Supreme Court Ruling on ACA & Its Impact on New York

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Presentation Outline

• ACA Refresher
• What impact has the ACA had on New York so far?
• Potential Supreme Court scenarios
• What each scenario means for New York
ACA REFRESHER
ACA Refresher

- Individual mandate, guaranteed issue, community rating
- States to establish health insurance Exchanges
- Exchanges are health insurance “marketplaces” that allow people and small businesses to:
  - Enroll in Medicaid or get subsidies to buy commercial coverage
  - Compare plans on an “apples to apples” basis on a website
  - Only citizens and immigrants who are lawfully present can use the Exchange
- Tax Credits to help small businesses afford coverage
- Medicaid expansion
How the ACA Benefits New York

• Exchange (with the mandate) will offer much more affordable insurance
  – Costs of direct pay individual and family coverage will drop by 66% (now costs $1,200 per month for an individual; $3,400 for family of 4)
    ▪ New Yorkers will receive $2.4 billion in tax credits annually for coverage
  – Costs of small business coverage will drop by 5-22%
    ▪ $220 million in tax credits annually
    ▪ Nearly 800,000 NY workers have lost coverage in past 10 years
• Exchange will reduce numbers using hospital indigent care
  – Indigent care adds $800 per family’s average premium costs each year
• Medicaid savings
  – Urban Institute estimates annual Medicaid savings of $2.3 billion
    ▪ Increases funding for 800,000 Medicaid waiver enrollees
    ▪ 90% funding for childless adults up to 138% of FPL
Who is eligible for subsidies in the Exchange?

If you earn less than 400% of the federal poverty level, you may be eligible for subsidies – advanceable and refundable “tax credits” – to buy insurance through the Exchange.

- Refundable payments will be issued to the enrollee via tax returns, advanceable payments will be issued directly to the health plan.
- Subsidies may only be used for private insurance purchased on the Exchange.

<table>
<thead>
<tr>
<th>Annual Income Range (for a family of three)</th>
<th>Maximum annual premium costs</th>
<th>Maximum annual co-pays and deductibles</th>
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</thead>
<tbody>
<tr>
<td>&lt; 133% FPL</td>
<td>&lt; $24,352</td>
<td>$487</td>
</tr>
<tr>
<td>134%-150% FPL</td>
<td>$24,352 - $27,465</td>
<td>$730 - $1,098</td>
</tr>
<tr>
<td>151%-250% FPL</td>
<td>$27,465 - $45,775</td>
<td>$1,098 - $2,883</td>
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<tr>
<td>251%-300% FPL</td>
<td>$45,775 - $54,930</td>
<td>$2,883 - $4,421</td>
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<tr>
<td>301%-400% FPL</td>
<td>$54,930 - $73,240</td>
<td>$4,421 - $6,957</td>
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NY Coverage Estimates
With and Without Health Reform

No Reform

Uninsured (2,724,000) 16%
Other (including Medicare) (349,000) 2%
Medicaid/CHP (4,067,000) 24%
Non-Group - HNY (113,000) 1%
Non-Group Insurance - HNY (32,000) 0%
Employer Insurance (9,603,000) 57%

Post Reform

Uninsured (1,700,000) 10%
Other (including Medicare) (349,000) 2%
Medicaid/CHP (4,580,000) 27%
Non-group (Exchange) (615,000) 4%
Non-group (non-Exchange) (270,000) 1%
Employer (Exchange) (453,000) 3%
Employer (non-Exchange) (8,987,000) 53%

In 2014, the Exchange will enroll 1.68 million New Yorkers.
Governor Cuomo’s April 2012 Executive Order

• Very short – 2 pages
  – 10 “whereas” clauses indicating need for an Exchange
  – 7 operational paragraphs
• Order is broadly written (uses term “among other things” a lot)
• 7 Operational Paragraphs state:
  1. Exchange is established in the Department of Health
     ▪ DOH will work with Dept. of Financial Services and other agencies to perform the functions of the ACA
  2. Exchange will enroll people into coverage:
     ▪ Facilitate enrollment in health coverage and purchase and sale of Qualified Health Plans in the individual market
     ▪ Enroll individuals in health coverage for which they are eligible under federal law
  3. Enable eligible individuals to get tax credits and cost-sharing reductions and eligible small business to get tax credits
What is in the Executive Order cont...

