

# PPACA Implementation

Joshua Goldberg  
National Association of Insurance Commissioners  
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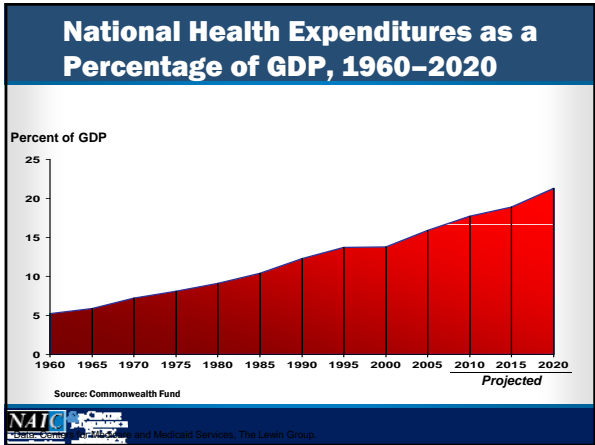
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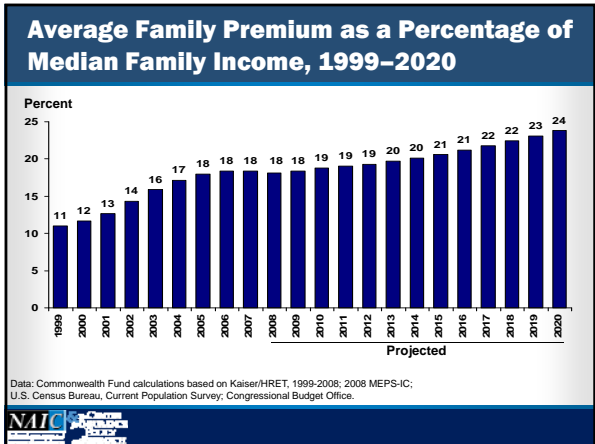
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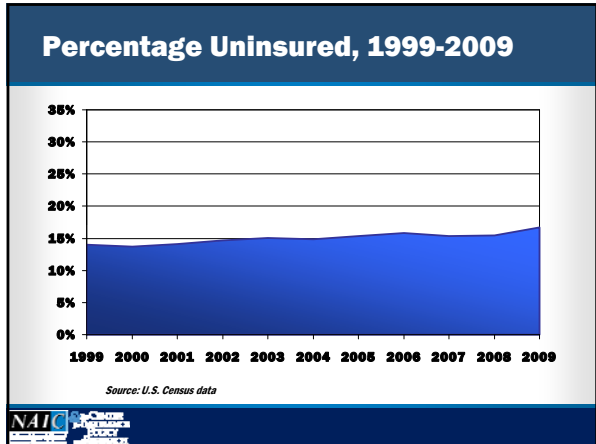
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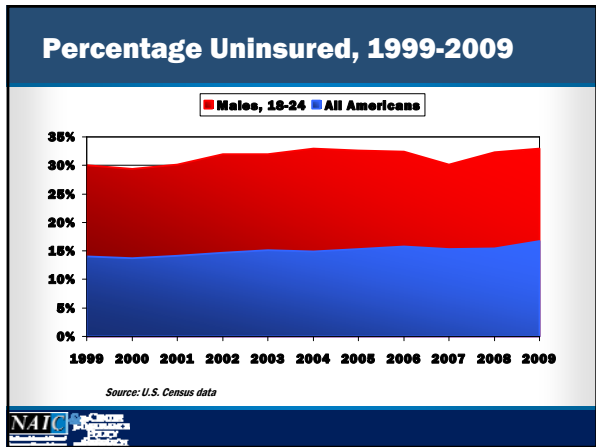
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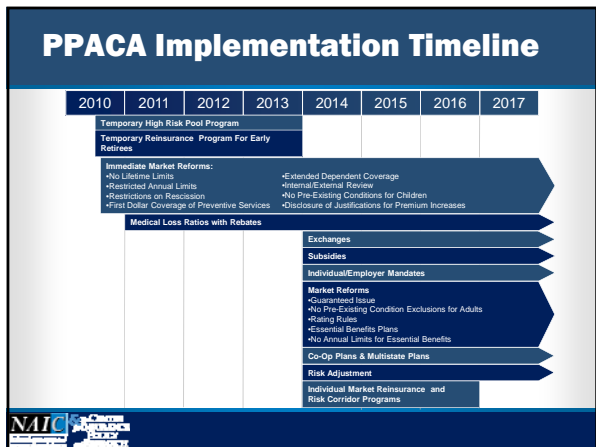
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## Preemption

