

LEGISLATIVE OPPORTUNITIES AND TRENDS

2011



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Colorado Health Institute (CHI) is a leading source of independent health information, data and analysis for health care leaders. Our team is available to assist legislators and their staff in making informed policies that improve the health of all Coloradans. Contact CHI for background information, briefings on specific bills and legislation or for custom research.

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Making sense of the health policy decisions that confront the Colorado General Assembly each and every year is a daunting task, even for those who spend their careers making sense of such activities. Given just how many people, patients, organizations and communities are affected by health policy decisions, it's difficult sometimes to understand the consequences of an individual piece of legislation. Factoring in the financial impact of such decisions – on patients, employers, communities and the state budget – further complicates the picture.

What's important – and often overlooked – is that today's health policy decisions do not stand in isolation. A bill in front of the legislature most often has a storied history. It is often brought forth in reaction to another piece of legislation – to repeal, modify, extend or clarify

an earlier decision. Understanding the context of specific bills can help determine its merit, value and potential impact on the entire state.

This report, *Legislative Opportunities and Trends*, establishes the legislative context for examining – and eventually deciding upon – the health bills presented in the current legislative session.

As a state, we have grappled with many of the same issues that are paramount in the Affordable Care Act, the national reform legislation that was signed into law in early 2010. National reform did not emerge from thin air... the hard work of many states, including Colorado, informed and inspired that piece of national legislation. This report provides that context as well.

In recent years, Colorado has grappled with specific health issues, including:

- Transparency and accountability in health and health care
- Long-term care in low-cost, high-quality sites
- Scope of practice issues that ensure safety and permit appropriate growth of clinicians
- Healthier communities
- Patient protections (both in private insurance and publicly funded insurance programs)

The last section of this report highlights some of the bills that will be run in this 2011 legislative session. By providing the historic context and understanding them in terms of the larger issues at hand, we hope to shed light on these complicated and challenging policy areas.

