality of care and patient outcomes.
 - Greater commitment to addressing underlying mental health and substance abuse problems.

Summary: ACA Challenges

- The ACA also creates challenges:
 - If state chooses not to expand Medicaid, the poorest people will lack insurance coverage and they will be ineligible for subsidies.
 - May not be sufficient provider supply in 2014 to handle health care needs of newly insured.
 - PPACA may not immediately reduce health care cost escalation (although offers the potential for longer term cost savings).

NCIOM Health Reform Resources

- Implementation of the Affordable Care Act in North Carolina. <http://www.nciom.org/wp-content/uploads/2011/03/HR-Interim-Report.pdf>
- Implementation of the Affordable Care Act in North Carolina. *NCMJ*, May/June 2011;72(2):155-159. <http://www.ncmedicaljournal.com/wp-content/uploads/2011/03/72218-web.pdf>
- What Does Health Reform Mean for North Carolina? *NCMJ*, May/June 2010;71:3 <http://www.ncmedicaljournal.com/archives/?what-does-health-reform-mean-for-north-carolina>
- NCIOM: North Carolina data on the uninsured <http://www.nciom.org/nc-health-data/uninsured-snapshots/>
- Other resources on health reform are available at: <http://www.nciom.org/task-forces-and-projects/?aca-info>

National Health Reform Resources

- Patient Protection and Affordable Care Act.
Consolidated Bill Text
<http://docs.house.gov/energycommerce/ppacacon.pdf>
- US Health Reform website
www.healthcare.gov
- National Federation of Independent Business v. Sebelius
<http://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf>
- Congressional Budget Office. Selected CBO Publications
Related to Health Care Legislation, 2009-2010.
<http://www.cbo.gov/ftpdocs/120xx/doc12033/12-23-SelectedHealthcarePublications.pdf>
- Kaiser Family Foundation
<http://healthreform.kff.org/>

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