



MEMORANDUM

October 1, 2010

To: The Honorable Tom Coburn

The Honorable Orrin G. Hatch

The Honorable John Cornyn

From: Mark Newsom, Analyst in Health Financing, [REDACTED] Coordinator
Curtis W. Copeland, Specialist in American National Government, [REDACTED] Coordinator

Subject: Deadlines for the Secretary of Health and Human Services in the Patient Protection and Affordable Care Act (P.L. 111-148, PPACA) from Enactment to January 1, 2011

CRS has issued a series of reports summarizing and analyzing the Patient Protection and Affordable Care Act (P.L. 111-148, PPACA), as amended.¹ Many of PPACA's provisions identify the Secretary of Health and Human Services (hereafter referred to as the Secretary) as the responsible party for implementation and oversight. Generally, these provisions establish some discretionary authority for the Secretary and have flexible deadlines or no deadline at all, but some of the provisions require specific actions by the Secretary (e.g., promulgation of regulations) to be completed by a specific date. You have asked that CRS identify the provisions that require specific action by the Secretary with a specific deadline between March 23, 2010 (the date of enactment) and January 1, 2011. CRS did not therefore include deadlines imposed upon other individuals or organizations (e.g., the Comptroller General or Congress) and did not include any provisions that did not require the Secretary to take a specific action by a specific date.²

¹ For example, see CRS Report R41346, *PPACA Regulations Issued During the First Four Months of the Act's Implementation*, by Curtis W. Copeland; CRS Report R40942, *Private Health Insurance Provisions in the Patient Protection and Affordable Care Act (PPACA)*, by Hinda Chaikind et al.; CRS Report R41196, *Medicare Provisions in the Patient Protection and Affordable Care Act (PPACA): Summary and Timeline*, coordinated by Patricia A. Davis; CRS Report R41210, *Medicaid and the State Children's Health Insurance Program (CHIP) Provisions in PPACA: Summary and Timeline*, coordinated by Julie Stone; CRS Report R41278, *Public Health, Workforce, Quality, and Related Provisions in PPACA: Summary and Timeline*, coordinated by C. Stephen Redhead and Erin D. Williams; CRS Report R41180, *Regulations Pursuant to the Patient Protection and Affordable Care Act (PPACA)*, by Curtis W. Copeland.

² In several situations the Secretary did take actions that were not required by a specific deadline and these actions are therefore beyond the scope of this memorandum. For example, the Secretary promulgated interim final regulations regarding the Section 1251 of PPACA grandfathered plans provision (75 FR 34538). In some situations it could reasonably be interpreted that other individuals or organizations must take an action, such as Congress appropriating necessary funds, before the Secretary can take action. If these individuals or organizations have not taken their required action, thus transferring responsibility to the Secretary, then we excluded the provision from the analysis.

This analysis was based on information from official publicly available sources such as the *Federal Register* and agency websites. The analysis was finalized on September 23, 2010; thus, only actions taken by the Secretary by that date were recorded. Therefore, if the Secretary had taken action regarding a deadline, but that action had not been made public by September 23, 2010 then CRS would not be aware of it. There are several potential reasons for a discordance between the date actions are taken by the Secretary and the date that public notification is made, including: non-public information, such as proprietary industry information, must be removed from a document that completed a required action (18 U.S.C. § 1905); a regulation or notice has been finalized by the Secretary, but is awaiting formal publication in the *Federal Register*; and delays in posting on a website caused by the work required to make a document compliant with accessibility standards of Section 508 of the Rehabilitation Act of 1973 (P.L. 93-112). **Table 1** provides details from the analysis and is structured chronologically by the deadline (first deadline if there are multiple deadlines) and then by PPACA section number. A brief summary of the requirements and any actions that CRS could identify is provided.

Please note that this memorandum and your request are confidential. However, because of the considerable interest in the implementation of PPACA some elements of this memo may be replicated in forthcoming CRS products.