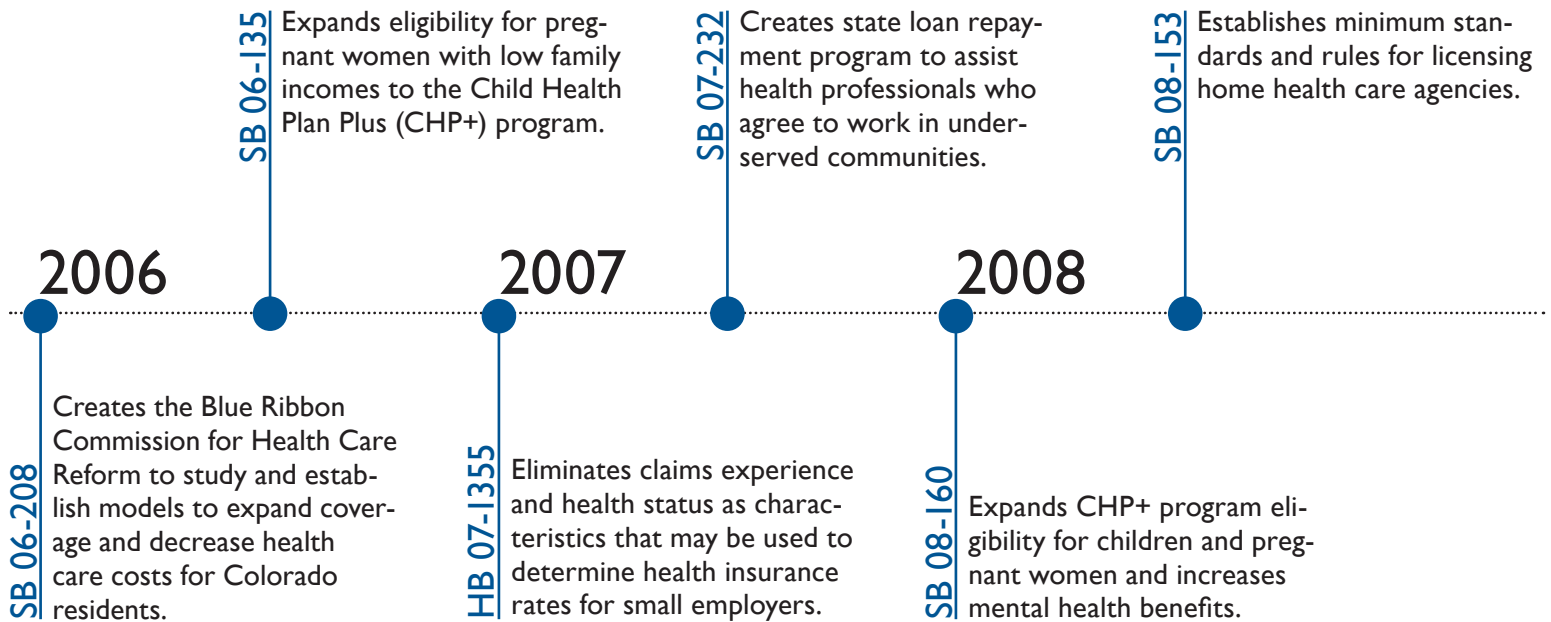


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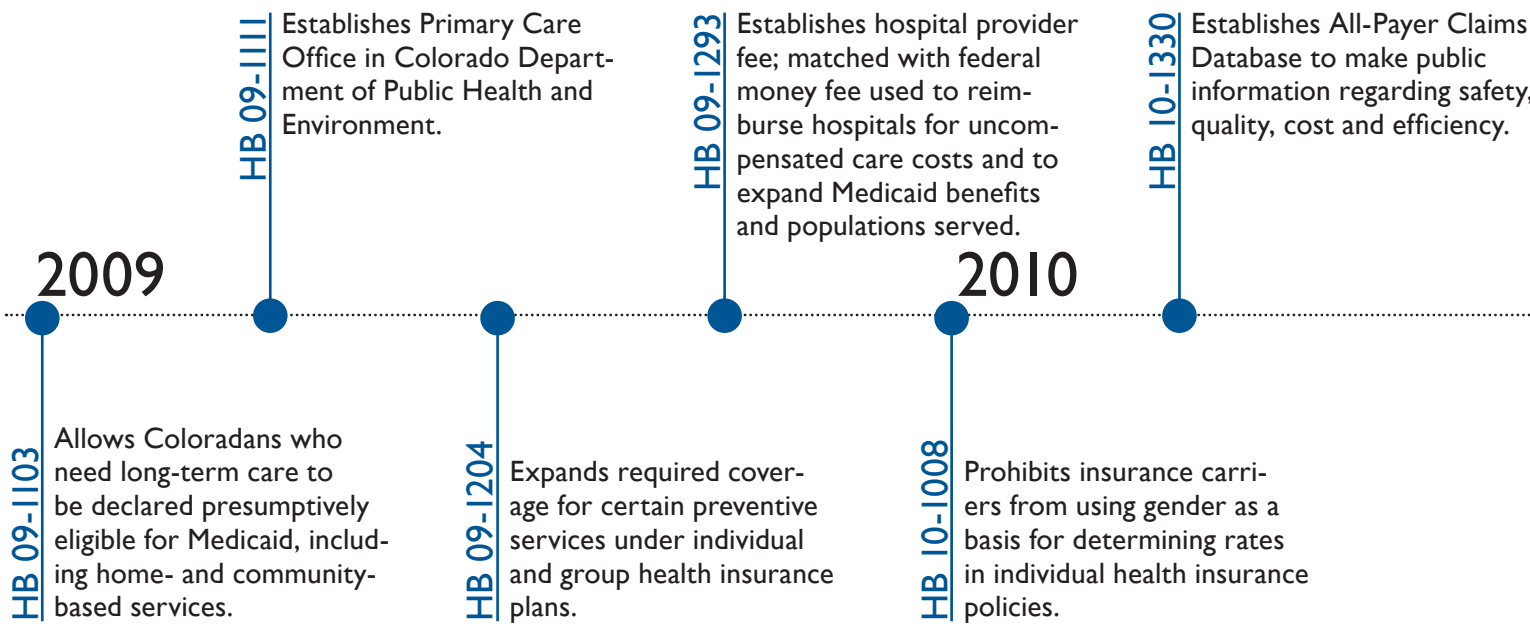


COLORADO HEALTH POLICY T I M E L I N E

The national Affordable Care Act (ACA) emerges from and builds upon policies, public health initiatives and pilot programs that originated at the state level. Colorado has significantly contributed to state-level policies, programs and legislation that are echoed and emphasized in national reform. The Blue Ribbon Commission, created in 2006 legislation, was an early predecessor to national reform. It signified



a collaborative effort among various state leaders – health, business and the community at large – to evaluate more efficient and less costly ways of delivering care to all Coloradans. This timeline, though by all means not all-inclusive, reflects the critical work of the state legislature in recent years.



