Overview & Update
Federal Health Care Reform

Alaska Health Care Commission Meeting

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Presentation Overview

- Legal Challenges & Political Realities
- Status of Federal Implementation
- Structure of the Affordable Care Act
- Key Provisions in the Act (with Alaska Updates)
- Alaska Impact
- Timeline for Implementation

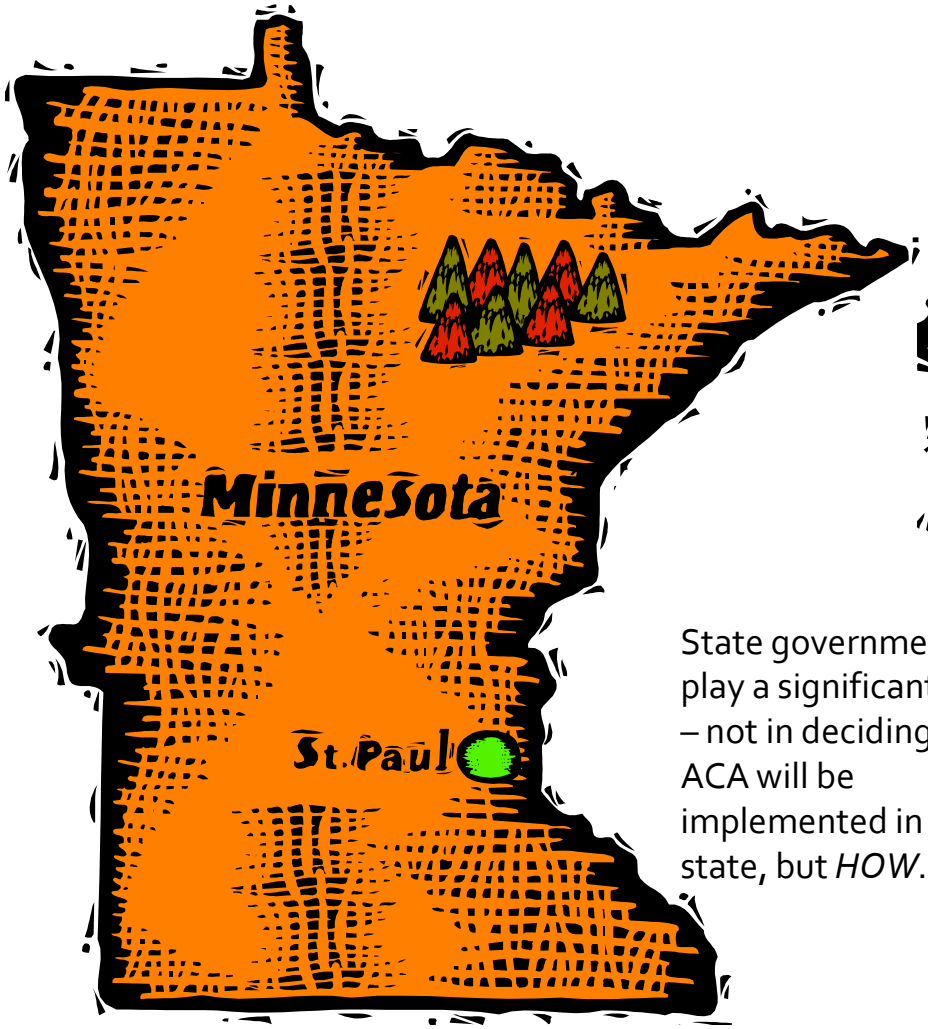
Legal Challenges & Political Realities

- Alaska is participating as a plaintiff in the 26-state lawsuit led by Florida. (11th Circuit)
- Challenging the Constitutionality of:
  - The individual mandate requiring individuals to purchase health insurance
  - Unfunded mandates imposed on state governments (Medicaid Expansion)
  - Question regarding severability
- Appellate Court Ruling Scorecard:
  - 1 ruling upheld ACA (6th Circuit)
  - 1 ruling against individual mandate, but upheld Medicaid expansion (11th Circuit)
  - 1 ruling avoided merits of the case; ruled against plaintiffs on jurisdictional grounds (4th Circuit)
  - 1 pending (D.C. Circuit)
  - Supreme Court Review – June 2012?

