

**STATEMENT OF**  
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**ON**  
**THE PRE-EXISTING CONDITION INSURANCE PLAN PROGRAM**  
**IN THE AFFORDABLE CARE ACT**  
**BEFORE THE**  
**U. S. HOUSE COMMITTEE ON ENERGY AND COMMERCE,**  
**SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

**APRIL 1, 2011**



**House Committee on Energy and Commerce  
Subcommittee on Oversight and Investigations**

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Chairman Stearns, Ranking Member DeGette, and Members of the Subcommittee, thank you for the opportunity to discuss the Department of Health and Human Services' work implementing the Affordable Care Act. I serve as Deputy Administrator and Director of the Center for Consumer Information & Insurance Oversight (CCIIO) within the Centers for Medicare & Medicaid Services (CMS). Since taking on this role, I have been involved in CCIIO's implementation of many of the provisions of the Affordable Care Act, including overseeing private health insurance reforms, assisting States to implement Health Insurance Exchanges (Exchanges), and ensuring that consumers have access to information about their rights and coverage options. Prior to becoming the Director of CCIIO, I served as the Director of the Office of Oversight within CCIIO, which is charged with working with the States to ensure compliance with the new insurance market rules, such as the prohibitions on pre-existing condition exclusions for children and rescissions, as well as ensuring consumer value for premium payments through the medical loss ratio standards and the review of unreasonable rate increases as well as the enforcement of the new restrictions on annual dollar limits on benefits.

As a former State Insurance Commissioner, I understand the key role that States play in the regulation of insurance and insurance markets. I have seen first-hand the importance of holding insurance companies accountable, and understand the need to make quality, affordable coverage more accessible to all health care consumers. I have also served as an executive in a for-profit, publicly-traded managed care company, and understand the need for competitive and robust markets as well as reasonable regulations. The Affordable Care Act appropriately balances these objectives.

At this time last year, Congress passed and the President signed into law the Affordable Care Act, which expands access to affordable, quality coverage to over 30 million Americans and strengthens consumer protections to ensure individuals have coverage when they need it most. Immediate reforms include a critical foundation of patients' rights in the private health

insurance market that help put Americans in charge of their own health care. Over the past year, we have already implemented historic private market reforms including eliminating pre-existing condition exclusions for children, prohibiting insurance companies from rescinding coverage absent fraud or intentional misrepresentation of material fact and from imposing lifetime dollar limits on coverage, and enabling many dependent young adult children to stay on their parent's insurance plan up to age 26. These changes have empowered consumers and eliminated some of the worst insurance industry practices. We have heard from many people across the country that these new rights and protections are providing them with the assistance they need to keep their coverage, see the doctors of their choice, and choose the careers that best suit their talents.

### **Development of the Pre-Existing Condition Insurance Plan (PCIP)**

The PCIP program is based on existing high-risk pools which have a history of bipartisan support. Established under section 1101 of the Affordable Care Act, the PCIP program provides a lifeline to uninsured Americans who private insurers have either refused to insure because of a pre-existing condition or have offered coverage that excludes benefits associated with that condition. These Americans can now receive health coverage without limitation on benefits because of their condition. The PCIP program provides a critical bridge from the existing insurance market to the new patient-centered insurance system that will come into effect with the Health Insurance Exchanges in 2014.

I'm proud of the fact that the States and the Federal government have been able to stand up programs in every State in record time. We are working with the States and our partners in the patient advocacy community to increase public awareness of this important bridge program. Already, thousands of Americans who were locked out of accessible private insurance coverage before the passage of the law have this valuable and needed coverage. For example, the PCIP program has provided invaluable help to people like Jerry Garner. Mr. Garner, a real estate agent from Gowen, Michigan who was recently featured in the *New York Times*, lost his health insurance after undergoing a kidney transplant. Because of his pre-existing condition, he was unable to obtain new insurance to cover the \$2,000 monthly drug bills for the immunosuppressive medications that transplant patients must take to prevent rejection of a new

organ. Mr. Garner signed up for Michigan’s PCIP program and is now paying lower premiums than he did under his previous insurance and is receiving more comprehensive coverage. Mr. Garner’s wife told the *New York Times* that the PCIP program “was definitely an answered prayer.”<sup>1</sup>

I’m pleased that enrollment in PCIP programs has increased by 50 percent from our November release to our February release of enrollment data, and we expect it to continue to grow between now and 2014. As we implement this benefit, CCIIO is actively working with States, consumer groups, patient advocates, voluntary health organizations, health care providers, social workers, other Federal agencies, and the insurance industry to promote the program, including holding meetings with State officials, consumer groups, and others. The remainder of my testimony will discuss the details of this significant new program.

