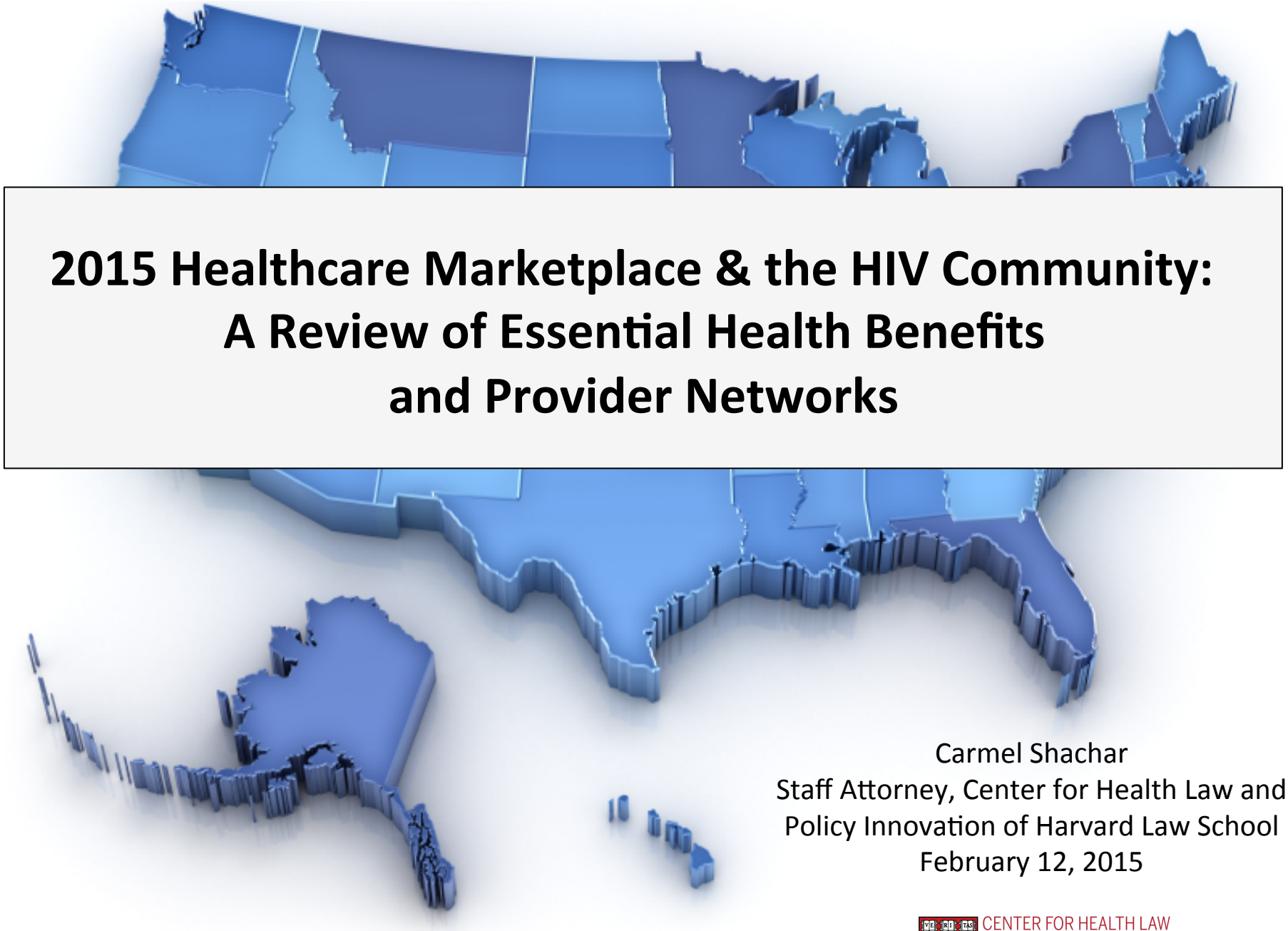

2015 Healthcare Marketplace & the HIV Community: A Review of Essential Health Benefits and Provider Networks

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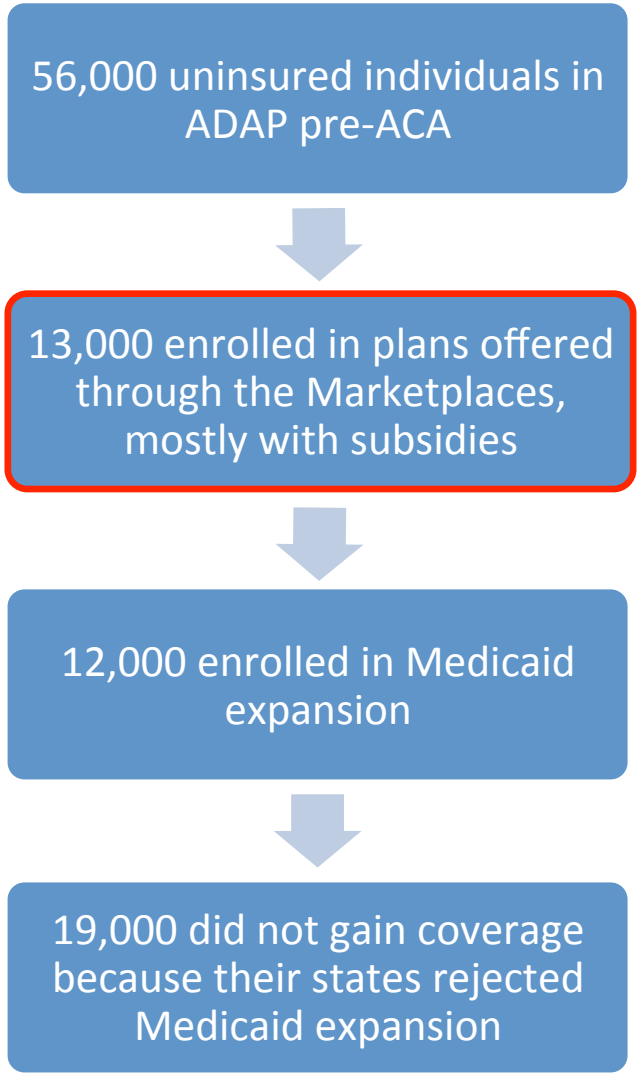
CENTER FOR HEALTH LAW & POLICY INNOVATION
Harvard Law School

Enrollment of People Living with HIV in Medicaid and Marketplace Health Insurance Plans



- 12 million Americans successfully transitioned from being uninsured to insured in 2014, including 56,000 people living with HIV
  - Complete 2015 enrollment numbers not yet available
- Medicaid expansion appears to be working well in terms of coverage and cost of HIV care & treatment
- Marketplace plans, however, are becoming increasingly hostile to individuals living with HIV
  - Insurers are finding ways to move costs from the general population to the chronically ill
  - Trends in affordability and cost-sharing across all states are increasingly alarming
  - Insurers are able to do so due to regulations that do not offer adequate protections

Actuarial Values

- The ACA requires plans to meet certain actuarial values
  - Actuarial Value: The average total spending for all enrollees that is covered by premiums
  - Example: A plan with an actuarial value of 80% will pay, on average, 80% of all health costs of enrollees, while enrollees will pay, on average, 20% of the total costs via deductibles and cost-sharing (including medication cost sharing)
  - Silver Plans must have an actuarial value of 70%

- The Flaw: Actuarial value is just the <u>average</u> cost for enrollees
  - Plans can be constructed in which most enrollees pay less than their share while other individuals pay much more

Actuarial Values are a Problem for Those Living with HIV

- To meet required actuarial values, insurers can either:
  - Adjust premiums to cover medical and pharmacy costs, assigning costs more evenly among all plan beneficiaries; or
  - Disproportionately push the cost of treatment for certain conditions onto beneficiaries, causing them to bear a much higher percentage of costs
    - Accomplished through adverse tiering practices, such as placing all HIV medications on the highest cost-sharing tiers

Insurers are essentially asking individuals living with serious and chronic health conditions, such as HIV, to shoulder the financial burdens of their plans instead of equitably spreading the cost

