

**CONSUMER PROTECTION AND
THE PATIENT'S BILL OF RIGHTS**

**Health Reform Implementation:
Opportunities for Place-Based Initiatives**

Issue Brief #2

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Place-Based Initiatives and Health Reform

Increasingly, local community, city and county leaders committed to improving health outcomes are focused on “place” and are interested in how they can bring policy, practices and other resources together within neighborhoods and communities to improve the health and well-being of residents. This interest has led to a range of efforts – grouped here as “place-based initiatives,” or PBIs – that seek to strengthen prevention efforts, better integrate and coordinate services and achieve equity across populations. The aim is to create a community environment that promotes and protects health, while also addressing individual needs and choices. With their focus on population health and their roots in community change, PBIs and their champions have much to contribute as the nation takes action to implement health reform. This issue brief is part of a series prepared by the Center for the Study of Social Policy and supported by The California Endowment and its partner, the Community Clinics Initiative, to provide the leaders and advocates of place-based initiatives with the information they need to play a proactive and effective role as health reform unfolds.

Why are Consumer Protections Important?

The Patient Protection and Affordable Care Act (ACA)¹ and related regulations bring relief from some troublesome insurance practices. The law offers vital protections for the sickest and most vulnerable populations. These provisions are particularly important for low-income populations, who are more likely to be affected by such practices both in terms of access to care and in terms of personal finances. In the past, when insurance plans rescinded coverage, limited payments, or did not cover pre-existing conditions, the result was often high out-of-pocket medical costs for an individual or family. In turn, these costs contributed to personal (aka medical) bankruptcies and other financial burdens, as well as limiting access to needed health care. In other cases, individuals and families lost their flexibility to move or take a new job, in fear of losing their coverage for pre-existing conditions.

The ACA includes a cluster of insurance coverage protections that end long-standing practices such as dropping coverage when individuals become ill or lifetime caps on coverage for those who have serious health conditions. On September 23, 2010, the U.S. Departments of Health and Human Services, Labor, and Treasury issued regulations to implement a new Patient's Bill of Rights under the ACA.^{2, 3} These and other provisions offer unprecedented consumer protections against certain insurance practices of the past.

What Are the New Protections Under the ACA?

The new health care reform law contains a series of provisions that prohibit discrimination, guarantee continuous coverage, provide fair appeals processes, and effectively inform the public about coverage options and benefits. Most, but not all of these, are contained in the Patient's Bill of Rights. Among other provisions, the ACA:

- ***Reduces barriers related to pre-existing conditions*** (*Sections 1101 and 1255 and PHSA Sections 2704-2705*). For health coverage starting on or after September 23, 2010, the ACA prohibits pre-existing condition exclusions for children under age 19. These protections apply to most types of insurance plans and will be extended to adults beginning on January 1, 2014. In addition, there are mechanisms to offer affordable insurance for uninsured individuals with pre-existing conditions before 2014. Health reform created Pre-Existing Condition Insurance Plans (PCIP) which went into effect on July 1, 2010 and will be available until January 1, 2014. Depending on the state, the PCIP plan may be run by the federal government or your state.
- ***Prohibits discrimination and guarantees renewability*** (*PHSA Sections 2701-2705*). Health plans are prohibited from denying coverage on the basis of factors such as: health status, medical condition, gender, past receipt of health care, genetic information, or disability. The law prohibits discrimination about who can be eligible and about pre-existing conditions. In addition, the law prohibits community rating based on gender and health status (i.e., charging higher premiums); however, it permits some variation based on age. Health plans also will be required to sell plans to anyone, renew, or continue coverage regardless of factors such as those listed above.
- ***Prohibits annual and lifetime caps on coverage*** (*PHSA Section 2711*). All group health plans and health plans in the individual market that are issued or renewed on or after September 23, 2010 are prohibited from applying lifetime limits on how much insurance plans cover. Under another section of the law, insurance plans are banned from dropping

coverage for individuals who become sick. In addition, the ACA phases out annual dollar limits. By 2014, most insurance plans will no longer be permitted to place annual dollar limits on what they pay for covered services.