Provisions of PPACA will potentially preempt state laws.


Similar to HIPAA:

**Nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.**

**PPACA §1321(d)**

Exceptions:

- Mandated benefits: States must cover cost of mandated benefits beyond essential benefits package.
- Grandfathered plans: States may not require grandfathered plans to be pooled with post-reform plans.




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## Early Reforms

- **Reforms Effective “Plan Years” Beginning on or after 9/23/2010**
  - Lifetime Limits
  - Annual Limits
  - Rescissions
  - Preventive Health Services
  - Adult Dependent Coverage
  - Pre-Existing Condition Exclusion for Under 19
  - Internal and External Review Process
  - Patient Protections
- Medical Loss Ratios
- Rate Review and Disclosure




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## 2014 Market Reforms

- Guaranteed Issue
- No Pre-Existing Condition Exclusions for Adults
- Rating Rules
  - No health status
  - 3.5 : 1 maximum variation for age
  - 1.5 : 1 maximum variation for tobacco use
- Single Risk Pool Requirement
- Essential Benefits Plans
- Individual Mandate
- Employer Responsibilities




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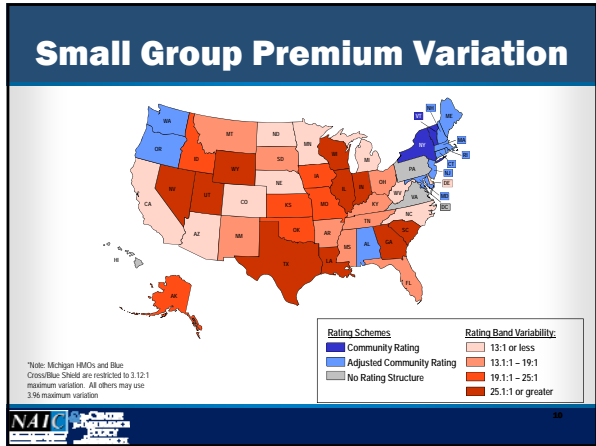
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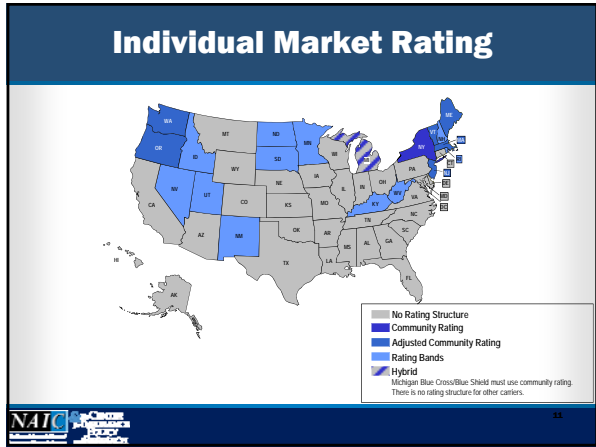
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- ### Early Challenges
- Child-Only Coverage**
    - Some or all carriers in most states have halted new sales of child-only policies.
      - States have enacted laws and regulations in response:
        - Establishing open enrollment periods
        - Requiring sales to children
      - No problems in guaranteed-issue states
  - Medical Loss Ratios**
    - Maine has received an adjustment
    - 8 States + 1 Territory have applied
      - FL, GA, IA, KY, LA, ND, NV, NH + Guam
  - Annual Limits**
    - This could force limited benefits plans out of the marketplace or lead to large premium increases for these plans.
    - HHS is issuing waivers to limited benefits plans to allow them to remain in the market
    - 4 states have received waivers for laws or programs that require or encourage insurers to offer limited plans.
- NAIC

