

# ONE YEAR LATER

States have moved ahead despite uncertainty and opposition.



BY MARTHA P. KING

Passage of federal health reform a year ago created a lengthy to-do list for states. Many already had a jump on the federal government, and every state has made some progress in implementing the new law.

Several states already had experience creating high-risk insurance pools, requiring insurance companies to cover young adults on their parents' insurance plans, and providing coverage for poor people through optional Medicaid expansions.

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Every state has done something to move ahead on the new federal requirements and has accepted federal planning funds. By the end of 2010, at least 33 states had formed a task force, commission or other special group to study and guide its implementation of health care reform. At least 12 states already had issued a preliminary report.

### MIXED SUPPORT

State actions don't necessarily equate with support for the new federal law, however. Twenty-five states joined Florida in a successful legal challenge to the individual insurance mandate, with a U.S. District Court ruling in Pensacola that declared the entire

law unconstitutional on Jan. 31. Eight states enacted laws or passed initiatives in 2010 opposing certain requirements or refusing to enforce certain provisions. Five other states adopted resolutions to protest federal provisions.

As conflicting court rulings make their way toward the U.S. Supreme Court, states continue to face deadlines under the law and most lawmakers, even those who oppose the federal law, realize they need to do something, if only to understand the issues and the stakes.

In the meantime, states face deadlines under the law, and most lawmakers, even those who oppose the federal law, realize they need to do something, if only to understand the issues and the stakes.

"There are many of us who don't believe the [law] will solve the problem of uninsured people in our state, and Wyoming is joining Florida's lawsuit," says Wyoming Representative Elaine Harvey, the new health committee chair. "However, it's the law of the land until Congress repeals it and the president signs a repeal. Until that happens, we will study each issue as well as the deadlines."



REPRESENTATIVE  
ELAINE HARVEY  
WYOMING

In some states, there are both support and resistance to the new law. In Colorado, Attorney General John Suthers joined the Florida suit, while outgoing Governor Bill Ritter issued a report in December 2010 saying that "by expanding access, improving quality and containing costs, this comprehensive health care bill has the potential to dramatically enhance the way Americans receive and pay for health care." In Tennessee, two resolutions passed by the Senate in 2010 to oppose federal requirements were rejected in the House.

<p><b>2010</b></p> <ul style="list-style-type: none"> <li>◆ High-risk pools established by states or federal government.</li> <li>◆ Small business tax credits offered for employees' health coverage.</li> <li>◆ Insurance companies required to cover young people to age 26 on their parents' plans.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Prescription coverage gap for seniors reduced.</li> <li>◆ Federal grants awarded to states for insurance premium reviews, health insurance exchanges and other programs.</li> <li>◆ Insurance companies restricted from dropping coverage for people who get</li> </ul>	<ul style="list-style-type: none"> <li>◆ sick or excluding coverage for kids with pre-existing conditions.</li> <li>◆ States offered option to expand Medicaid earlier than 2014 to cover adults with incomes up to 133 percent of poverty, at the state's regular Medicaid matching rate.</li> </ul>	<p><b>2011-2013</b></p> <ul style="list-style-type: none"> <li>◆ Medicare reforms required, such as ensuring access to physicians, improving payment accuracy and prescription drug coverage.</li> </ul>
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## DEADLINE TIME

By July 1, 2010, states had to decide whether to administer the new temporary high-risk insurance pools required under the federal law. Under a very tight deadline and without federal regulations yet issued, New York and 26 other states chose to create and run plans; North Dakota and 22 other states deferred to the federal government to do so.

New York chose to administer the high-risk pool “to ensure our state government was involved to the maximum extent,” says New York Senator Kemp Hannon. The state created the NY Bridge Plan, which is administered by Group Health Incorporated.

“The NY Bridge Plan provides health coverage to individuals who have a pre-existing medical condition, have not had insurance for six months, and who are legal residents,” says Hannon.