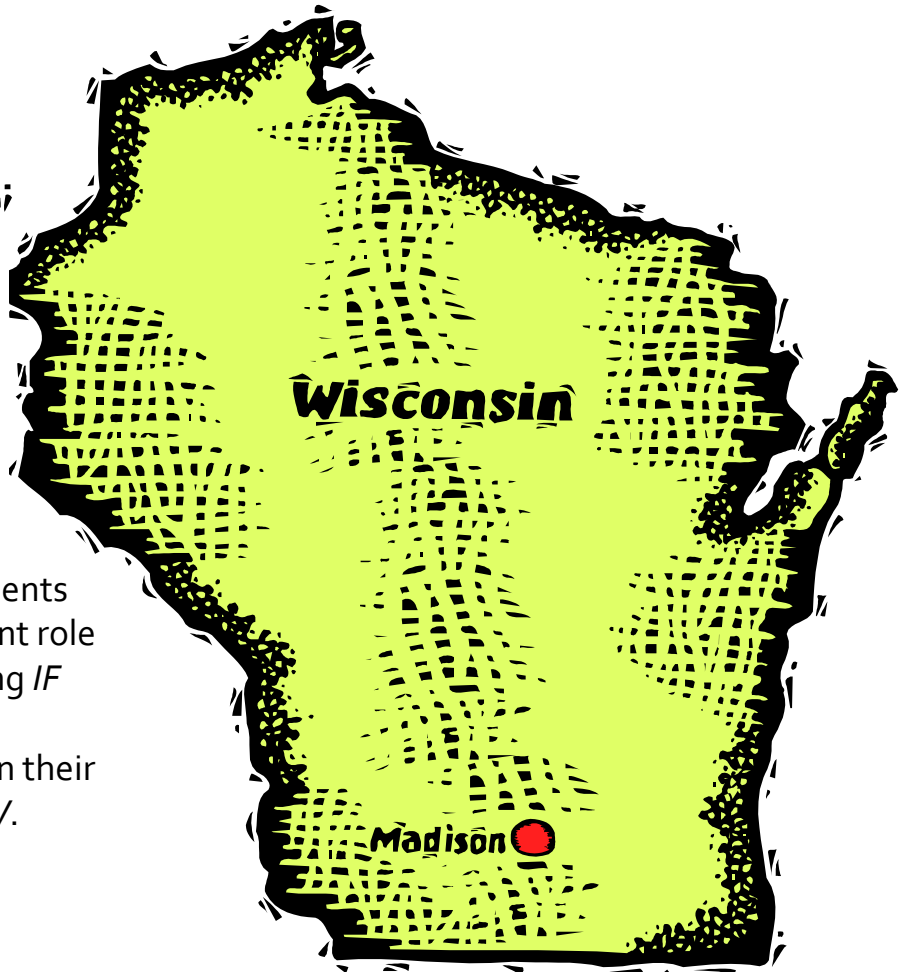
Legal Challenges & Political Realities

- **What has the 2010 election meant for the ACA?**
  - There's a big difference between campaigning and legislating….
  - Wholesale repeal unlikely
  - Increased congressional oversight of implementation
  - Provisions with no appropriation in original bill may not be funded
  - Some provisions are supported by GOP (e.g., fraud and abuse)
  - Repeal of some provisions would increase deficit

Legal Challenges & Political Realities



State governments play a significant role – not in deciding *IF* ACA will be implemented in their state, but *HOW*.