4. Authorizes Exchange to make agreements with fed’l, state and local agencies
   ▪ Must incorporate adequate protection for confidentiality regarding shared information

5. Exchange shall convene regional advisory committees to offer advice and make recommendations about establishment and operation of the Exchange:
   ▪ consumer advocates
   ▪ small businesses consumer representatives
   ▪ health care providers
   ▪ agents, brokers
   ▪ insurers
   ▪ labor organizations
   ▪ any other appropriate stakeholders

6. Must be financially sustainable by Jan 2015.

7. No preemption of duties of DOH, DFS or other State agency.
ACA IMPACT ON NEW YORK SO FAR
ACA Impact for Consumers
So Far…

**Coverage Gains:**

- Over 160,000 young adults in New York have gained insurance through their parents’ plans
- Over 3,400 New Yorkers with pre-existing conditions who were previously unable to get affordable health insurance are now covered through the New York Bridge Plan

**Help for Seniors:**

- In 2010, more than 254,000 senior New Yorkers got a $250 prescription drug rebate to help when they hit the Medicare drug program doughnut hole
- Last year (2011), over 230,000 seniors got a 50% discount on their prescription drugs when they hit the doughnut hole
  - Savings for New York seniors around $160 million
- Over 2 million New Yorkers with Medicare received free preventive services
Profile: The ACA Triple Play

Megan Schley, Circleville, New York

- Bridge Plan
- Dependent (up to age 26) Coverage
- Consumer Assistance Program—Community Health Advocates
ACA Impact for Consumers So Far (Continued)

Commercial Insurance Coverage Protections:
- Over 3 million New Yorkers with private health insurance now get free preventive care
- Elimination of lifetime and annual benefit coverage caps (6.4 million New Yorkers)
- Caps on medical loss ratios and other consumer protections
- Prior approval of rate increases (2011-2012)
  - NY cut rate increases from 12.7% to 8.2%, saving 2 million New Yorkers more than $400 million
  - NY ordered $114 million in rebates to 573,000 people covered by 11 insurance companies
  - $142.4 million in rebates expected in NY this coming August

Help for Small Businesses:
- 280,000 small businesses can get tax credits to reduce insurance costs

Help for Everyone through Community Health Advocates:
- In 18 months, helped over 60,000 New Yorkers find and use coverage
- Identified and reported on 41 trends that are affecting New York consumers
ACA Impact on Providers So Far

Innovative Healthcare Delivery Models:

• Accountable Care Organizations (ACOs) created to increase quality and control costs for Medicare beneficiaries through better coordination between medical providers
• Health Homes funded to facilitate access to full range of services available to Medicaid beneficiaries with chronic health conditions
• Demonstration projects launched to coordinate care for those with Medicare and Medicaid
• More payment reforms

Community Health Centers:

• $11 billion available to expand Community Health Centers over next 5 years
  – $35.8m already awarded for capital projects at centers in New York State
  – $5.8m already awarded for equipment and improved facilities in New York State

Health IT

• 68,000 providers already registered for $173m in incentives to adopt EHRs
POTENTIAL SUPREME COURT SCENARIOS
Issues Before the Court

1. **Mandate**: Does Congress have power under the Constitution to require many Americans to purchase health insurance?
2. **Anti-Injunction Act**: Taxpayers must go through IRS procedures before challenging most taxes in court. Is the mandate any different?
3. **Medicaid Expansion**: Does the Medicaid expansion effectively force states to alter their Medicaid programs?
4. **Severability**: If the mandate (or Medicaid expansion) is unconstitutional, what happens to the rest of the law?

A decision is expected next week, possibly Monday, Wednesday, or Thursday (June 25th, 27th, or 28th).
Recap of SC Scenarios?

• **Option #1**: Supreme Court upholds entire law.
• **Option #2**: Court decides that the constitutional challenge is premature.
• **Option #3**: Just the individual mandate is struck down.
• **Option #4**: The mandate is struck down, together with guaranteed issue and community rating.
• **Option #5**: The Medicaid expansion is struck down.
• **Option #6**: Supreme Court strikes down entire law.
WHAT EACH SCENARIO MEANS FOR NEW YORK
Option #1: Supreme Court upholds all aspects of the law

**Impact for New York:**

- New Yorkers will get $2.4b/year in federal subsidies to make insurance affordable.
- New York will save $2.3b/year in Medicaid/CHP program, while expanding coverage
  - $4.7b in federal money is $247 for every New Yorker, or $1,678 per uninsured New Yorker
- 1 million currently uninsured New Yorkers will newly gain insurance coverage.
- Costs of insurance on the individual market will drop by 66%.
- Costs of insurance for small businesses will drop by 5-22%.
- Small businesses will get tax credits of up to 50% to help pay for health insurance.
- State Insurance Exchange will make comparing and enrolling into insurance easier.
- Medicare doughnut hole will be eliminated by 2020.
- Hospital cuts ($16 billion over 10 years) offset by newly insured.
Option #1: Supreme Court upholds all aspects of the law

Next Steps:

• Exchange moves forward, potential legislation in Fall or January 2013
  – Key issues: market merger, BHP, navigator, SHOP development, essential health benefits, sustainability, governance and structure
• 1 million out of New York’s 2.7 million uninsured get coverage
• Federal grants continue to flow (CHA, Early Innovator, HIX development)
• In 2014, $4.7 billion in subsidies and Medicaid funding flow to New Yorkers
• Insurance regulation and health system improvements continue
Option #2: Court decides that the constitutional challenge is premature.

