

ACA PROVISIONS WITHIN TRADITIONAL AUTHORITY OF INSURANCE DEPARTMENT EFFECTIVE 2010

Section		Applicability				State Action
		Group	Group Grandfather *	Individual	Individual Grandfather *	
PHSA §2704	No pre-ex for children under 19	✓	✓	✓		Legislative Proposed
PHSA §2711	No lifetime limits	✓	✓	✓	✓	Legislative Proposed
PHSA §2711 + Guidance	Limited annual limits	✓	✓	✓		Legislative Proposed
PHSA §2712 + Regs	Rescissions prohibited except in cases of fraud or intentional misrepresentation	✓	✓	✓	✓	Some NM Code Higher Legislative Proposed
PHSA § 2713 + Regs	Preventive care ¹ , no cost-sharing	✓		✓		Some NM Code Higher Legislative Proposed
PHSA § 2714 + Regs	Dependent coverage up to age 26 (exception for dependents with job based coverage before 2014)	✓	✓	✓	✓	NM Age 25 Legislative Proposed
PHSA § 2715A	Additional Information relating to transparency in coverage to be submitted by carriers and made available to the public (further guidance to be issued)	✓		✓		Managed Health Care Standard Higher Indemnity- Legislative Proposed
PHSA § 2716	Prohibition on discrimination based on salary	✓				Legislative Proposed
PHSA § 2719 + Regs	Enhanced external appeals and internal review of coverage determinations and claims	✓		✓		Managed Care Compliant or Higher Indemnity- Legislative Proposed
PHSA §2719A +Regs	Enhanced acces to primary care, pediatricians, ER, OBGYN	✓		✓		NM Code Higher
42 USC 18011 (PPACA § 1251 +Regs)	<ul style="list-style-type: none"> “Grandfathered plan” defined in Sec.1251. Guidance and clarification has been issued. 					

¹HRSA WOMEN’S PREVENTATIVE CARE REQUIRED TO BE COVERD FOR PLAN OR POLICY YEARS STARTING ON OR AFTER Aug. 1,2011 (final rule released Aug. 11.2011)

EFFECTIVE 2011

Section		Applicability				State Action
		Group	Group Grandfather *	Individual	Individual Grandfather *	
PHSA §2718 + Regs	MLR at 85% for <u>large group</u>	✓	✓	n/a	n/a	NM at 80%
PHSA §2718 + Regs	MLR at 80% for <u>small group</u> and individual	✓	✓	✓	✓	NM Code 85%
PHSA §2719 + Regs	Internal appeals	✓		✓		NM Code Compliant
PHSA §2719 + Regs	External review process	✓		✓		NM Code Compliant
PHSA §2794 +Regs ²	Rate review- “unreasonable” rate increase (grants available)	✓		✓		NM Compliant- Has Grant

²Limited to individual and small group markets

EFFECTIVE 2012

Section		Applicability				State Action
		Group	Group Grandfather *	Individual	Individual Grandfather *	
PHSA §2715	Uniform explanation of coverage documents and standardized definitions	✓		✓		NM Compliant
PHSA §2718	MLR refunds- state can enforce- review supplemental annual statement ³	✓	✓	✓	✓	NM Insurance Code Enforcement

³Compare with rate filings for potential errors.

EFFECTIVE 2013

Section		Applicability				State Action
		Group	Group Grandfather *	Individual	Individual Grandfather *	
42 USC §18021 (PPACA§1322) +Regs	CO-Ops- deadline for federal \$\$, licensed by state -Enabling legislation/transitional rules depending on state law	✓	n/a	✓	n/a	Unknown
42 USC §18021 (PPACA §1302) + Regs	Essential benefits-deadline for establishment by HHS ⁴	✓ ⁵		✓		Unknown

⁴ Compare to existing law.

⁵ Large group when included in exchange.

EFFECTIVE 2014 AND BEYOND

Section		Applicability				State Action
		Group	Group Grandfather *	Individual	Individual Grandfather *	
PHSA §2719 + Regs	External review- NAIC Model	✓		✓		Indemnity Plans Needed
PHSA §2701	Community rating with limits on rate factors (states can have tighter limits) <ul style="list-style-type: none"> • Age 3:1 • Tobacco 1.5:1 • Geographic rating area (established by State) • Prohibit: gender, health, group size (small group market), industry • Allowed: geography and family composition 	✓		✓		NM Community Rating in NM Insurance Code
PHSA §2702	Guaranteed availability of coverage	✓	+	✓	+	NM Code
PHSA §2703	Reaffirms HIPAA guaranteed renewability of coverage	✓	+	✓	+	NM Code
PHSA §2704	No pre-ex for all	✓	✓	✓		Code Change Needed