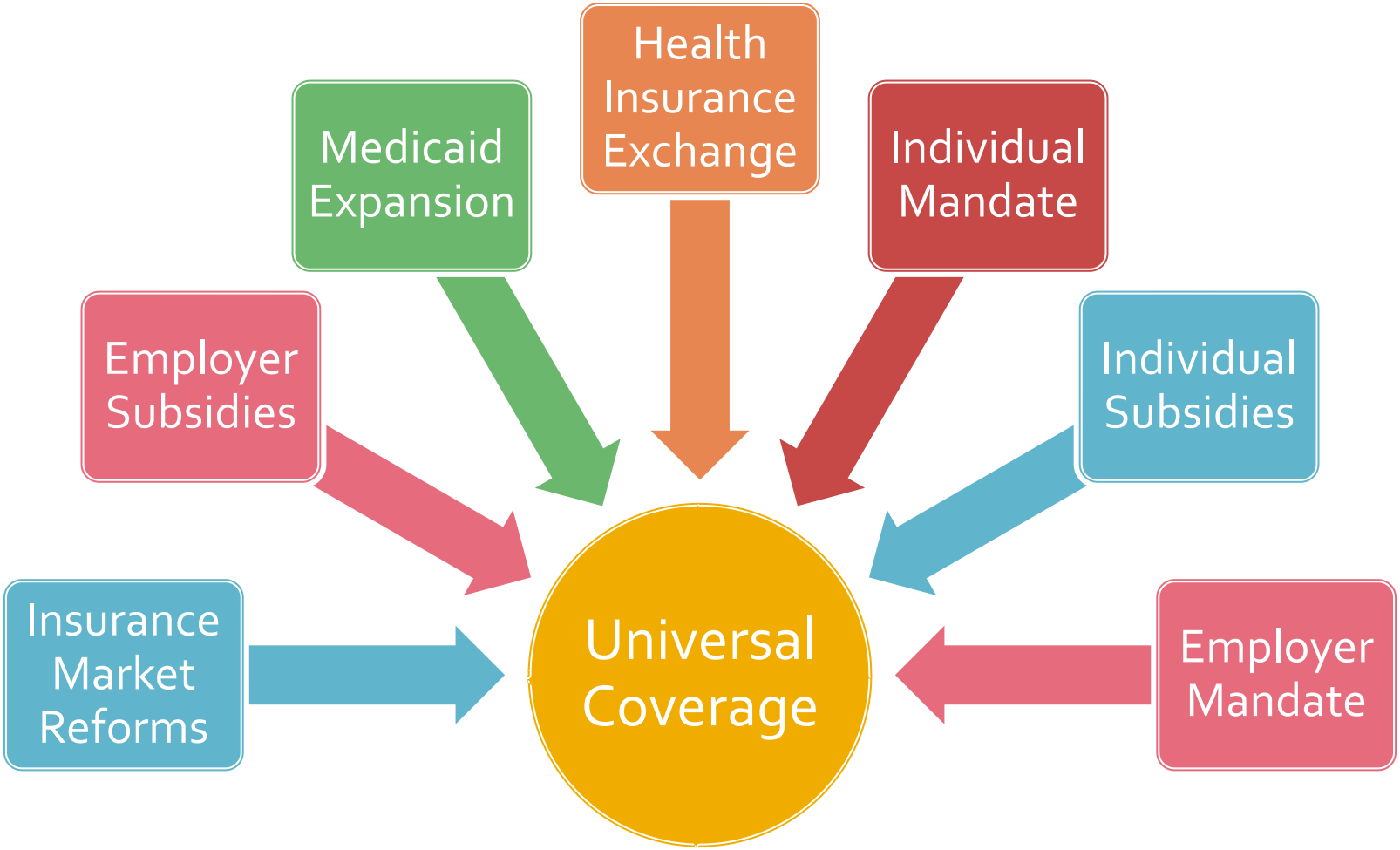
Federal Implementation To-Date

- Three new federal laws enacted March and April 2010
  - P.L. 111-148: The Patient Protection & Affordable Care Act
  - P.L. 111-152: The Health Care and Education Reconciliation Act
  - P.L. 111-159: TRICARE Affirmation Act
- Scores of funding opportunities released to-date
- 34 Regulation packages released to-date
- 4 New federal offices established; 1 new non-profit
- 4 New councils/boards/committees formed
- New website live – www.healthcare.gov

Components of the Act

- Health Care Coverage (Titles I & II)
- Health Care Delivery (Title III)
- Prevention and Public Health (Title IV)
- Health Care Workforce (Title V)
- Fraud and Abuse (Title VI)
- Medical Technology (Title VII)
- Community Living Assistance (Title VIII)
- Taxes and Fees (Title IX)
- Amendments (Title X)