North Dakota had serious reservations, however, and deferred to the federal government. “[We] learned the federal proposal was woefully underfunded. When the feds were asked to assume liability for any shortfall, they refused,” says Senator Judy Lee. “North Dakota chose to let the feds do it and assume the risk.”

Another concern is that, under the federal law, people already enrolled in a state high-risk pool would have to go without insurance for six months before they could sign up for the new risk pools established under the federal law. That will result in a two-tiered program, Lee says, and the rules for coverage will be different, depending on the program in which you’re enrolled.



SENATOR  
KEMP HANNON  
NEW YORK



SENATOR  
JUDY LEE  
NORTH DAKOTA

A similar decision confronts states about creating the required health insurance exchanges. Should the state create the exchange, where individuals and small businesses can shop for coverage, or defer to the federal government to establish and run it?

By Jan. 1, 2014, all states must have operational exchanges, and they must tell the federal government what they plan to do by the end of 2012. The exchanges allow individuals and small businesses to compare and purchase insurance coverage.

Massachusetts and Utah have the only two operational exchanges that are open to individuals and small businesses. A few others, such as Florida and Washington, had begun developing exchanges for small businesses before the federal legislation passed. Last year, California became the first state to establish an exchange intended to meet the new federal requirements.

Utah developed its exchange based on a consumer-driven health care and insurance market, without an individual insurance mandate.

“It may take as many as three years to fully develop a plan of action,” former Utah Speaker David Clark told lawmakers at a meeting last summer.

Political observers expect many states to enact legislation establishing insurance exchanges this year.

Many states also have expanded consumer protections. They’ve started or expanded reviews of premiums, using new uniform standards set by the National Association of Insurance Commissioners. Many other insurance reforms—such as prohibiting insurance plans from excluding or dropping people with an illness or pre-existing condition and requiring plans to spend at least 80 percent of premium payments on medical care—kick

in over time, giving states additional roles.

## MEDICAID CHANGES

Virtually all states share concerns about the costs, especially with the unprecedented budget shortfalls they continue to face.

An immediate concern relates to the new law’s prohibition on states’ ability to cut back on their current Medicaid eligibility levels, known as a “maintenance of effort” requirement. On Jan. 25, Arizona submitted a formal request to the U.S. Department of Health and Human Services for permission to cut about 280,000 adults from its program, citing its fiscal crisis and relatively generous coverage levels.

Lawmakers also are concerned about the eventual cost of covering millions of new Medicaid enrollees, beginning Jan. 1, 2014. The federal government will pick up most of the tab for newly eligible people, but states will have to pay their usual share for those who met the eligibility requirements that were in place before the expansion, but were not enrolled then.

Many believe there is not an adequate supply of health care workers and facilities to meet the increased demand of covering as many as 32 million Americans who will become eligible for health benefits under the reforms, whether through Medicaid, or through the health insurance exchanges.

“Whether you think [the law] is a good idea or not,” says Massachusetts Senator Richard Moore, NCSL’s president, “it’s critical that state legislators play an active role.”



SENATOR  
RICHARD MOORE  
MASSACHUSETTS

## SL ONLINE

Check out more about steps states have taken to comply with federal health reform and what challenges are ahead at [www.ncsl.org/magazine](http://www.ncsl.org/magazine).

### 2014

- ◆ Medicaid must cover an estimated 16 million additional people by 2017.
- ◆ Health exchanges start, with federal subsidies to help middle-income Americans purchase coverage.
- ◆ Individuals must purchase health insurance, with some exceptions.
- ◆ Insurance companies must cover people with pre-existing conditions and policies must be renewed even if people get sick.
- ◆ Employers with 50 or more full-time employees must offer coverage or pay a fee.

### 2016

- ◆ States have option to join multi-state compacts.

### 2018

- ◆ High-cost or so-called “Cadillac” health plans will be taxed.

2015

2016

2017

2018