- ***Prohibits retroactive cancellations and rescissions of coverage (PHSA Section 2712).*** Before the ACA, health insurers were permitted to retroactively cancel (or rescind) coverage when an individual became sick or if a mistake on an insurance application was found. Effective September 23, 2010, all health insurers and plans are prohibited from rescinding coverage except in cases of fraud. Insurers must give 30-day notice, and individuals may appeal.
- ***Protects choice of health provider (PHSA Section 2719A).*** Effective September 23, 2010, health plan members are free to select any available participating provider for primary care and any available participating pediatrician for their child’s care. The law also now prohibits health insurers or plans from requiring women to obtain a referral from a primary care provider in order to receive OB-GYN care. Some related provisions help assure access to emergency services when and where they are needed.
- ***Assures the right to appeal denials of coverage (PHSA Section 2719).*** For health plans created on or after September 23, 2010, the ACA ensures the right to an appeal or reconsideration when services or payment for services are denied by a health insurer or plan. Regulations were issued by the Departments of Health and Human Services, Labor, and Treasury on July 23, 2010, that set out standards for internal and external processes that consumers can use to appeal “adverse” coverage and benefit decisions (e.g., pre-existing condition exclusions, provider network exclusions). A subsequent regulation issued in July 2011, gave states options for implementing consumer protections (e.g., implementing an existing national model or operating a similar process).⁴ In the case of external appeals, for example, states are encouraged to adopt the model standards developed by the National Association of Insurance Commissioners.
- ***Requires accessible consumer information (Sections 1103 and PHSA 2715).*** Effective July 1, 2010, the ACA calls for a website that helps individuals and small businesses find information on coverage options, including general private health insurance plans, Medicaid, CHIP, high-risk pools, and small group market plans. The ACA further requires that health plans provide a uniform explanation of coverage in an accurate and easy to understand summary of benefits and coverage based on national standards. For example, such standards will ensure no small print, terminology understandable to the average plan enrollee, and cultural and linguistically appropriate content.

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- ***Provides funding for state consumer assistance programs (PHSA Section 2793).*** To make protections meaningful, consumers must understand and use their rights.⁵ New federal resources – nearly \$30 million – were available in grants to states to support State Consumer Assistance Programs, intended to help consumers enroll in coverage, file complaints, and appeal decisions.⁶ As of October 2011, 33 states and the District of Columbia had received funding. For a list and links to summaries of how each state and territory intends to use their ACA Consumer Assistance Program Grants, visit <http://www.healthcare.gov/news/factsheets/2010/10/capgrants-states.html>. For a more comprehensive list of consumer assistance programs in all states, visit Families USA’s [Consumer Assistance Program Locator](http://www.familiesusa.org/resources/program-locator/) at <http://www.familiesusa.org/resources/program-locator/>.

Opportunities for Action: Take-Away Messages for Place-Based Initiatives and Their Partners

While the ACA holds great promise for changing insurance plan practices, the protections will be most effective if consumers understand them and exercise their rights under the law. In particular, if the purposes of the ACA are to be fulfilled, assistance and support for those who have been disenfranchised from health coverage and care must be a priority. With their focus on equity and their ongoing work with underserved and vulnerable communities, many PBIs are in an ideal position to advance and help assure consumer protections for residents in the communities they serve. PBIs and their partners at the neighborhood, city and county level might use the following as starting points for advancing and assuring ACA consumer protections as part of a broader place-based approach:

1. **Be part of the design process: Provide input on the design of consumer websites and other information sources.** States have a responsibility for designing structures and materials that inform individuals about insurance coverage protections, particularly through Health Insurance Exchanges, the new health coverage “marketplaces” established by the ACA. States have an opportunity to reach out to PBIs and their county and community partners as part of the design process, to assure that information is understandable and accessible to a broad range of consumers, particularly those with lower literacy and those who have little experience with purchasing or otherwise obtaining coverage. At the same time, PBIs and their partners can work proactively with state policy advocates to monitor the progress of Exchanges, state Consumer Assistance Programs and other state entities in designing consumer resources, and to assure an effective voice in the design process for the community residents they serve.

