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THE ACA AND MEDICAID EXPANSION OR LACK THEREOF: HOW IS ACCESS TO ORAL HEALTH CARE AFFECTED?

Key Policy Points

- In 2012, the U.S. Supreme Court ruled that Medicaid expansion was not mandatory; therefore, each state is allowed to choose whether or not to expand Medicaid.
- As of this writing, 31 states, including the District of Columbia, have expanded Medicaid, another 19 are not expanding, and one state is exploring expansion pending a federal waiver approval.
- Under the ACA, most health care plans are required to offer pediatric dental benefits to children up to age 19, which is estimated to expand dental coverage to 8.7 million children by 2018.
- The ACA did not mandate adult dental benefits; however, if all states expanded Medicaid, an estimated 2.7 million more low-income adults would become eligible for dental benefits.
- Even with the passage of the ACA and Medicaid expansion, there are still an estimated 108 million Americans without access to dental care in the United States.

January 2016

AMERICAN DENTAL EDUCATION ASSOCIATION

The ACA and Medicaid Expansion or Lack Thereof: How Is Access to Oral Health Care Affected?

"Love it or hate it, Obamacare is the law of the land. It was passed by Congress, signed into law by President Obama, [and] declared constitutional by the U.S. Supreme Court." —Rep. Hank Johnson (D-GA)

Introduction

The landmark legislation known as the Patient Protection and Affordable Care Act (ACA), also called "Obamacare," was signed into law on March 23, 2010. The goal of the ACA was to increase access to health care, make pivotal changes to the delivery of care, and to institute cost-saving measures into the health care system in the United States.

The ACA contains numerous groundbreaking provisions. One seminal provision requires Essential Health Benefits (EHBs) to be included in all medical health plans, and, for the first time in legislative history, pediatric oral health care was included in legislation and designated as one of the 10 EHBs.[i] With the passage of the ACA, it appeared that oral health care advocates won a major victory, the message had been heard—oral health is inextricably linked to overall health. However, the celebration was short-lived; no one could have predicted the relentless backlash against the ACA after it was enacted into law. Challenges to the law were swift, numerous, and pervasive. Notable, was the challenge to the ACA's requirement of Medicaid expansion. The legal challenge went to the Supreme Court (Court) and the Court ruled that states are not required to expand Medicaid—it is optional. With the backdrop of Medicaid expansion being optional, the question is posed: How has Medicaid expansion, or lack thereof, affected access to oral health care in America?

This analysis of the ACA, five years after enactment, focuses on the programs designed to facilitate access to care and analyzes the impact of Medicaid expansion, or lack thereof. Additionally, this paper examines the impact of the Medicaid expansion legal challenge and the effect of the challenge to access to oral care. The

[i] Essential health benefits must include services within at least the following 10 categories: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care.

The American Dental Education Association (ADEA) engages in policy research and dialogue in order to lead the thoughtful consideration of important contemporary problems in dental education and to improve the oral health of the public.

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paper concludes the inquiry with an overview of the current state of oral health care in the United States under the auspices of the ACA.

An Overview of Medicaid and CHIP

To understand the significance of Medicaid expansion, or lack of, and the value of the Children's Health Insurance Program (CHIP) to oral health care, it is incumbent to be aware of the population served and services provided.

Established in 1965, Medicaid has become the largest health care insurance program in the United States. This critical safety net program covers some or all of the health care costs for over 62 million low-income children, families and individuals.[1] Medicaid covers one out of every three children in the United States. While jointly funded by the federal government and states, Medicaid is administered solely by states and operates as a federal matching program that covers between 50% and 74% of a state's costs.[2]

Under Medicaid eligibility criteria, states are required to cover only certain groups of individuals[i], such as low-income newborns, children under age 19, parents, the elderly, the disabled, developmentally delayed, mentally ill, and those in long-term care. Eligibility classifications, income thresholds, and covered benefits—such as dental services for adults—can vary widely by state,[3] with some states expanding coverage beyond the minimum federal requirements.

CHIP, formally known as the State Children's Health Insurance Program (SCHIP), was created as part of the Balanced Budget Act of 1997 to expand health care coverage for children not eligible for Medicaid benefits. CHIP provides health insurance for children from families with incomes too high to qualify for traditional Medicaid but too low to afford private health insurance.