By statute, the PCIP program is specifically targeted to U.S. citizens and people who reside in the U.S. legally who have been denied coverage because of a pre-existing condition and have been without coverage for at least 6 months. PCIP is intended to be a bridge program to provide uninsured people with a pre-existing condition access to comprehensive coverage between now and 2014. In 2014, most insurers will no longer be able to discriminate based on pre-existing conditions, and individuals and small businesses will have access to more affordable and robust private insurance choices through new competitive Exchanges. Until then, uninsured people who have been denied care or charged more because of a pre-existing condition – such as cancer, diabetes, high blood pressure, or high cholesterol – now have a chance for more affordable coverage where they may never have had one before. A March 2011 report from the Government Accountability Office (GAO) noted that insurance application denial rates varied significantly across insurance issuers, with a quarter of issuers having denial rates of 15 percent or less and another quarter having denial rates of 40 percent or more.<sup>2</sup>

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<sup>1</sup> Walecia Konrad, “Pre-existing Condition? Now, a Health Policy May Not Be Impossible.” *The New York Times*, March 18, 2011, link [here](#).

<sup>2</sup> GAO Report, Private Health Insurance: Data on Application and Coverage Denials, GAO-11-268 (Mar. 2011).

The PCIP program was required to be operational within 90 days of enactment of the Affordable Care Act, and CCIIO worked with States to meet that aggressive deadline. The Affordable Care Act appropriated \$5 billion for the PCIP program, and allows States the choice of administering their own PCIP program or, in a State that declines to do so, having CCIIO administer the program. To implement the Federally-administered PCIP program, CCIIO partnered with the Office of Personnel Management (OPM) to issue a competitive solicitation to entities that provide health insurance coverage on a national level, including Federal Employees Health Benefits (FEHB) plan carriers. CCIIO proceeded to contract with the Government Employees Health Association (GEHA) to serve as the third-party administrator for the Federal PCIP program, with OPM managing the contract for CCIIO. In addition, the U.S. Department of Agriculture's National Finance Center performs eligibility and enrollment processing.

In April 2010, we proposed an allocation of PCIP funding among the States, based on the formula used for distributing funds in the Children's Health Insurance Program (CHIP). In July 2010, we issued an interim final rule with a 60-day comment period which outlined the design of the program and solicited input from stakeholders.<sup>3</sup> Twenty-seven States are now administering their own PCIP program, while twenty-three States and the District of Columbia instead chose the Federal government to administer their State PCIP programs. CCIIO has also issued five guidance documents since the regulation's publication, which explain: general compliance requirements for Federal PCIP contractors; how newborns are covered under a PCIP program; how portability of coverage and third party payments work under the PCIP program; how a child under the age of 19 may qualify for the Federally-administered PCIP program; and that a PCIP program may not deny coverage to an otherwise qualified individual eligible for other coverage.

## **Enrollment**

Individuals can apply to the PCIP program that serves their State by completing an application and providing the supporting documentation that the PCIP program requires to establish eligibility. Once enrolled, applicants have access to a wide array of benefit designs in the States, including plans that are compatible with health savings accounts, and tools designed

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<sup>3</sup> Pre-Existing Conditions Insurance Plan Program, 75 Fed. Reg. 45014 (July 30, 2010).

to improve health such as a health risk assessment and care management. In some States, enrollees in the PCIP program who take the health risk assessment qualify for a financial incentive. While enrollees are given a choice of benefit designs, all 2011 plan options provide the following: first-dollar preventive care; no lifetime maximum benefits; no waiting periods; coverage for all major medical services; and an annual out-of-pocket limit on spending.

The PCIP program is designed to meet the needs of beneficiaries with pre-existing conditions and provide coverage for people with significant medical expenses and few available coverage options until 2014. According to enrollment data reported as of February 1, 2011, a total of 12,437 individuals have been enrolled in PCIP programs across the country. Of this total, 8,762 people have been enrolled in State-run PCIPs in 27 States and 3,675 have been enrolled in Federally-administered PCIPs in 23 States and the District of Columbia. In addition to the payment of medical and other claims, spending has included one-time program design and development costs, as well as enrollment, eligibility processing, billing, premium collection and consumer support functions including an online web application and call center to help facilitate enrollment.