Move Towards Universal Coverage



Insurance Market Reforms

- New Private Insurance Market Rules
  - Exclusions for pre-existing conditions prohibited
    - For children in 2010
    - For adults in 2014
  - Dependent coverage extended to 26 years of age (2010)
  - Lifetime limits prohibited (2010)
  - Annual limits restricted (2010), then prohibited (2014)
  - Prohibition on rescissions (2010)
  - Medical Loss Ratio: Reporting (2010); Restricted (2011)
  - Guaranteed issue and renewal rules (2014)
  - Adjusted community rating rules limit variations in premiums to region, tobacco use, age, and family composition (2014)
  - Gender discrimination prohibited

Insurance Market Reforms

- New Insurance Plan Options
  - Temporary high-risk health insurance pool (2010 - 2014)
    - *Alaska Update: Alaska's ACHIA Fed Pre-Existing Conditions Plan started 8/1/10; there were 47 Alaskans enrolled as of 9/30/11*
  - Health Care Cooperatives ("Co-Ops") (2013)
    - Non-profit member-operated health insurance companies created through loans and grants
  - Multi-state health plans (2014)
  - Health Choice Compacts (2016)

Insurance Market Reforms

- State Insurance Oversight and Consumer Assistance
  - Review of Health Plan Premiums (2010)
    - *Alaska Update: SOA declined fed funds as unnecessary and potentially burdensome; HB 164 passed during 2011 legislative session expanded authority of AK Division of Insurance to pre-approve rate increases for all private health insurers operating in Alaska; Alaska was deemed by US DHHS as having an effective review program in July 2011.*
  - State Consumer Assistance Programs (2010)
    - *Alaska Update: SOA declined fed funds as unnecessary and potentially burdensome; AK Division of Insurance maintains an adequately staffed consumer assistance program.*

Employer Subsidies

- Tax Credit (2010)
  - For businesses with <= 25 employees and average annual wages < $50,000

- Temporary Early Retiree Reinsurance Program (2010 - 2014)
  - Employers reimbursed 80% of retiree claims between $15,000 and $90,000 until 2014
  - *Alaska Update: 8 employers enrolled; $1.1 million in reimbursement received as of Sept 2011*

Medicaid Expansion

- Eligibility expanded to all individuals/families under 65 years of age up to 133% FPL (2014)
- State share phased in 2017-2020 (max 10%)
- Alaska preliminary mid-range estimate
  - 30,000 new enrollees
  - Cost to State = $20 M/year
- State option to implement immediately (2010)

Health Insurance Exchange (HIX)

- Electronic Market Place for Purchasing Insurance
  - State-based; Multi-state option
  - May be administered by gov't agency or non-profit
  - State gov't opt-out provision (fed gov't will then establish state's exchange) (2013)
  - For individuals and small business (<100 employees) (2014)
    - Federal subsidies for individuals will be applied through the exchange
    - Interface with State's Medicaid eligibility and enrollment system required
    - Large businesses allowed to participate starting 2017
  - Required to be self-sustaining (2015)
- Grants to states for planning and implementation (2010)
  - *Alaska Update: SOA declined fed funds as unnecessary and potentially burdensome, but is utilizing available funds to solicit contract with consultant to advise on design – RFP released Sept 2011, contract to be awarded Nov 2011; Alaska Medicaid's Children's Health Insurance Program (CHIP) has won a number of financial awards from the federal gov for high performance in CHIP enrollment, and is being used as a model at the national level in the design of streamlined eligibility process and outreach templates for HIXs.*
- State innovation waiver (2017)

Individual Mandate

- Individuals must have a qualified health plan or pay a tax penalty (2014)
  - Tax penalty $695/year (Family capped at 3x individual penalty ($2,085)) or 2.5% of household income, whichever is greater (phased in)
  - Exemptions include
    - Financial hardship
    - Religion
    - American Indians/Alaskan Natives
    - Lowest cost option exceeds 8% of income

Individual Subsidies

- Premium Credits (2014)
  - Refundable/Advanceable credits for purchase of insurance through the Exchange
  - Individuals/families with incomes between 133%-400% FPL
  - Amounts tied to cost of plan and set on sliding scale based on income level
- Cost Sharing Subsidies (2014)
  - Individuals/families between 100% - 400% FPL

Employer Mandate

- < 50 employees: Exempt
- > 50 employees - if 1 or more employee receives subsidy:
  - And employer does not offer coverage, employer required to pay fee of $2,000/FTE (1st 30 FTEs excluded)
  - And employer provides coverage, employer required to pay fee of $2,000/FTE or $3,000 per subsidized employee (whichever is less)
- > 200 employees: Required to auto-enroll new employees
- Provide voucher to employees with incomes less than 400% FPL who chose to participate in Exchange
- Report value of health care benefits on employees' W-2 (2011)
  - IRS issued notice making this requirement optional for large employers (>250 employees) until 2012 and for small employers until 2013.