Table 1. Status of the PPACA Deadlines for the Secretary of Health and Human Services

March 23, 2010 to January 1, 2011, as of September 23, 2010

Deadline	PPACA Section(s)	Requirements	Actions as of September 23, 2010
April 1, 2010, May 7, 2010, June 1, 2010, and July 1, 2010	5602	Requires the Secretary to use negotiated rulemaking to establish a methodology and criteria for the designation of medically underserved populations and health shortage areas. By May 1, 2010, the Secretary must publish a notice in the <i>Federal Register</i> announcing the intent to form a negotiated rulemaking committee and to set the target date for the rule as July 1, 2010. A preliminary committee report is required by April 1, 2010, (i.e., before the committee is required to be appointed) with a final report by June 1, 2010.	On May 11, 2010, a notice of intent to form the committee was published. The committee members were appointed on July 9, 2010, and the first meeting was held September 22, 2010. For more details and copies of issuances see http://www.hrsa.gov/advisorycommittees/shortage/index.html .
April 22, 2010	1552	Requires the Secretary to publish on the Department's website "a list of all of the authorities provided to the Secretary under this Act (and the amendments made by this Act)."	List was published on the PPACA website for HHS on April 22, 2010. See http://www.healthcare.gov/center/authorities/health_reform_and_hhs.html .
May 1, 2010 and July 1, 2010	3301(b)	Requires the Secretary to issue contract agreement language for drug manufacturers to provide access to discounted drugs by May 1, 2010. Requires the Secretary to establish a Medicare coverage gap discount program based upon the agreement by July 1, 2010.	August 2, 2010, final data agreement and final agreement language with manufacturers was released. August 3, 2010, guidance memorandum issued. See http://www.cms.gov/PrescriptionDrugCovGenIn/05_Pharma.asp#TopOfPage .

Deadline	PPACA Section(s)	Requirements	Actions as of September 23, 2010
May 7, 2010 and September 19, 2010	5104 (as amended by 10501(b))	Requires the Secretary to appoint a chairperson to the Interagency Access to Health Care in Alaska Task Force. A report is to be submitted to Congress within 180 days after enactment (i.e., by September 19, 2010) containing findings, strategies, recommendations, policies, and initiatives.	The task force was formed and the status report was published September 17, 2010. See http://www.healthcare.gov/center/regulations/alaskataskforce.html .
May 22, 2010 and July 1, 2010	1103(a), as amended by 10102(b)	Requires the Secretary to establish "a mechanism, including an Internet website, through which a resident of any State may identify affordable health insurance coverage options in that State." PPACA did not require rulemaking, but the mechanism was to be in place "not later than July 1, 2010." Requires the Secretary to develop a "standardized mechanism" for the presentation of this information by May 22, 2010.	On May 5, 2010, HHS published a final rule implementing this requirement (75 FR 24470). The rule took effect on May 10, 2010, and the website became active on July 1, 2010.
May 22, 2010	10413	Requires the Secretary to establish an advisory committee to assist in creating and conducting required education campaigns regarding young women's breast health.	No public information found.
May 22, 2010	10501(l)	Requires the Secretary to define by regulation "underserved rural community" for purposes of the section.	On May 26, 2010, Health Resources and Services Administration (HRSA) published a final rule implementing this requirement, which became effective on June 25, 2010. (75 FR 29447)
June 21, 2010	1101(a)	Requires the Secretary to establish a temporary high risk pool program. States or the Secretary may operate the program in a state.	HHS had the program operational by the deadline. However, several states did not have their high risk pools operational until August. PPACA is not clear concerning the Secretary's responsibility for oversight of the states with respect to deadlines. For more information, see CRS report R41235.
June 21, 2010	1102	Requires the Secretary to establish an early retiree reinsurance program but did not specifically require that the program had to be implemented through regulations.	On May 5, 2010, HHS published a final rule implementing this requirement (75 FR 24450). The rule took effect on June 1, 2010.
June 21, 2010	8002(c)	Requires the Secretary to establish a Personal Care Attendants Workforce Advisory Panel to advise the Secretary and Congress.	A notice establishing the panel was published June 16, 2010 (75 FR 34140).
June 21, 2010	10221 enacts Section 127 of the Indian Health Care Improvement Reauthorization and Extension Act of 2009	Requires the Secretary to develop a plan to increase the Indian Health Service's (IHS) health care staff providing behavioral health services by 500 positions within 5 years (200 of which will be devoted to child, adolescent and family services).	No public information found.