COLORADO HEALTH POLICY 2 0 1 0

The 2010 legislative session was an active one in terms of health policy. Issues ranging from transparency and accountability in health care delivery to patient protection provisions for Coloradans with both private and publicly funded insurance were addressed. A number of bills guaranteed additional services for insured Coloradans—mammography, additional cancer treatments, contraception. Others sought more consumer protections such as requiring simplified language in policies.

Healthier communities

- **HB 10-1191** Eliminates candy and soda sales tax exemption.
- **SB 10-081** Establishes farm-to-school coordination to improve nutritional quality of school meals.
- **SB 10-153** Declares need to create comprehensive approach to behavioral health issues.

Patient provisions: Private insurance

- **HB 10-1004** Requires standardized format for health insurance policy and explanation of benefits forms.
- **HB 10-1008** Prohibits insurance carriers from using gender as a basis for determining rates of individual health insurance policies.
- **HB 10-1021** Requires individual insurance policies to cover maternity for those who apply before they are pregnant and small group insurance policies to cover contraceptive services.
- **HB 10-1252** Requires insurance policies to cover mammography screening for individuals at risk.

Patient provisions: Public insurance

- **HB 10-1033** Adds screening, brief intervention and referral to treatment for substance abuse services by a non substance abuse provider such as a primary care doctor or Emergency Room doctor.
- **HB 10-1041** Creates universal application for single point of entry for home- and community-based services waivers for children.

Legislation also was aimed at improving the health of communities on a variety of levels. A major step forward in assuring Coloradans have adequate knowledge about their health care system came from the bill calling for an All-Payer Claims Database. The bills listed on these two pages illustrate the breadth of the General Assembly's 2010 work but are not meant to be comprehensive of all that was accomplished in the area of health care.

Transparency and accountability

- **HB 10-1166** Mandates that most insurance policies sold in the state be written at or below a 10th-grade reading level.
- **HB 10-1330** Creates database of all health claims by all payers for transparent public reporting of health care information.
- **SB 10-002** Provides recipients of public medical benefits with information concerning their right to appeal denials of benefits.
- **SB 10-126** Requires pharmaceutical manufacturers paid by Medicaid or Child Health Plan Plus to submit annual transparency report to the state.

Long-term care and aging

- **HB 10-1005** Makes home health care provided through telemedicine eligible for reimbursement under Medicaid.
- **HB 10-1146** Extends home care allowances to people receiving Old Age Pension benefits up to a specified date. Eliminates home care allowances for future beneficiaries not eligible for supplemental social security benefits.

Scope of practice

- **HB 10-1122** Allows medical orders for scope of treatment forms (MOST) to be signed by advanced practice nurses or physician assistants as well as physicians.
- **HB 10-1138** Provides additional incentives for health care professionals to practice in rural and underserved communities.
- **SB 10-058** Reduces required employment duration for nursing teacher loan forgiveness pilot program.
- **SB 10-176** Defines process for advanced practice nurses (APN) coming from another state to request inclusion on the APN registry.

THE BRIDGE BETWEEN LEGISLATION AND FEDERAL HEALTH CARE REFORM

As seen in this report, the 2010 federal health care reform law, the Patient Protection and Affordable Care Act (ACA), includes and expands on many of the health reform measures recently enacted by the Colorado legislature. Some legislative activities in upcoming sessions will focus on reform implementation.

Several provisions of the ACA will need resolution and clarification. In some cases, state law will need to be modified so that state and federal laws are consistent. In other areas, states will have a choice in

Healthier communities

Preventive services. State and federal requirements for required preventive services are not consistent. Colorado law establishes a list of preventive services individual and group health plans must cover with some, but limited, cost-sharing. In most cases, the ACA requires new insurance plans to provide preventive health services prohibiting all cost-sharing. CHI anticipates Colorado legislation that will resolve and clarify these discrepancies.