Health Care Delivery

- Evidence-Based Practice (Comparative Effectiveness Research)
  - New non-profit Patient-Centered Outcomes Research Institute was established Sept 2010
- Quality Improvement (National Strategy)
  - National Health Care Quality Strategy report was issued March 2011
- Care Coordination and Service Integration
  - Community-Based Care Transitions Program *at least 1 AK HC provider intends to apply*
  - Primary Care & Behavioral Health Service Integration *grants to AICS (Wrangell) & SCF*
- Trauma System Enhancement *(funds not appropriated)*
- Enhanced funding for Community Health Centers
  - *Alaska Update: $9.5 million in new and increased community health center funds awarded in Alaska as of Aug 2011; plus 13 Akn CHCs awarded $35k each Sept 2011 for PCMH transition*
- Primary Care Enhancement
  - Medicare 10% bonus to primary care physicians (2011–2015)
  - Medicaid Medical Home State Plan Option (90% FMAP for 2 years) (2011) *AK Medicaid program will wait until medical home program fully operational to exercise option, as there is no expiration date on the option, and the 2-year clock on the enhanced FMAP starts ticking as soon as the State's application is approved by feds*
  - Increase Medicaid payment to Medicare rate *(n/a in AK)*

Payment Reform

- Center for Medicare & Medicaid Innovation (2011)
- Multi-Payer Advanced Primary Care Practice Demo (2011)
- Medicare Payment Reform ACA Provisions
  - Independent Payment Advisory Board (2011; 1st rpt due 2014)
  - FQHC Advanced PCP Demo (2011)
  - Hospital readmission reduction program (2012)
  - Shared savings program (Accountable Care Organizations) (2012)
  - Hospital value-based purchasing program (2012)
  - Bundled payment (episodes of care) pilot (2013)
  - Physician fee schedule value-based payment modifier (2015)
  - Payment adjustments for hospital-acquired conditions (2015)
- Medicaid Payment Reform ACA Provisions
  - Non-payment for healthcare-acquired conditions (2011)
  - Pediatric ACO demonstration (2012)
  - Hospital bundled payment (episodes of care) demonstration (2013)

Prevention & Public Health

- National Prevention Council and Fund
- Coverage of clinical preventive services
- Nutrition labeling on menus
- Community wellness grants
- Healthy lifestyles incentives (Medicare and Medicaid)
- Immunization program
- Epidemiology & PH laboratory capacity
- Childhood obesity demonstration project
- Maternal and child health programs

Alaska Update: Approximately $7 M in grants for public health, prevention, workforce development, and programs for aged/disabled have been awarded to-date in AK; it's important to note that a number of these grants were previously authorized and funded but were reauthorized under and now appear as ACA programs

Health Care Workforce

- National HC Workforce Commission
- National health care workforce assessment
- National Health Service Corps increased
- State health care workforce plans
  - *Alaska Update: AK Dept of Labor and WF Development awarded grant last year, which was used to support AK Health Workforce Coalition and development of their recently released Action Plan*
- Recruitment and retention programs
- Training and education programs
  - Rural physician training grants
  - Area Health Education Center (AHEC) expansion
  - GME (graduate medical education) improvements
    - Resident training in community-based settings
    - Redistribution of GME slots

Fraud & Abuse

"2011 will be a turning point for compliance programs…."

Report on Medicare Compliance
January 17, 2011

"The stress level for compliance professionals will go off the charts this year."