Deadline	PPACA Section(s)	Requirements	Actions as of September 23, 2010
July 1, 2010	4001	Requires the National Prevention, Health Promotion and Public Health Council (which is chaired by the U.S. Surgeon General) to publish a report on specified aspects of national prevention and health promotion activities.	The Council's first status report was submitted to Congress and posted on a public website on June 30, 2010, at http://www.healthreform.gov/forums/blog/preventioncouncil.html .
July 21, 2010	4205	Requires the Secretary to publish a <i>Federal Register</i> notice with information for retail food establishments seeking to voluntarily provide nutrition information to consumers.	An implementing notice was published in the <i>Federal Register</i> on August 25, 2010 (75 FR 52425).
September 1, 2010	6507	Requires the Secretary to identify Medicare National Correct Coding Initiative (NCCI) methodologies compatible with Medicaid, and to identify new edits applicable only to Medicaid.	CMS issued guidance to states on implementing the NCCI in a State Medicaid Director Letter (SMDL #: 10-017, ACA#: 7) dated September 1, 2010.
September 19, 2010	1332(a)(4)(B)	Requires the Secretary to promulgate regulations establishing a process for states to waive the PPACA requirements for qualified health plans, exchanges, premium tax credits, cost-sharing subsidies, the individual mandate, and certain employer requirements for plan years beginning on or after January 1, 2017.	No public information found.
September 19, 2010	1561	Requires the Secretary, in consultation with the Health Information Technology (HIT) Policy and Standards Committees, to develop "interoperable and secure standards and protocols that facilitate enrollment of individuals in Federal and State health and human services programs, as determined by the Secretary."	The HIT Policy and Standards Committees have approved initial recommendations for a minimum set of standards and data elements. On September 17, 2010, the Secretary accepted these recommendations. See http://healthit.hhs.gov/portal/server.pt/community/healthit_hhs_gov_policy_recommendations/1815 .
September 19, 2010	5103	Requires the Secretary to establish a National Center for Health Workforce Analysis, and to transfer the responsibilities and resources of the existing National Center to this center within 180 days after the date of enactment (i.e., by September 19, 2010).	The Health Resources and Services Administration (HRSA) has transferred these responsibilities and resources and has hired a director to lead the Center. http://www.hwic.org/news/details.php?id=2809 .
September 19, 2010	6401, as amended by §10603 and §1304 of P.L. 111-152.	Requires the Secretary to establish provider and supplier screening procedures for Medicare, Medicaid, and CHIP. Phased-in with providers and suppliers being subject to additional screening and other enrollment requirements first, then new providers later.	CMS published a proposed rule with guidance on implementing this requirement on September 23, 2010 (75 FR 58203).
September 19, 2010	7102(a)	Requires the Secretary to issue regulations on the following Public Health Service Act (PHSA) Section 340B program activities: civil monetary penalties, an administrative process to resolve disputes, and a methodology for calculating ceiling prices.	HRSA issued two Advance Notices of Proposed Rule Making (ANPRM) with requests for public comment (75 FR 57230 and 75 FR 57233) on September 20, 2010.