Patient provisions: Private insurance

Rescission of health insurance. Colorado and federal law prohibit insurers from cancelling or rescinding health insurance except in cases of fraud. The laws differ, however, on how fraud is defined. CHI anticipates that legislation will be enacted to resolve these differences.

Denied claims. Both Colorado and the ACA provide for processes to appeal health insurance claims that are denied. Guidelines for the appeals processes differ. CHI anticipates that legislation will be enacted to modify Colorado law to comply with ACA requirements.

Dependent coverage. Colorado law requires insurers to offer insurance coverage for young adults up to age 25. The ACA requires coverage to age 26. To avoid confusion, Colorado may raise the state's age limit.

Patient provisions: Public insurance

Changes will be required to enable the state to comply with new Medicaid eligibility levels and processes for determining eligibility specified in the ACA.

terms of how implementation occurs. And in others, states will need to anticipate the impact of new federal requirements on capacity and demand for services.

Many areas of the ACA are awaiting further direction and guidelines from the federal government. These include: the definition of an “essential benefits package” (the basic benefits that will be covered in all new insurance plans in 2014) and guidelines for selecting and rating health insurance plans sold on the exchanges.

Transparency and accountability

State legislation is required under ACA to establish an entity and a governing body for a state health insurance exchange—a marketplace where individuals and small employers purchase insurance. Colorado will select the organizational and governance structure of the exchange which must be in place by 2014. CHI anticipates legislation to create an authority to implement the exchange and identify the governance, authority and purpose.

Long-term care and aging

The ACA creates a new insurance program to assist the elderly and disabled with long-term care services and supports. In addition, the federal law provides more flexibility for the state to use Medicaid funds to help people receive care in their homes instead of nursing homes.

At some point, Colorado will assess whether there are enough trained workers and programs to provide long-term care services throughout the state. However, CHI does not anticipate immediate long-term care-related bills in the 2011 legislative session.

Scope of practice

As Colorado looks to provide care to newly insured populations, legislative issues will inevitably look to the state’s current and projected capacity to take care of all Coloradans. Balancing increased demand with budget and fiscal constraints will be challenging to the state legislature. Alternative models of care (medical homes, mid-level providers, etc.) may be further explored in this and upcoming legislative sessions.



2011 POTENTIAL Issues to WATCH

The 2011 legislative session began with 95 bills introduced the first day and more to follow. A number of early bills concentrate on improving Coloradans' health risks. Some seek to scale back or repeal previously passed legislation. Others already introduced or yet to come focus on moving ahead with nationally mandated reforms, aligning eligibility requirements for public insurance programs or providing additional aid for providers or consumers. These two pages show a

Healthier communities

- Encourage physical activity in schools to address childhood obesity.
- Authorize local governments to include community health in master land use plans.
- Reduce concussion risk by requiring children playing football to wear helmets.
- Encourage bicycle/pedestrian safety.

Patient provisions: Private insurance

- Authorize creation of state health insurance exchange to serve as marketplace under health care reform.
- Allow for interstate health insurance sales.
- Permit small businesses to pay costs for employees to buy their own health insurance.
- Require insurance providers to offer child-only policies.

Patient provisions: Public insurance

- Expand Medicaid "health homes."
- Repeal hospital fees established in 2009 to expand Medicaid and CHP+ for all children.
- Align Medicaid eligibility thresholds for children.
- Permit school-based health centers to waive copayments for children accessing services.

sample of health-related bills introduced early in the session. Some will pass; others will not. Many more bills will come before legislators for discussion before the General Assembly adjourns in early May. But in 2011, with jobs and the economy at the top of legislators' list of priorities, it is unlikely that health care will get the attention it has in past legislative sessions.

Transparency and accountability

- Expand health information technology.
- Provide for tort reform and reduction of defensive medicine.
- Improve provider participation in Colorado Immunization Information System.

Long-term care and aging

- Create alternative medical assistance program for Medicaid-eligible elderly.
- Provide long-term care waiver.

Scope of practice

- Require health care providers to submit more data to Division of Regulatory Agencies to determine state workforce capacity.
- Allow direct-entry (independent) midwives to obtain and administer specified medications.
- License and define scope of practice for naturopaths.

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