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### General Implementation Challenges

- **Adverse selection**
  - Will the mandate be effective?
  - Expansion of small group market could encourage self-insurance
  - Grandfathering regulations create secondary market for grandfathered plans
- **Market Disruption**
  - No major market withdrawals yet
- **Cost control is a major long-term challenge**



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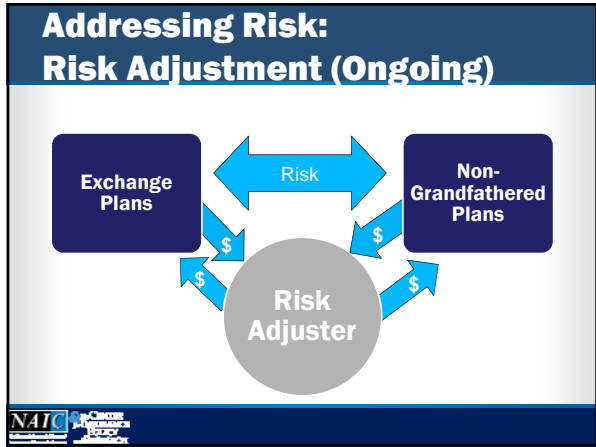
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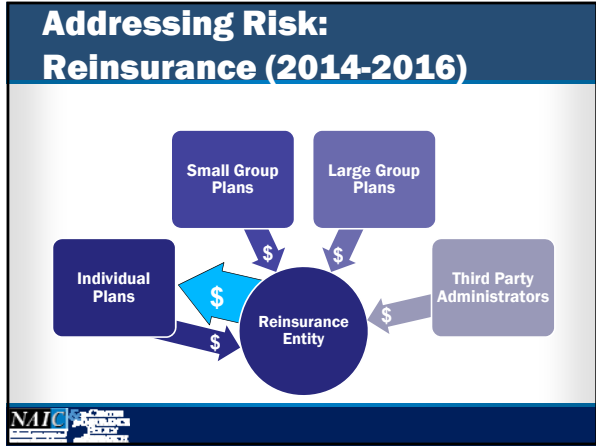
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### Addressing Risk: Risk Corridors (2014-2016)

The diagram illustrates the risk corridor concept. A central box represents the ratio of claims costs to premiums minus administrative expenses. If this ratio exceeds 103%, the plan receives a payment. If it falls below 97%, the plan contributes. The corridor is bounded by 100% on both sides.

NAIC logo: **NAIC** National Association of Insurance Commissioners

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### Health Insurance Exchanges: The Basics

- Each state will have two Exchanges, Individual and SHOP (small group), which may be merged
- The Exchanges must be operated by a governmental agency or nonprofit entity.
- The Exchange may not make available non-qualified plans to individuals or employers. (Dental plans OK)
- The Exchanges must provide for:
  - Initial open enrollment period
  - Annual open enrollment period
  - Special enrollment periods

NAIC logo: **NAIC** National Association of Insurance Commissioners

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### Exchange Functions

- Implement procedures for certification, recertification, and decertification of health plans
- Operate toll-free hotline
- Maintain Internet website with standardized info
- Assign a rating to each plan
- Utilize standardized format for presenting options
- Inform individuals of eligibility for Medicaid, CHIP or other applicable state or local public programs
- Certify exemptions from the individual mandate

NAIC logo: **NAIC** National Association of Insurance Commissioners

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**Exchange Functions  
(continued)**

- Make available a calculator to determine the actual cost of coverage after subsidies
- Grant a certification attesting that the individual is not subject to the coverage mandate because:
  - There is no affordable coverage available, or
  - The individual is exempt from the mandate
- Transfer to the Treasury a list of exempt individuals and employees eligible for tax credit
- Provide to each employer the name of employees eligible for tax credit
- Establish a Navigator program