Deadline	PPACA Section(s)	Requirements	Actions as of September 23, 2010
September 19, 2010	10201(i)	Requires the Secretary to promulgate regulations relating to applications for, and renewals of, any Medicaid or CHIP demonstration project that has an impact on eligibility, enrollment, benefits, cost-sharing, or financing.	On September 17, 2010, CMS published a proposed rule regarding the Review and Approval Process for Section 1115 Demonstrations (75 FR 56946).
September 23, 2010	1001	Requires the Secretary to promulgate regulations to define the dependents that may continue to receive insurance from their parents until the age of 26 under Section 2714 of the PHSA.	An interim final rule on this issue was published in the <i>Federal Register</i> on May 13, 2010 (75 FR 27122).
September 23, 2010	6409	Requires the Secretary to establish a protocol to enable health care providers to disclose actual or potential self-referral violations.	The protocol was published September 19, 2010. See http://www.cms.gov/PhysicianSelfReferral/Downloads/6409_SRDP_Protocol.pdf
September 30, 2010	1002	Requires the Secretary before the end of the fiscal year to establish a grants program for the states to provide support for consumer assistance activities related to the health insurance exchanges.	Grant opportunities were made available on July 29, 2010. See http://www.hhs.gov/ociio/initiative/index.html .
September 30, 2010 and December 31, 2010	1003	Requires the Secretary, before the end of each fiscal year, to establish a grants program to the states for the purposes of premium rates review. Requires the Secretary to "establish a process for the annual review, beginning with the 2010 plan year...of unreasonable increases in premiums for health insurance coverage."	Grant opportunities were made available on August 16, 2010. See http://www.hhs.gov/ociio/initiative/index.html . A request for comments on the premium review process was published in the <i>Federal Register</i> on April 14, 2010 (75 FR 19335). On August 16, 2010 grant awards were announced. See http://www.hhs.gov/news/press/2010pres/08/20100816a.html .
September 30, 2010	5309(b)	Requires the Secretary to submit a report to Congress, before the end of each fiscal year, containing information about the nurse retention grants and contracts awarded in this section.	No public information found.
October 1, 2010	3141	Requires the Secretary, for discharges occurring on or after October 1, 2010, to administer certain subsections of the Balanced Budget Act of 1997 using national budget neutrality requirement.	No public information found.
October 1, 2010	7002	Requires the Secretary to "develop recommendations to present to Congress with respect to the goals, and plans for meeting the goals, for the process for the review of biosimilar biological product applications submitted under section 351(k) of the Public Health Service Act... for the first 5 fiscal years after fiscal year 2012."	FDA has convened internal committees and is preparing to hold a public hearing regarding this provision. See FDA, "Implementation of the Biologics Price Competition and Innovation Act of 2009," available at http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/ucm215089.htm .
December 23, 2010	3142	Requires the Secretary to conduct a study on the need for an additional payment for urban Medicare-dependent hospitals for inpatient hospital services under section 1886 of the Social Security Act.	No public information found.

Deadline	PPACA Section(s)	Requirements	Actions as of September 23, 2010
December 23, 2010	10330	Requires the Secretary to develop a plan for the modernization of computers at CMS, and to post the plan on the agency's website.	No public information found.
December 31, 2010	3137	Requires the Secretary to make reclassified hospital wage index payments.	Subregulatory guidance was provided to Contractors on April 21, 2010. An interim final rule was published on August 16, 2010 (75 FR 50041).
December 31, 2010	3311	Requires the Secretary to submit to Congress annual reports on the complaint system for Parts C and D. Such reports shall include an analysis of the number and types of complaints reported in the system, geographic variations in such complaints, the timeliness of agency or plan responses to such complaints, and the resolution of such complaints.	No public information found.
December 31, 2010	6411	Requires the Secretary to promulgate regulations implementing an expansion of the Recovery Audit Contractor (RAC) Program for Medicaid. States are required to establish contracts with one or more RACs.	CMS filed a Paperwork Reduction Act (PRA) Notice on September 10, 2010, that contained a Medicaid state plan template and other guidance for states to use to comply with this requirement.
December 31, 2010	10101(a)	Requires the Secretary to promulgate regulations on the minimum medical loss ratio (MLR) standards of PPACA after receiving recommendations from the National Association of Insurance Commissioners.	The National Association of Insurance Commissioners has developed a draft model rule. The comment period on the draft ends October 4, 2010.
January 1, 2011	2701	Requires the Secretary to "identify and publish for comment a recommended core set of adult health quality measures for Medicaid eligible adults."	No public information found.
January 1, 2011	3002(f)(2)	Requires the Secretary to "establish and have in place an informal process for eligible professionals to seek a review of the determination that an eligible professional did not satisfactorily submit data on [physician] quality measures under this subsection."	No public information found.
January 1, 2011	3011	Requires the Secretary to establish and submit to the "relevant committees" of Congress a "national strategy to improve the delivery of health care services, patient health outcomes, and population health." Also requires the Secretary to "create an Internet website to make public information regarding--(1) the national priorities for health care quality improvement established under subsection (a)(2); (2) the agency-specific strategic plans for health care quality described in subsection (b)(2)(B); and (3) other information, as the Secretary determines to be appropriate."	The Secretary has posted a request for comments on proposed principles, framework, priorities, and goals for the National Quality Strategy, due by October 15, 2010. http://www.hhs.gov/news/reports/quality/nhcqsap.html HHS plans to use a "wide range of other public forums to garner input and suggestions in the coming months."