Similar to Medicaid, CHIP is jointly funded by states and the federal government but is administered solely by the states. The program allows each state the flexibility to design—within federal guidelines—its own plan, which can include cost-sharing efforts such as copayments. A state may choose one of the following three options when designing a CHIP program:[ii]

- Expand the Medicaid program for children,
- Establish CHIP as a separate program, or
- Develop a program that combines the above two approaches.[4]

All states participate in CHIP and have expanded their income eligibility for children beyond the federal minimums, with

[i] Many states cover pregnant women.

[ii] Eight states, the District of Columbia and five territories have opted for Medicaid expansion; 13 states have a separate CHIP; and 29 states have a combination of the two approaches. See link for more details.

the national average at 241%[i] of the federal poverty level (FPL).[5] According to the Centers for Medicare & Medicaid Services, more than 45 million children were enrolled in Medicaid and CHIP in 2013.[ii] Between 1997 and 2012, Medicaid and CHIP reduced the rate of uninsured children from 14% to 7%.[6]

Medicaid and CHIP Dental Benefits for Children

States are required to provide comprehensive dental services to all children enrolled in Medicaid and CHIP under the Early and Periodic Screening Diagnostic and Treatment (EPSDT) program. States determine what dental services are considered medically necessary, but at a minimum, dental benefits must include the relief of pain and infections, restoration of teeth and maintenance of dental health.[7]

Those states that provide CHIP coverage to children through a Medicaid expansion program are required to include the EPSDT benefit. States with a separate CHIP program—that is, independent of Medicaid—can either provide a dental benefit package that meets the CHIP requirements or offer a benchmark dental benefit package to children.[iii] Specifically, dental coverage in a separate CHIP program must cover dental services "necessary to prevent disease and promote oral health, restore oral structures to health and function, and to treat emergency conditions."[8] In 2013, 48% of Medicaid and CHIP-enrolled children aged 1–20 years received preventive dental care, and 23% received dental treatments.[9] Despite Medicaid and CHIP safety nets, the need for oral health care remains palpable.

Low-income Children and Oral Health

According to the Centers for Disease Control and Prevention, 25% of children aged 6–11 years and 59% of adolescents aged 12–19 years suffer from untreated tooth decay, which results in pain, school absences and even death.[10] Compared with children from high-income families, children from low-income families experience twice the amount of untreated tooth decay.[11] Despite having a higher incidence rate of tooth decay, children in poverty are less likely to have dental sealants, which protect teeth from decay. Only 25% of children living at or below 100% of the FPL has had at least one dental sealant compared with 34% of children living above the FPL.[12] Research has shown that costs related to dental care are lower when Medicaid-enrolled children receive an early preventive treatment, such as sealants.[13]

[i] Only two states (ID and ND) limit children's eligibility in Medicaid to below 200% of the FPL (147% and 152%, respectively).

[ii] In 2013, 8.1 million children were enrolled in CHIP.

[iii] The benchmark package must be substantially dental equal to (1) the most popular federal employee dental plan for dependents, (2) the most popular plan selected for dependents in the state's employee dental plan, or (3) dental coverage offered through the most popular commercial insurer in the state.

Medicaid Dental Benefits for Adults

Currently, 47 states and the District of Columbia offer some form of dental benefit to select Medicaid-enrolled adults; most services are restricted to emergency care or limited dental treatment.[14] Generally, all dental services—even emergency care—are considered optional for Medicaid adults, and services vary significantly by state.

Some states further limit benefits to include only preventive services, such as one dental exam and cleaning per year, and exclude comprehensive benefits such as fillings, root canals, periodontal cleanings and dentures. Many states establish annual benefit limits per beneficiary, have higher income eligibility requirements for adults compared to children, and restrict dental benefits to pregnant, disabled or institutionalized adults.[15]

During times of state budgetary constraints, adult dental care is often the first Medicaid optional benefit to be reduced or eliminated. States routinely increase income eligibility requirements and cost sharing,[i] making it more difficult for adult beneficiaries to qualify for benefits or pay for dental services, respectively. In fact, from 2008 to 2010, eight states—Michigan, California, Utah, Hawaii, Nebraska, Oklahoma, Minnesota and Oregon[ii]—either eliminated or reduced their dental benefits for adults.[16] To date, only 15 states offer extensive dental benefits to adult Medicaid beneficiaries, while 17 states offer limited benefits, 15 states offer emergency-only benefits and four states offer no benefits.

