



Where the Rubber Meets the Road:

Strategies for Successful State Implementation of the Affordable Care Act

Executive Summary

The complete report can be found at

http://www.communitycatalyst.org/doc_store/publications/Rubber_Meets_Road_Jan_2011.pdf

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Georgetown University Center for Children and Families is an independent, nonpartisan policy and research center whose mission is to expand and improve health coverage for America's children and families. <http://ccf.georgetown.edu>



Health Care for America Now (HCAN) is a national coalition of more than 1,000 groups in 46 states representing 30 million people that led the grassroots effort to pass the Affordable Care Act in 2010. We run comprehensive issue campaigns that mobilize people at the grassroots and define the public debate. HCAN and our 501(c)(3) partner, Health Care for America Education Fund, are now working to implement and improve the new health care law through national and state-based legislative and regulatory campaigns that rely on grassroots action, public education, aggressive communications, ground-breaking research, and policy analysis. www.healthcareforamericanow.org



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The Patient Protection and Affordable Care Act (ACA), which became law on March 23, 2010, holds the promise of providing affordable health care to more than 30 million Americans who now lack coverage, improving coverage for tens of millions more, and

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relieving families of the lingering burden of medical debt. The ACA also has the potential to promote greater racial and economic justice. Poor health — to the extreme of shorter life expectancy — profoundly impacts people's ability to realize their full potential as individuals and within society. Access to affordable health care can have a profound impact not only on people's health, but also on their ability to lift themselves out of poverty and achieve a higher standard of living.

The ACA gives states significant policy discretion in implementing the law within a framework established at the federal level. As a result, realizing the promise of the ACA will depend on the results of a complex interplay between federal and state policymaking, which will occur in a polarized political environment. This paper focuses on the environment, policy issues, strategies and activities consumer advocates must pursue at the state level to support successful implementation, as well as on the role of national organizations in supporting that work.

A group of five foundations¹ asked six national organizations² to come together and propose a plan for effective state implementation of the ACA. The California Endowment made a grant to Community Catalyst to fund the project.

This paper, including the information contained in the appendices, seeks to accomplish the following objectives:

- Describe the policy terrain in which state implementation of the ACA is occurring and key policy issues that are stake
- Propose a specific strategy for successful state implementation of the ACA

This paper proposes the following three strategies for supporting state implementation of the ACA:

1. Creating the best possible environment for implementation through work on both the national and state levels
2. Creating sufficient state capacity and infrastructure to support the implementation of the ACA through an investment strategy that maximizes effectiveness across a number of states with varying environments
3. Investing in the capacity of national organizations to allow them to support state implementation and effectively coordinate implementation efforts among and between national and state organizations

The federal policies developed to implement the ACA, which will set the parameters for state actions, are an essential foundation for the state work. Policy advocacy at the national level will thus have a great impact on what happens in the states and will require substantial effort. In addition, while most of the work necessary to successfully implement the ACA — including advocacy around federal and state legislative activity —

can be carried out by 501(c)(3) organizations, some of the work will include activities that must be carried out by 501(c)(4) organizations. However, both of these topics are outside the scope of this paper. (A brief paper describing the role of social welfare 501(c)(4) organizations in achieving successful implementation of the ACA is available from Health Care for America Now.)

Major Provisions of the Law

The ACA addresses a broad range of health care issues. Coverage expansion is addressed through a major expansion of Medicaid and by providing premium subsidies to low- and middle-income people (in the form of income-based tax credits) through new, regulated insurance marketplaces called Exchanges. New insurance regulations coupled with the creation of insurance Exchanges will promote quality coverage for children and adults and improve affordability, transparency, efficiency and fairness for individuals and small businesses that obtain coverage there. The ACA also imposes a responsibility on most individuals and many employers to contribute to the cost of coverage.

These coverage provisions, far-reaching though they may be, are only part of the law. The ACA also contains a cost control and quality improvement strategy based on the development of clinical models supported by appropriate reimbursement methods designed to reduce preventable hospitalizations and ineffective treatments. The ACA also makes significant new investments in public health to reduce disease incidence. It offers the nation an opportunity to begin to correct longstanding racial and ethnic inequalities in health care and health status. The ACA strengthens the requirements on hospitals to provide financial assistance to people in need, an important interim step on the road to expanded coverage, but one that will remain important even after implementation is complete.

The ACA gives states the option to administer the law themselves or turn responsibilities over to the federal government.

The ACA also give states the option to decline to administer certain provisions of the law. For example, they can choose to have the federal government run their Exchange rather than administering it themselves. States also have opportunities to innovate, for example, by designing integrated health delivery systems or including a public option in their Exchange.