Roy Snell, President
Health Care Compliance Association
January 17, 2011

ACA includes 32 sections on health care fraud and abuse and program integrity

Fraud & Abuse

- New Provider Enrollment Processes
- Data Sharing Across Federal Programs
- Overpayment Recovery Expanded
- Increased Penalties
- Disclosure of Financial Relationships Required
- Compliance Plans Required

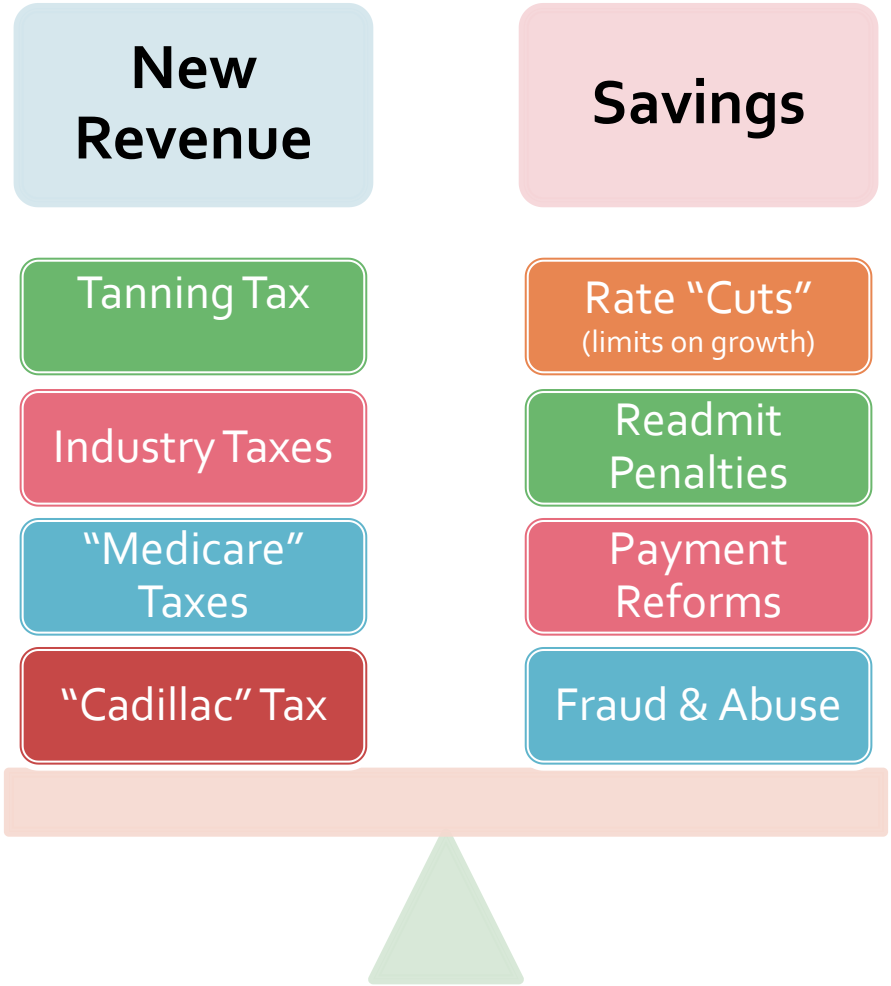
Fraud & Abuse

- New Medicaid RAC Program
  - Federal regulations released September 2011
  - State Medicaid Program required to implement RAC Program by January 2012
  - *Alaska Update: AK DHSS is evaluating how to align new Medicaid RAC program with Medicaid audit program mandated under State law to minimize impact on providers.*

Community Living Assistance

- New long-term care insurance program (2011)
  - Voluntary
  - 5-year vesting
  - Cash benefit
    - to help aged/disabled stay in home or
    - cover nursing home costs

How the Act Pays for Itself



New Fees & Taxes

- 10% sales tax on indoor tanning (2010)
- $2.8 billion annual fee on pharmaceutical industry (2012; increasing over time)
- 2.3% sales tax on medical devices (2013)
  - Glasses, contacts, hearing aids exempt
- Medicare payroll tax increased from 1.45% to 2.35% for individuals >$200K and couples >$250K; no increase to employer share (2013)
- New 3.8% Medicare tax on unearned income for individuals >$200K and couples >$250K (2013)
- Tax deduction for employers receiving Medicare Part D retiree subsidy eliminated (2013)
- $8 billion annual fee on health insurance industry (2014; increasing over time)
- Excise tax on employer-sponsored high-value insurance plans (2018)
  - "Cadillac Plans" tax imposed on plans valued at more than $10,200 for an individual plan and $27,500 for family coverage