Low-income Adults and Oral Health

Between 2008 and 2010, Medicaid-enrolled individuals accounted for 33% of the dental-related hospital emergency department visits at a cost of $2.7 billion. During the same time, more than 40% of non-trauma dental visits to emergency departments were made by the uninsured.[17] Adults who do have Medicaid coverage report having difficulty finding a dental care provider. Reports indicate that only 25% of low-income adults have visited a dentist in the last five years,[18] and 40% have untreated tooth decay, often resulting in pain and poor quality of life.[19] Poor oral health negatively affects work productivity, employability, self-esteem, overall health and the management of chronic diseases such as diabetes.

[i] Cost sharing includes increased copayments and new premiums added to dental Medicaid services still covered.

[ii] MI, CA and UT eliminated adult dental Medicaid benefits; HI reduced to emergency only; MN applied limits on dental coverage and cut reimbursement rates to dentists; OR reduced benefits; NE imposed limited dental benefits to $1,000 per year; OK imposed prior authorization restrictions and limits of dental crowns. MI reinstated limited dental benefits for adults in 2011 and CA did the same in 2014.

Where States Stand on Medicaid Expansion

The same day President Obama signed the ACA into law, the National Federation of Independent Business filed suit (National Federation of Independent Business v. Sibelius), challenging Medicaid expansion. The lawsuit sought a ruling from the Court as to whether it was constitutional for the ACA to require states to expand Medicaid eligibility to all individuals with incomes at or below 133% of the FPL or else lose federal funding for their existing Medicaid programs.[20]

On June 28, 2012, in a 5-4 decision, the U.S. Supreme Court ruled that the ACA was unduly coercive to require states to expand Medicaid by threatening to withhold a state's federal Medicaid funds[i] if that state did not comply. Therefore, the Court's ruling allows each state to choose whether to implement Medicaid expansion without the risk of losing existing Medicaid funding.[21] Herein lies the nexus and the choice for states to determine if they will expand Medicaid or not, thereby allowing potential access to pediatric oral health care and perhaps some form of adult dental benefits.

To date, 31 states (including the District of Columbia) have chosen Medicaid expansion, another 19 states are not expanding Medicaid, and one state is exploring Medicaid expansion pending a federal waiver approval.[22] States that choose to participate in Medicaid expansion are eligible for 100% federal funding—which began on January 1, 2014, and extends through 2016—for all newly eligible Medicaid enrollees. By 2020, the federal match decreases to 90%.[23]

Of the 31 states (including the District of Columbia) that have expanded Medicaid and one pending federal approval,[ii] 30 offer the same dental benefit package to both their Medicaid base and their expansion populations. The 31st, North Dakota, does not offer any dental benefits to its expansion population.[25]

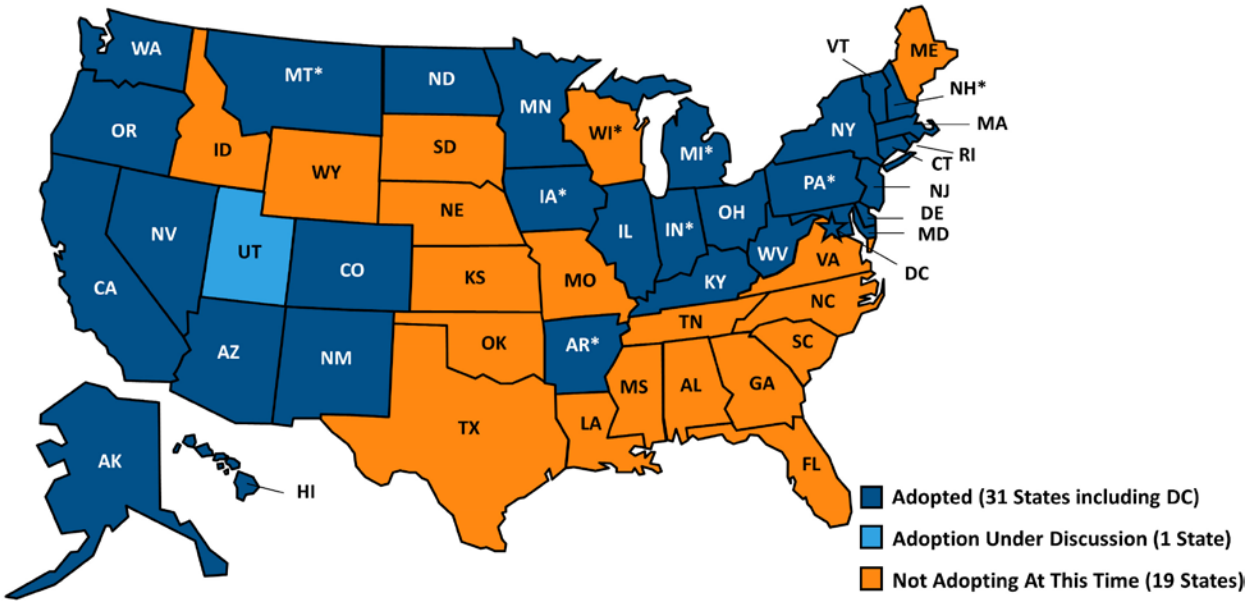
More than 8 million adults were expected to gain access to oral care from Medicaid expansion, providing extensive dental benefits to 2.7 million adults, limited dental benefits to 4.9 million adults and emergency-only dental benefits to 1.5 million adults.[26] As of February 2015,[27] this is the breakdown of adult dental services under Medicaid expansion:

- 27 states cover preventive services
- 26 states cover restorative services
- 25 states cover dentures
- 25 states cover oral surgery
- 19 states provide emergency only adult dental benefits for non-pregnant, non-disabled adults
- 19 states cover periodontal services

[i] An average state's federal Medicaid funds accounts for at least 10% of a state's overall budget.

[ii] AZ, AK, AR, CA, CO, CT, DE, HI, IL, IN, IA, KY, MD, MA, MI, MN, MT, NV, NH, NJ, NM, NY, ND, OH, OR, PA, RI, VT, WA, WV and DC

Current Status of State Medicaid Expansion Decisions



Source: Kaiser Family Foundation[25]
Notes: Current status for each state is based on KCMU tracking and analysis of state executive activity. ***MT has passed legislation adopting the expansion; it requires federal waiver approval. *AR, IA, IN, MI, NH and PA have approved Section 1115 waivers. Coverage under the PA waiver went into effect on Jan. 1, 2015, but it has transitioned coverage to a state plan amendment. Coverage under the MT waiver will be effective January 1, 2016. WI covers adults up to 100% FPL in Medicaid, but did not adopt ACA expansion.

- Nine states placed an annual dollar limit on covered dental services
- Two states cover orthodontia

Low-income adults living in states that have opted to expand coverage will still face access challenges that historically include having low oral health literacy.

Demonstration Medicaid Waivers

Of the 31 states[i] that expanded Medicaid, seven states[ii] did so under the Section 1115 Demonstration Medicaid Waiver. Provided at the discretion of the U.S. Secretary of Health and Human Services, Section 1115 waivers allow states to explore and test health care approaches using federal funds in ways that would normally be prohibited under federal requirements. States can pursue one of two options:

- A narrow waiver to focus on certain populations or services, or
- A comprehensive waiver that makes extensive changes to provider payments, eligibility, benefits and cost sharing.

[i] Including Washington, DC
[ii] AR, IA, IN, MI, MT, NH and PA

Either option provides states the flexibility to quickly extend coverage, expand eligibility with limited benefits and implement managed care to control costs. In exchange for greater flexibility, a state using a Section 1115 waiver is subject to a per capita or global cap on federal funds.[28]

Three states—Arkansas, New Hampshire and Iowa—have instituted a Medicaid expansion through Marketplace Premium Assistance, commonly known as the Private Option. This option enables newly eligible Medicaid beneficiaries to purchase health care plans on the Marketplace using Medicaid dollars. Originally developed by Arkansas, the program allows Medicaid beneficiaries to maintain the same health care plan as their income changes.[29] Arkansas has an annual $500 per-person capitation for limited dental services.[30]

Indiana has also instituted a new method of extending dental benefits to its Medicaid population by providing benefits to individuals who contribute monthly to a health savings account.[31]

The Effects of States not Expanding Medicaid

If all states expanded Medicaid, an estimated 2.7 million more adults would become eligible for dental benefits.[32] Approximately 8.7 million children are expected to gain some form of dental benefits by 2018 as a result of the ACA, an increase of 15% relative to 2010. This will reduce the number of children without dental benefits by about 55%. However, dental benefits remain insecure for adult beneficiaries in states that have opted not to expand Medicaid.