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2. **Directly inform community residents about protections under the ACA.** PBIs – particularly those that work closely with both county governments and community-based organizations – may be strategically positioned to lead or stimulate efforts to inform residents about the consumer protections provided under the ACA, such as prohibition of exclusions on pre-existing conditions, gender rating, and grievance processes. County governments and community-based organizations that operate eligibility and enrollment sites serving more vulnerable populations can partner with PBIs and leverage place-based strategies to enhance outreach and information sharing regarding patient/consumer protections. PBI roles could take the form of face-to-face informing, or utilizing organizational networks and ongoing communication resources to get the word out to community advocates and service providers.
 3. **Assist community residents with navigation of new coverage opportunities and protections under the Act.** PBIs and their community partners can work one-on-one with individuals and families to help them use new online resources for enrollment in health plans and navigate new coverage systems in other ways. This might include connecting consumers to state Consumer Assistance Programs.
 4. **Help consumers effectively challenge violations of consumer protections under the ACA.** Some PBIs might work directly with residents to assist individuals with appeals. In other cases, PBIs can link community residents to the state’s Consumer Assistance Program or to other organizations that can provide this kind of assistance.
 5. **Monitor implementation at the community or population level.** Finally, PBIs can work with their community and county partners – as well as with state advocates and agencies, including the state Consumer Assistance Program – to monitor implementation of patient protections across the population in their communities. This might take the form of a local clearing house to report complaints or violations, or to track inquiries that might reflect a need for better consumer materials or for better compliance with the law. PBI’s could also consider other methods for monitoring progress and reporting it to the community, such as developing “score cards” on implementation of certain features of the ACA that most affect their constituents or providing progress reports to be shared regularly at community forums.

By combining strategies to address individual needs and choices with strategies that change policies and systems for communities as a whole, PBIs are in an ideal position to advance and help assure consumer protections for residents in the communities they serve. Further, by

partnering with other PBIs and with state policy advocates, they have even greater potential to assure protections for consumers both in their own communities and statewide.

Developing a Broader ACA Action Agenda

PBIs – and those supportive of place-based approaches – may want to integrate consumer protection activities into a broader agenda related to implementation of health reform. . “Beyond Coverage,” *Issue Brief #1* in this CSSP series on *Health Reform Implementation: Opportunities for Place-Based Initiatives*,⁷ outlines four starting points for PBIs and their partners:⁷

- 1. Define the changes to health service delivery, systems of care, and community environments that would be most effective at the community level to improve the health of children, families, low-income populations, boys and men of color, and other populations of particular interest.**
- 2. Develop an ACA Action Agenda by cross walking these desired changes and related place-based priorities with opportunities provided by the ACA.**
- 3. Develop and strengthen partnerships at the local, state and national levels to advance the community-specific, place-based Action Agenda.**
- 4. Look for opportunities to coordinate actions with other place-based initiatives as a learning community and as an advocacy voice for further federal actions to support place-based efforts to improve health.**

Endnotes

- ^{1.} Patient Protection and Affordable Care Act (Pub.L. 111-148), as amended by the Health Care and Education Reconciliation Act (Pub.L. 111-152).
- ^{2.} Fact sheet on the Patient’s Bill of Rights. <http://www.healthcare.gov/law/features/rights/bill-of-rights/index.html> Also see links to supporting regulations. <http://cciio.cms.gov/resources/regulations/index.html#pbr>
- ^{3.} Summary of Patient’s Bill of Rights. <http://www.healthcare.gov/law/features/rights/bill-of-rights/index.html>
- ^{4.} Fact sheet from the Center for Consumer Information and Insurance Oversight. http://cciio.cms.gov/resources/files/external_appeals_preliminary_determinations_8_1_11.html
- ^{5.} Fact sheet at healthcare.gov. <http://www.healthcare.gov/law/features/rights/appealing-decisions/>
- ^{6.} Fact sheet from the Center for Consumer Information and Insurance Oversight. <http://cciio.cms.gov/programs/consumer/capgrants/index.html> Also see: <http://www.healthcare.gov/news/factsheets/2010/10/cap-grants.html>
- ^{7.} Bruner, C, Fine A. Going Beyond Coverage to Improve Community Health. *Health Reform Implementation: Opportunities for Place-Based Initiatives. Issue Brief #1*: Washington, DC. Center for the Study of Social Policy, November, 2011. www.cssp.org

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About this Brief

This brief is one in a series exploring health reform implementation opportunities for place-based initiatives (PBIs). It is part of a broader project at the Center for the Study of Social Policy (CSSP) that explores how PBIs can advance implementation of health reform and how health reform implementation can further the work of PBIs. The California Endowment and its partner the Community Clinics Initiative have provided generous funding for this project.

CSSP seeks to secure equal opportunities and better futures for all children and families, especially those most often left behind. Based in Washington, DC, with strong ties to communities and policymakers nationwide, the Center's work focuses on three broad areas: system reform, public policy and community change. Underlying all of CSSP's work is a strong commitment to racial equity.

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