The Environment for Implementation

Without diminishing the historic importance of the passage of the ACA, it is important to recognize the fragile nature of what has been achieved so far, as well as the challenges, both political and substantive, that lie ahead. Several critical environmental challenges must be met before we can definitively know that the ACA will realize its historic promise of vastly diminishing health care inequality and beginning to slow the growth of health care costs.

One of these challenges is the significant time lag between passage of the law and full implementation of the major coverage provisions and market reforms. Many provisions will not be fully implemented for four years, and some will take as long as seven. During this interim period, and especially while states are in fiscal crisis, Medicaid, a key foundation for expanded coverage under the ACA, will be under enormous pressure, as will programs that in recent years have substantially increased coverage for children. Another

challenge is that two intervening federal elections occur between the passage of the law and when most of the reforms go into effect. The recent election resulted in leadership much less committed to its implementation in Congress and many state houses. Continuing partisan divisions over the ACA are likely to intensify in the near term, as opponents wage an active campaign to reduce public support for the law and nullify some portions of it altogether. A third challenge is the scope and complexity of the law, which makes it hard for the public to understand it. Public opinion remains divided on the law, with opponents more intense in their feelings than supporters.

How the ACA Will Be Administered

The ACA is structured as a joint federal-state initiative. It includes substantial federal funding and requirements, but vital components — particularly those that most directly affect the expansion of coverage to the uninsured — will require state legislation and will be administered primarily by the states. The major state responsibilities include setting up insurance Exchanges for small businesses and individuals; determining the subsidy eligibility for millions of people to buy coverage in the Exchanges; enforcing the new insurance reforms; and overseeing the new Medicaid expansion. States will also have to meet new administrative challenges such as reaching out to enroll new populations; integrating Medicaid and CHIP with the new Exchanges; and applying new Medicaid and CHIP income eligibility standards established under the law.

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The success of implementation in each state will depend in large part on the policy choices it makes, and its willingness to allocate sufficient financial resources and staffing. States will need to implement the ACA while facing, over the next two fiscal years, an estimated \$235 billion budget deficit. In addition, many states have recently elected new governors, and many of those governors campaigned against the ACA. In short, states will need to gear-up for implementation in a fluid political environment and at a time when resources are very constrained. Moreover, federal decisions on a vast array of the ACA issues will heavily influence the states' ability to successfully implement the law. In many cases, these federal rules will set requirements with which states will have to comply. National organizations will need to engage in substantial work on federal policy issues, conducting detailed analysis of the law and its various policy options, consulting state and local groups and relevant experts, designing and assessing policy alternatives, organizing coalitions to promote the most favorable options, and engaging with policy-makers in agencies across the administration. This important work (except insofar as it involves enlisting the help of state advocacy organizations on these matters) lies outside the scope of this paper.

Need for Effective Advocacy

The many obstacles outlined above create substantial risk that in a number of states the ACA will be implemented poorly and fall far short of its promise. Furthermore, industry groups, although not uniformly opposed to the ACA, will be working to influence implementation in their own self-interest. These include health insurance and pharmaceutical companies and health care providers such as hospitals, physicians and nursing

homes. In this environment, state advocacy groups will need to play a significant role to ensure that implementation is successful. The inclusion of trusted local voices will be critical in this effort. Sustained, coordinated engagement by advocates across time and venue (local, state and federal) will be essential, and advocates will need to engage in a wide range of advocacy activities, including public education; administrative and legislative advocacy; shoring up and expanding public support for the ACA; and analyzing and addressing the many policy issues, options, and complications of implementation.³

Accomplishing these tasks will require a variety of skills. State advocates will need to: develop effective coalitions and strategies, both to ensure the ACA is implemented properly and to avert short-term budget cuts in safety-net programs for adults and children; work in partnership with national groups to make informed decisions on federal and state implementation issues; form relationships with other stakeholders (including insurers, where possible) across a range of issues; and create robust consumer assistance and support programs to help people navigate the new system.

A Strategy for Successful Implementation of the ACA

For all of the reasons described above, successful state implementation of the ACA requires attention to both substantive policy issues and the broader public debate. Addressing both dimensions will require the following:

1. **Creating the best possible environment for implementation**

Creating a positive environment requires close attention to the overall public discourse about the ACA and targeting communications to the most “persuadable” demographic groups. These include seniors, small businesses, communities of color (particularly Latinos), women, parents with young adult children and children with special health care needs, people with disabilities, and people with chronic illnesses. Members of these groups need to become messengers to a broader audience to explain what the ACA will really do. To begin to take on this role, they need first to be informed about the benefits available to them from early implementation measures.