Missouri, for example, in 2014, chose not to expand Medicaid eligibility or restore previous levels of adult dental benefits to its base Medicaid population, leaving approximately 300,000 adults without coverage. Although the governor set aside $17.8 million, in general revenue intended for dental services, as of this writing, those funds remain undistributed.[33] In 2013 alone, nearly 28,000 uninsured Missourians sought palliative treatment[i] in the emergency department for dental problems.

Hospital emergency departments have become the unintended dental home for those without oral health care coverage. An analysis of the most recent federal data by the American Dental Association revealed that dental emergency department visits doubled from 1.1 million in 2000 to 2.2 million in 2012, or one visit every 15 seconds. These numbers, no doubt, reflect the lack of access to oral health care despite the enactment of the ACA.

What Does It all Mean for Access to Oral Health Care?

The ACA is a comprehensive law with numerous

[i] Palliative treatment for dental problems in the emergency department includes providing pain medication, antibiotics and sometimes a referral to a dentist but fails to address the underlying dental problem and definitive treatment is still necessary.

provisions intended to improve health care for all Americans; regrettably, oral health care is not included as an essential health benefit for adults, leaving millions to continue experiencing difficulty accessing both routine and urgent dental services.

Fortunately, low-income adults living in states that have expanded Medicaid are benefiting from dental services for the first time, but millions of others live in states that choose not to participate in Medicaid expansion, thereby restricting some residents' access to dental care.

Uninsured adults, in particular childless adults, stand to benefit the most from Medicaid expansion. Medicaid benefits, under the ACA, are available to everyone younger than age 65 having an annual income at or below 133% of the FPL. The new financial eligibility thresholds encompass a much wider range of low-income Americans, now including the working poor. Previously, the median eligibility cut-off for working parents was 61% of the FPL, with no coverage for childless adults under age 65.[34] To date, FPL eligibility thresholds continue to vary widely across states that have not embraced expansion, effectively leaving millions uninsured.

With bipartisan support, the Medicare Access and CHIP Reauthorization Act of 2015 was signed into law by President Obama on April 16, 2015. The law extends federal funding, $39.7 billion[i], for CHIP for two years without requiring any significant changes to the program.[35] All states are mandated to a minimum eligibility of 133% of the FPL for CHIP,[ii] regardless if they are participating in Medicaid expansion or not.[36]

In summary, this is the big picture—under the ACA, the pediatric oral health provision requires most insurance plans to offer dental benefits to children up to age 19; it is predicted to expand coverage to 8.7 million more children by 2018.[37] However, adult dental benefits are not an essential health benefit under the ACA, therefore, individuals living in states that did not expand Medicaid coverage, and millions of adults, are a part of the estimated 108 million people without access to oral health care in the United States.[38]

Conclusion

The ACA is the most comprehensive reform of the health care system in the United States in almost 50 years. The law makes significant changes to enable access to health care, facilitate innovations in the delivery of care and establish cost-saving measures to the health care system. Most notable for dentistry, the ACA designates pediatric oral health care an essential health benefit for children. However, in light of the Supreme Court ruling in National Federation of Independent Business v. Sibelius, many states have chosen not to expand Medicaid coverage, as a result, individuals living in states that did not expand coverage they compose the cohort

[i] CHIP National Allotment Level: FY16—$19.3 billion and FY17—$20.4 billion

[ii] Previously, under Medicaid, children ages five and under were eligible at 133% of the FPL, and school-aged children were eligible at up to 100% of the FPL.

of millions of Americans without dental insurance and access to oral care in the United States.

Exasperating the situation, the ACA failed to include oral health as an essential health benefit for adults; therefore, dental benefits for low-income adults remains at the discretion of each state and varies widely, if there is any coverage at all.

The lack of dental coverage and access to oral health care is a common and unfortunate health issue in the United States. Any promise of the ACA improving overall health for citizens of the United States will fall woefully short without including equitable access to oral health care through Medicaid expansion under the ACA or another viable means for all.

The fact that oral health care is inextricably linked to overall health has not resonated with policymakers. Ultimately, oral health care must be considered an indispensable part of overall health care and an essential health benefit for every American, not just children; or else, the nation's aspirations to achieve the landmark promises of the ACA, will remain elusive.

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