Other Provisions

- Amends FLSA to require break times/locations for nursing mothers
- Alaska Federal Health Care Access Task Force
  - *Alaska Update: Convened Jul-Aug 2010, produced report Sept 2010, dissolved with production of report.*
- Medicare "Donut Hole" Closure
  - *2,329 Alaskans received $250 rebate in 2010; in 2011 those in the donut hole are receiving a 50% discount on covered brand name prescription drugs*
- Elder Justice Act
- Indian Health Care Improvement Act Reauthorized

Alaska Impact 2019 (MAFA Projections)

- Increase in health care spending: +$289 M
  - State of Alaska: +41 M
  - Alaska Households: $124 M
  - Federal Gov: $124 M

- Increase in insurance coverage: +53,000 Alaskans
  - Medicare: 0
  - Medicaid: +38,000
  - Employer sponsored: - 45,000
  - Exchanges: +78,000 (60% supported by fed subsidies)
  - Other Private: - 18,000
  - Other Public: 0

Timeline

- **2010**
  - Smallest employers (<=25 FTEs) eligible for tax credits
  - Medicaid Maintenance of Effort imposed (March)
  - Temporary high-risk insurance pool program established (June)
  - Temporary reinsurance program for early retirees established (June)
  - Feds establish website to facilitate insurance information (July)
  - Grants to states for
    - Exchange planning and implementation
    - Assistance with insurance premium review requirements
    - Establishing an office of health insurance consumer assistance
    - Numerous public health and workforce programs
  - Insurance Market Reforms Implemented (new plans for plan years beginning after 9/23/10)
    - Pre-existing condition exclusion prohibited for children
    - Lifetime limits prohibited; annual limits restricted
    - Prohibition on rescission of coverage
    - Dependent coverage to 26 years of age
    - Medical loss ratio reporting required
    - Coverage of clinical preventive services required

Timeline

- **2011**
  - Medicaid Options & Requirements
    - States eligible for 1% FMAP increase if certain preventive services covered with no cost-sharing
    - Required to cover tobacco cessation for pregnant women
    - New state option for home and community-based services for disabled
  - Insurance Market Reforms
    - Medical Loss Ratio requirement imposed: Large group plans required to spend 85% of premium revenue on medical claims (80% for insurers covering individuals and small business)
  - New Fraud & Abuse Rules Implemented

- **2013**
  - U.S. DHHS determines State readiness to establish Exchange
  - Fed regulations for health care choice compacts issued

Timeline

- **2014**
  - Insurance Exchanges implemented
  - Medicaid changes implemented
    - Expansion to 133% FPL takes effect
    - Required to implement enrollment simplification and coordination with Exchanges
    - Required to offer premium assistance for employer-sponsored insurance.
    - DSH funding reduced
    - Prohibition on exclusion of coverage for barbiturates, benzodiazepines, and tobacco cessation products
  - States required to establish at least one reinsurance entity
  - Insurance Market Reforms Implemented
    - Pre-existing condition exclusion prohibited for adults
    - Guaranteed issue and renewal required
    - Adjusted community rating rules take effect
  - Individual and employer mandates and subsidies implemented

Timeline

- **2015**
  - Insurance Exchanges must be self-sustaining
  - Medicaid programs required to begin annual enrollment reporting
  - States eligible for 23% FMAP increase on regular CHIP match (FFY 16 – FFY 19)
- **2016**
  - Health Care Choice Compacts may take effect
- **2017**
  - States will begin funding share of Medicaid expansion
  - States may operate an alternative program in lieu of federal coverage reforms if waiver obtained in previous year
  - States may allow large companies (>100 employees) to participate in Exchange
- **2018**
  - Excise tax on high-value health insurance plans imposed

Thank You

For More Information Please Visit:

Alaska's federal health care law information website at:

http://hss.state.ak.us/fedhealth/

Alaska Health Care Commission's website at:

http://hss.state.ak.us/healthcommission/