Deadline	PPACA Section(s)	Requirements	Actions as of September 23, 2010
January 1, 2011	3021	Requires the Secretary to ensure that the Center for Medicare and Medicaid Innovation created by PPACA within CMS is carrying out its duties.	The Center is operational and is currently under the direction of Anthony Rodgers, Deputy Administrator and Director for CMS's Center for Strategic Planning.
January 1, 2011	3026	Requires the Secretary to establish a Community Based Care Transitions Program.	No public information found.
January 1, 2011	3102	Requires the Secretary to analyze current methods of establishing practice expense geographic adjustments in Medicare and to evaluate data that fairly and reliably establishes distinctions in the costs of operating a medical practice in the different fee schedule areas.	No public information found.
January 1, 2011	3132	Requires the Secretary to begin collecting information to revise payments for hospice care.	No public information found.
January 1, 2011	3138	Requires the Secretary to conduct a study of the costs of certain cancer hospitals for the purposes of a possible Medicare payment adjustment.	No public information found.
January 1, 2011	3303	Requires the Secretary to develop procedures to permit a stand alone prescription drug plan or a Medicare Advantage Prescription Drug Plan to waive the monthly beneficiary premium for a subsidy eligible individual if the amount of such premium is de minimis.	No public information found.
January 1, 2011	3305	Requires the Secretary to provide reassigned Part D low-income subsidy beneficiaries with (1) information on formulary differences between the prior and reassigned plan; and (2) a description of the individual's right to request a coverage determination, exception, or reconsideration...."	No public information found.
January 1, 2011	4004, as amended by 10401(c)	Requires the Secretary to report to Congress on outreach efforts for states and providers regarding obesity-related services for Medicaid beneficiaries.	No public information found.
January 1, 2011	4108	Requires the Secretary to award grants to states to provide incentives to Medicaid beneficiaries to participate in healthy lifestyle programs.	No public information found.
January 1, 2011	4103	Requires the Secretary to begin providing Medicare coverage of personalized prevention plan services.	Implementing regulations were published on July 13, 2010 (75 FR 40039).

Deadline	PPACA Section(s)	Requirements	Actions as of September 23, 2010
January 1, 2011	4104, as amended by 10401(c)	Requires the Secretary to implement a waiver of cost-sharing for Medicare covered preventive services. Although PPACA did not specifically require promulgation of regulations to implement this provision, the Secretary used the regulatory process as a vehicle to do so.	Implementing regulations were published on July 13, 2010 (75 FR 40039).
January 1, 2011	6402 as amended by §1303 of P.L. 111-152	Requires the Secretary to promulgate regulations requiring providers and suppliers to include their National Provider Identification number on all claims.	CMS published a final rule implementing this requirement on May 25, 2010 (75 FR 24437).
January 1, 2011	8002(a)	Requires the Secretary to establish the Community Living Assistance Services and Supports (CLASS) Program, as specified by PPACA.	No public information found.
January 1, 2011	10109	Requires the Secretary to convene a meeting of the International Classification of Diseases Version 9 (ICD-9) Coordination and Maintenance Committee to receive stakeholder input and recommend revisions to the crosswalk between the ICD-9 and ICD-10 codes, which is posted on the CMS website.	The Committee met on September 15, 2010, pursuant to this requirement.
January 1, 2011	10531(i)(3)	Requires the Secretary to "require Federally Qualified Health Centers to submit to the Secretary such information as the Secretary may require in order to develop and implement the prospective payment system under this subsection...."	No public information found.

Source: CRS analysis

Notes: This table is based on publicly available information.

The following CRS analysts contributed to this memorandum: Evelyne Baumrucker, Cliff Binder, Kirsten J. Colello, Patricia Davis, Amalia Corby-Edwards, Elayne J. Heisler, Elicia Herz, Sarah A. Lister, Janemarie Mulvey, C. Stephen Redhead, Amanda K. Sarata, Julie Stone, and Susan Thaul.