Section		Applicability				State Action
		Group	Group Grandfather *	Individual	Individual Grandfather *	
PHSA §2705	Prohibition on discrimination based on health status (expands on HIPAA protections by adding wellness program provisions and extends nondiscrimination protections to individual market)	✓	+	✓		Under Review Admin Vs. Code
PHSA §2706	Nondiscrimination in health care-participation by credentialed providers	✓		✓		In NM Code
PHSA §2707	Small group and individual plans must include essential benefits package(includes large group markets within Exchange)	✓		✓		Under Review Admin Vs. Code
PHSA §2708	Prohibition on excessive waiting periods	✓	✓	✓		Under Review Admin Vs. Code
PHSA §2709	Coverage for approved clinical trials	✓		✓		Under Review- Some in Code
42 USC § 18061 (PPACA § 1341) + Regs	Transitional reinsurance program for (plan years beginning 2014 through 2016)	✓ ⁶		✓ ⁶		Under Review Admin Vs. Code
42 USC § 18062 (PPACA § 1342) + Regs	Establishment of risk corridors	✓ QHPs		✓ QHPs		Under Review Admin Vs. Code
42 USC § 18063 (PPACA § 1343) + Regs	Risk Adjustment	✓ ⁷		✓ ⁷		Under Review Admin Vs. Code
42 USC § 18012 (PPACA § 1252) + Regs	Rating reforms must apply uniformly to all health insurance issuers in each market	✓		✓		Under Review Await Package
42 USC § 18022 (PPACA § 1302) + Regs	Plans required to offer Essential Health Benefits ⁸	✓		✓		Under Review Await Package
42 USC § 18024 (PPACA § 1304) + Regs	Small group market size-State may define 1-50 employees until 2016, then 1-100	✓		✓		Requires Code Change

Section		Applicability				State Action
		Group	Group Grandfather *	Individual	Individual Grandfather *	
42 USC §18024 (PPACA§1304) +Regs	Individual and small group markets may be merged, but may not include grandfathered pools	✓		✓		Requires Legislative Action
42 USC §18024 (PPACA §1304) + Regs	Carriers must combine all non-grandfathered plans into single risk pool within market	✓		✓		Under Review Admin Vs. Code
42 USC §18051 (PPACA §1331) + Regs	Basin Health Programs ⁹ for low-income individuals not eligible for Medicaid			✓		Requires Legislative Action

⁶ All issuers & TPAs contribute funding, individual market plans (in and out of Exchange) are eligible for payments.

⁷ Transfers funds from lowest risk plans to highest risk plans.

⁸ Issuers offering individual or small group coverage must provide essential benefits. This requirement does not extend to the large group market or to self-funded plans (see section 2707). State must assume cost for additional benefits beyond Essential Health Benefits [Sec.1311(d)(3)(B)].

⁹ Authorizing this product to be offered and licensing issue.

For Information about CRITICAL EXCHANGE FUNCTIONS UNDER ACA see “Exchange Functions” Chart

ACA PROVISIONS WITH POTENTIAL MARKET IMPACT

Section	Provision
2011	
PHSA §2793	Establish health insurance ombudsmen (grant available) ¹⁰
42 USC § 18001 (PPACA §1101)	Temporary high risk pool
42 USC § 18002 (PPACA §1102) +Regs	Retiree reinsurance
42 USC § 18003 (PPACA §1103) +Regs	Web portal- insurance regulator provides information to CCIIO
2012	
PHSA §2715 +Regs	Uniform explanation of coverage & coverage facts label; standardized definitions (March 2012)
PHSA §2717	Health insurance issuers required to report to Federal government and State commissioner ensuring quality of care
2013	
	HHS certification of Exchange
2014	
42 USC § 18054 (PPACA §1334)	Multi-State Plans- regulations to clarify state role yet to be issued
42 USC § 18023 (PPACA §1303)	State may opt out of abortion coverage for QHPs or terminate opt out
42 USC § 18053 (PPACA §1333)	Health care choice compact

¹⁰ In addition to ombudsmen programs, Exchange Proposed Reg proposes to require exchange to do consumer education (§155.205) in addition to the navigator requirement (§155.210)

PRE-ACA COMPLIANCE

Section		State Action
42 USC § 300gg-5; 29 USC 1185a	Mental Health Parity Act of 1996/ Mental Health Parity and Addiction Equity Act of 2008	
42 USC § 300gg-51	Newborns' and Mothers' Health Protection Act	
42 USC § 300gg-52	Women's Health and Cancer Rights Act	
42 USC § 300gg-53	Genetic information Nondiscrimination Act	
29 USC § 1185c	Michelle's Law	