**Impact for New York:**

- ACA remains in effect, with consequences as described on previous slide.
- New York moves forward with implementation and Exchange planning.
- Uncertainties:
  - Election
  - Federal courts could again hear constitutional challenges to the law in 2015

**Next Steps:**

- Essentially, same next steps as in Option #1, but much more uncertainty
- Will NYS Senate will enact Exchange legislation?
Option #3: Just the individual mandate struck down.

Impact for New York:

- Insurance costs in New York still likely to **decline**, but not as much as anticipated with mandate in place.
  - This option may lead to premium increases in other states, but New York has had guaranteed issue and community rating laws for many years.
- 700,000 uninsured low-income New Yorkers will still be eligible for federal subsidies to make purchasing insurance affordable.
- Numbers of uninsured will decline, but not as much.
- State still to save $2.3 billion on Medicaid/FHP/CHP.
- Many other ACA benefits remain: young adult coverage to age 26, Exchange will make comparing and enrolling into insurance easier, etc.
- Hospital cuts remain, but decreased offsets due to fewer gains in coverage.
Option #3: Just the individual mandate struck down.

Next Steps:
- Policy issues to be determined:
  - Are the subsidies sufficient to encourage enrollment and reduce prices?
  - 28-36% of uninsured would enroll (per NY P4C report)
  - Will state explore a state-based mandate like MA or other enrollment incentives (e.g. employee opt out, limited open enrollment periods)?
  - Will state proceed with the Exchange?
- Key Exchange issues from Option #1 need to be resolved
- Federal grants continue to flow (CHA, Early Innovator, HIX development)
- In 2014, billions in subsidies and Medicaid funding flow to New Yorkers
- Insurance regulation and health system improvements continue
Option #4: Mandate struck together with guaranteed issue and community rating.

Impact for New York:
• Similar impact as Option #3.
  – Unlike many other states, New York already has guaranteed issue* and community rating under state law.

Next Steps:
• Similar next steps as Option #3.
  – New York already has guaranteed issue* and community rating under state law.

* New York’s guaranteed issue law allows plans to exclude coverage of preexisting conditions for up to 12 months. This would have been barred under the ACA’s guaranteed issue rules.
Option #5: The Medicaid expansion is struck down.

**Impact on New York:**

- No Medicaid expansion to 133% of FPL ($14,800 for 1 person)
  - New York’s Family Health Plus and CHP programs already cover parents and children above 133% of FPL
- 90,000 low-income childless adults who would have been eligible for Medicaid under the expansion will not gain eligibility
- State will lose $2.3 billion in funding gains that would have been achieved through increased federal matching funds
  - (From enhanced funding for nearly 900,000 beneficiaries)
- The ACA’s other benefits will remain, including subsidies to help low-income people afford coverage, an Exchange, and insurance regulation
Option #5: The Medicaid expansion is struck down.

Next Steps:

- No enhanced federal matching funds (from 50% to 90% for 810,000 Medicaid waiver enrollees) or expansion for singles between 100-133% of FPL
  - Loss of $2.3 billion per year in federal Medicaid funds
- Family Health Plus and Child Health Plus remain
- Consider renewing Medicaid waiver for adults up to 200% of FPL?
  - Modeled after the Basic Health Plan in the ACA and Washington State
- Significant affordability problem for low-income people using the Exchange remains unaddressed
Option #6: Supreme Court strikes down entire law.

Impact for New York:
- 3,400 New Yorkers with pre-existing conditions will lose coverage
- 280,000 small businesses will lose access to tax credits
- Medicare beneficiaries will lose access to free preventive care and discounts during the drug doughnut hole
- New Yorkers with commercial coverage may lose protection from lifetime and annual limits, cost sharing for preventive care, age 26 coverage
- Insurance prices continue to increase by roughly 10% every year.
- Another 500,000 will be uninsured by 2020
- State implementation efforts under way may wind down without funding
  - $85m in grants currently awarded to state to fund implementation work
  - Elimination of funding for Community Health Advocates
- Hospital cuts may remain, without offsetting coverage gains.
Option #6: Supreme Court strikes down entire law.

**Next Steps:**

- 2.7 million New Yorkers remain uninsured, private coverage prices continue to escalate
- No enforcement or guarantee of voluntary insurance reforms
- Some system reforms continue (Medicaid Redesign Process)
- Continue to build an Exchange? Try Massachusetts-style (state-based) mandate?
- Small group/individual market merger
- Focus on new political solutions (both state and federal)
For Further Information

For analysis of the impact of the Supreme Court decision on New York’s health insurance landscape, please contact:

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