### **Partnerships with States**

In implementing the PCIP program, we worked closely with our State partners to ensure they were able to appropriately tailor their State-administered PCIP programs to their local insurance markets. The PCIP program was modeled after the high-risk pool programs that exist in many States to assist individuals who could not obtain coverage in the private market and were ineligible for such public programs as Medicare and Medicaid. The PCIP program also draws many features from the popular bipartisan CHIP program – covering a broad range of health benefits, including those for pre-existing conditions, and allowing for significant State flexibility in design and details. The program ensures maximum efficiency in distribution of funding by permitting individual States to determine when to draw down their allocated funds. If necessary, unused State allocations could be redistributed to other States that have consumers in need.

We are closely monitoring Federal and State expenditures to ensure that States appropriately manage their funding and do not exhaust their allocations prematurely. Each State contract includes an early warning or trigger provision; when a State has reached 75 percent of its projected enrollment or expenditures are on track to exceed a State's allotment, the State must consult with CCIIO to ensure plans are in place to manage the remainder of their allocation appropriately. Similar to CHIP, administrative expenses in the PCIP program are limited by a 10 percent cap for the duration of the program. CCIIO and States work together closely to monitor expenditures to ensure we are maximizing the value of the program while staying within the 10 percent administrative cost limit and within the total funds allocated.

The flexibility for States that is a hallmark of the PCIP program means that no two State-administered programs are identical. PCIP programs are uniquely tailored to the insurance market conditions in each State. For example, some States have chosen to build their PCIP programs off of their existing high risk pools, while others chose to establish a new pool. Additionally, because each State insurance market is different, premiums vary among the different States. It also means that, together with the States, we have had the opportunity to improve the affordability of coverage and to enhance our outreach efforts. For example, we recently adjusted the Federal PCIP program to reduce premiums by approximately 20 percent, and added two new plan choices which improve benefit design for all current enrollees and new applicants. States such as North Carolina have also reduced premiums in 2011. In this State, since January 1, 2011, premiums for people up to age 55 declined by about 10 percent, while premiums declined as much as 31 percent for people above age 55.

### **Outreach Efforts**

CCIIO has an aggressive strategy to encourage enrollment of eligible individuals, meeting with local doctors, hospitals, consumer groups and chapters of advocacy groups like the American Cancer Society and American Diabetes Association. For example, we are working to reach local stakeholders and providers who come into contact with people with chronic care needs in need of insurance to spread awareness about the PCIP program. We have actively reached out to provider groups through webinars, arranged meetings with potential partners in at

least six States, and will continue this outreach in the coming months. CMS is also working with agencies that have a history serving individuals with disabilities, such as the Social Security Administration. Since February 15, 2011, all applicants for Social Security disability benefits have been informed about the PCIP program through application receipts. These collaborations leverage existing communication channels with individuals who have a pre-existing condition and may therefore be eligible for the PCIP program.

I am pleased to report that enrollment has grown significantly over the past several months and we anticipate continued growth. We believe that PCIP programs administered by the States and the Federal government will continue to fill a market void and provide valuable health insurance coverage to a population that desperately needs it until 2014. In 2014, State-based Health Insurance Exchanges will provide affordable, quality health insurance coverage to any American who needs it. We believe that the PCIP program is a vital bridge to 2014 which provides comprehensive coverage to vulnerable individuals and their families, and we look forward to continuing to improve the program.

### **Moving Forward**

As we lay the groundwork for 2014, it is our intention to continue implementing vital consumer protections while offering enough flexibility to ensure that the market is not disrupted. We are proud of all that we have accomplished over the past year and look forward to 2014 when Americans will have access to more affordable, comprehensive health insurance plans. With the new coverage options available in the PCIP program, uninsured individuals with pre-existing conditions no longer need to wait and worry that their illness will bankrupt them, or that they will have to choose between a roof over their head and paying for the cancer treatment they so desperately need. The PCIP program is another important program that will lead our transition to the new era of health insurance coverage for all Americans, through the Exchanges, in 2014.

In the meantime, I look forward to continuing to work on implementing provisions of the Affordable Care Act, strengthening CCIIO's partnership with Congress, the States, consumers,

and other stakeholders across the country. Thank you for the opportunity to discuss the work that CCIIO has been doing to implement the Affordable Care Act.