Building public support will require effective communications frames and integrated issue campaigns at the state and national levels.

Building public support will also require the development of effective communications frames and the creation of integrated issue campaigns at the state and national levels. Advocates must be able to forcefully expose and refute false claims and arguments made by opponents attacking the law. They must be able to respond rapidly to distortions and misinformation put forward by those who would like to see the law fail.

2. **Creating sufficient capacity and infrastructure in states with a variety of environments**

Significant investment is needed to develop the capacities of state organizations, both in states with long-established infrastructures and those with little or none. Maintaining current levels of support is critical to sustaining core capacities. Additional resources will be needed to expand advocacy efforts to more states and allow advocates to develop new expertise and capacities and handle the increasing volume of work. State advocacy organizations must be able to analyze policy options and advocate for policy positions, conduct legal analysis, build coalitions, organize

the grassroots and netroots⁴, develop communications efforts, carry out strategic campaigns, raise funds, and monitor and provide feedback on implementation efforts. Groups will need to develop relationships with elected, appointed and career state officials and gain access to influential opinion leaders involved in implementation efforts.

The number of groups working on various aspects of ACA implementation will differ from one state to another, depending on the depth and breadth of the advocacy community. In all states, advocates should seek to establish a consumer implementation “table” that brings together the various state partner organizations working on ACA implementation. These may include, for example, health care and low-income advocacy groups; state fiscal policy groups; children’s advocacy organizations; multi-issue grassroots organizations and networks; faith groups; labor unions; the public health and prevention community; and groups representing communities of color, seniors, women and people with disabilities and chronic health conditions. The goals for these entities could include:

- sharing information on policy issues and best practices
- developing common policy agendas and identifying and negotiating over differences
- sharing information about state policy regulators and policymakers and designing coordinated approaches when appropriate
- sharing information about state and national issue campaigns that groups are undertaking
- coordinating communications and public education strategies, including the development of effective messages and establishment of media and editorial relationships
- developing state implementation campaigns that include multiple participants in the implementation “table”

In addition to maintaining and building capacity within states, cross-state communication has the potential to yield greater benefits than in any previous period. As states simultaneously confront similar implementation challenges, it is important to capture the lessons learned in one state and facilitate their transfer to others, particularly those with similar political or policy environments. This is one of the technical assistance functions that national groups can perform.

3. Investing in national groups that can support and help coordinate state advocacy efforts

State partners will need help navigating the complex policy environment created by the ACA. National and state groups will need to work together to analyze state policy issues and options, and to gather and analyze information about the experiences in a range of states. To maximize effectiveness at the state level, national organizations need to develop and support state advocates by providing information about best practices — not only on policy issues but also on communications, campaign planning, mobilization, and litigation strategies. National advocacy groups can improve their technical assistance by:

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- identifying and, when possible, resolving substantive or strategic differences among national organizations
- coordinating and aligning their communications with state partners to minimize conflicting policy, messaging and political advice, as well as calls to action
- coordinating activities across issue areas

A number of national groups have already begun to collaborate on early implementation issues, and some national groups with similar or complementary policy priorities or missions are now discussing and developing more formal collaborations that hold significant promise.

Recommendations for Funding State Advocacy

Although work is required in all 50 states and the District of Columbia, limited resources necessitate some targeting of efforts. We recommend an approach that, based on the following criteria, invests in a range of states with varying environments.

- **Positive path breakers:** States most likely to positively and robustly implement the ACA
- **Negative path breakers:** States with a greater likelihood of poorly implementing the ACA or where efforts to repeal or undermine the ACA are strong
- **Strong advocacy capacity:** States with strong consumer advocacy organizations that can be effective leaders in implementation efforts
- **Local funder partners:** States with local funders willing to match national investments
- **High need:** States with a high proportion of low-income uninsured and high rates of racial and ethnic health disparities
- **High impact:** States with the greatest number of people who will benefit from the ACA, such as states with large numbers of uninsured

The best approach should target a mix of states with one or more of the attributes described above. In selecting states, geographic diversity is an important consideration. Geographic diversity is advantageous because lessons learned in one state are often more easily transferred to neighboring states.

We further recommend that funding go to existing state organizations that have an in-depth knowledge of the specific politics, policies and cultures of their states, and that have developed or have the potential to develop the capacities, experience and relationships necessary to carry out the work that implementation will require.

We believe that a coordinated national and state advocacy effort is essential to successful ACA implementation, which in turn is vital to advancing a broader agenda whose aim is to attain a more fair and just society. This plan is designed to serve as an important component of this critical effort.

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