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**Additional Functions**

- **Selective Contracting**
  - States may choose to restrict the number of plans allowed to participate in Exchanges
  - Require plans to make price concessions or offer extra benefits and services
  - Single risk pool may complicate
- **Application and enrollment**
- **Premium collection**
  - Exchanges are not required to collect premiums from enrollees, but could do so
  - Could be particularly important in the SHOP Exchange




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**Plans Available in Exchange**

- **“Qualified Health Plans”**
  - Provides Essential Benefits and is licensed
  - Agrees to offer at least 1 Silver and 1 Gold Plan
  - Agrees to charge same price in and out of Exchange
- **Co-Op Plans**
- **Multi-State Plans**




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## Levels of Coverage

- **Bronze-60% of actuarial value of benefits**
- **Silver-covers 70% of actuarial value of benefits**
- **Gold-covers 80% of actuarial value of benefits**
- **Platinum-covers 90% of actuarial value of benefits**




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## Exchange Implementation Timeline

2010	2011	2012	2013	2014
	Fed. Policymaking			
	HHS Awards Planning & Establishment Grants			
	State Legislation & Rulemaking			
	Federal & State IT Buildouts			
		HHS Certifies State Readiness		
		Plan Certification		
			Marketing & Outreach	
				1/1/14: Coverage Effective
				Enrollment




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## Key Decision Points

- ✓ **Focus – i.e., marketplace or public program?**
- ✓ **Governance**
- ✓ **Additional Functions of the Exchange**
- ✓ **Additional Information for Consumers**
- ✓ **Regulation of the Outside Market**
- ✓ **Mandated Benefits**
- ✓ **Funding of Operations**
- ✓ **Role of Agents**




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**Exchange Challenges**

- **Time**
- **Guidance**
  - Exchange regulations expected late spring/early summer 2011
  - Essential benefits regulations expected spring 2012
- **CO-OP and Multistate Plans**
  - Must be held to the same standards as other QHPs
- **IT Systems**
- **Politics**




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**NAIC Exchange Model Act**

- **Provides basic framework for establishment of the Exchange**
- **Does not take a position on:**
  - Governance
  - Financing
  - Additional functions
  - Agents and Brokers
  - Navigators
- **Available at:**
  - [http://www.naic.org/index\\_health\\_reform\\_2010.htm](http://www.naic.org/index_health_reform_2010.htm)




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**What Are States Working On?**

- **Rate and Form Filing Reviews**
  - New forms and rates based on early reforms
  - Review of rate review processes
- **Enforcement of Early Reforms**
  - Possible legislation
  - Review of External Review laws and regulations
- **Exchange Planning and Development**




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### What are the Feds Working On?

- Final Rate Review Regs
- Final MLR Regs
- Consumer Information Regs
- Exchange Regs



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### Cost Control

- Rate review, MLR provisions attempt to deal with administrative costs of insurance companies.
- Unless we get underlying costs under control, we will not solve the long term crisis.
- ACOs, bundled payments, are attempts to influence underlying costs.



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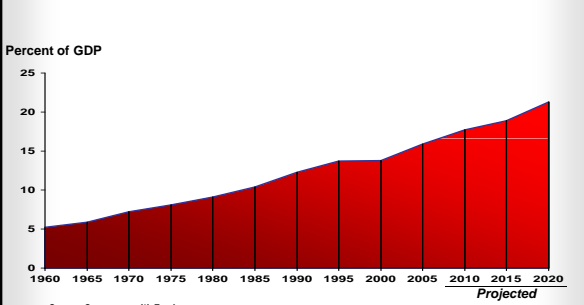
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### The Necessity of Cost Control



Source: Commonwealth Fund



and Medicaid Services, The Lewin Group

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**Questions?**

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NAIC  
National Automated  
Insurance Clearinghouse  
Inc.

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