Impact of Adverse Tiering

- A recent January 2015 article in the New England Journal of Medicine noted:
  - Many insurers may be using adverse tiering and benefit design to dissuade sicker people from choosing their plans and to push actuarial cost to these patients who do enroll
  - 52% of Marketplace plans required at least 30% co-insurance for all covered drugs in at least one class for high-cost chronic conditions such as HIV, mental illness, cancer, diabetes and rheumatoid arthritis

Plans with Adverse Tiering	Plans without Adverse Tiering
• Annual cost per HIV drug: $4,892 • % of plans that had drug-specific deductibles: 50%	• Annual cost per HIV drug: $1,615 • % of plans that had drug specific deductibles: 19%

An individual living with HIV enrolled in a plan with adverse tiering will spend $3,000 more per year than an individual enrolled in a different plan

Alarming Trends in Affordability Across the United States

- Many plans are placing all HIV medications on formulary tiers with very high levels of cost-sharing
  - 50% of HIV/AIDS drugs covered on silver plans are subject to an average of 36% co-insurance
  - Some plans place all HIV & HCV medications on 50% co-insurance

- In our review of the qualified health plans (QHPs) offered in five southern states in 2014-2015:
  - 53.5% of plans required co-insurance of 30+% for HIV medications
  - 80 out of 86 plans required at least 30% of median yearly household discretionary income to afford Atripla, when it was covered

Example of Trends: Georgia

- Over the past two years, we analyzed 29 QHPs offered by eight different insurers in Georgia
  - Every plan except one required high out of pocket expenditures for individuals living with HIV
  - 63% placed more than 50% of HIV meds in the highest cost sharing tier
    - One insurer placed 97% of HIV related medications in the highest cost sharing tier
    - From 2014-2015 one major insurer moved 32.9% of HIV related medications into the highest cost-sharing tier for all of its plans
  - Seven insurers require patients to spend at least 30% of median yearly household discretionary income on Atripla alone
    - 66% of plans require the patient to spend the yearly out of pocket maximum ($6,350) on Atripla

Example of Trends: Illinois

Inadequate coverage and affordability issues are narrowing the ability of Ryan White Programs to support access to Marketplace insurance

- The Illinois Ryan White ADAP program will cover premiums for enrollees, but plans must provide coverage equivalent to the ADAP programs and at equal or lower cost than ADAP coverage
  - -- In 2014, **four** plans qualified
  - -- In 2015, **two** plans qualified
    - One plan withdrew from the Marketplace
    - One plan had formulary and drug cost issues, including refusing to work with CVS pharmacies

Example of Trends: Louisiana

Progress:

- After law suit filed, three Louisiana health insurance companies agreed to continue to accept federally funded third-party payments for premiums
- Allows Ryan White Program assistance to afford monthly premiums

Ongoing Problems:

- All formularies place more than 50% of HIV medications in the highest cost sharing tier and 95.7% of plans require patients to spend at least 30% of median yearly household discretionary income on Atripla
- One plan increased monthly co-payments for HIV meds from $60 to $760
- Another plan requires 33% co-insurance for any HIV medication
- In late 2014, a major insurer announced that all HIV medications would only be available through a limited number of mail order pharmacies

Progress to Date

- Presidential Budget
  - Expands HIV prevention and treatment activities
  - Increases HHS HIV funds by $118 million & total spending to ˜$1 billion

- HHS Notice of Payment and Benefit Parameters for 2016
  - Cautions issuers to avoid discouraging enrollment of people living with chronic conditions
    - For example, by not covering effective and widely recommended multi-tablet drug regimens or placing most or all drugs that treat a particular condition on the highest cost tiers.
  - Requires access to brick-and-mortar or other non-mail order pharmacy
  - Replaces the current prescription drug standard with a pharmacy and therapeutics (P&T) committee requirement
  - However, none of these changes will be put into place until 2016

Recommendations to Address Alarming Trends

Coverage

- Amend Essential Health Benefits (EHB) rule to require coverage of specialty drugs widely accepted in treatment guidelines or best practices
- Promulgate regulations to ensure that formularies and utilization management do not discriminate against people living with HIV

Affordability

- Amend EHB rule to prohibit excessive coinsurance for specialty drugs

Transparency

- Require all Marketplace plans to provide complete, accurate and accessible formulary information in a standard format
- Limit ability of plans to change benefits after close of open enrollment

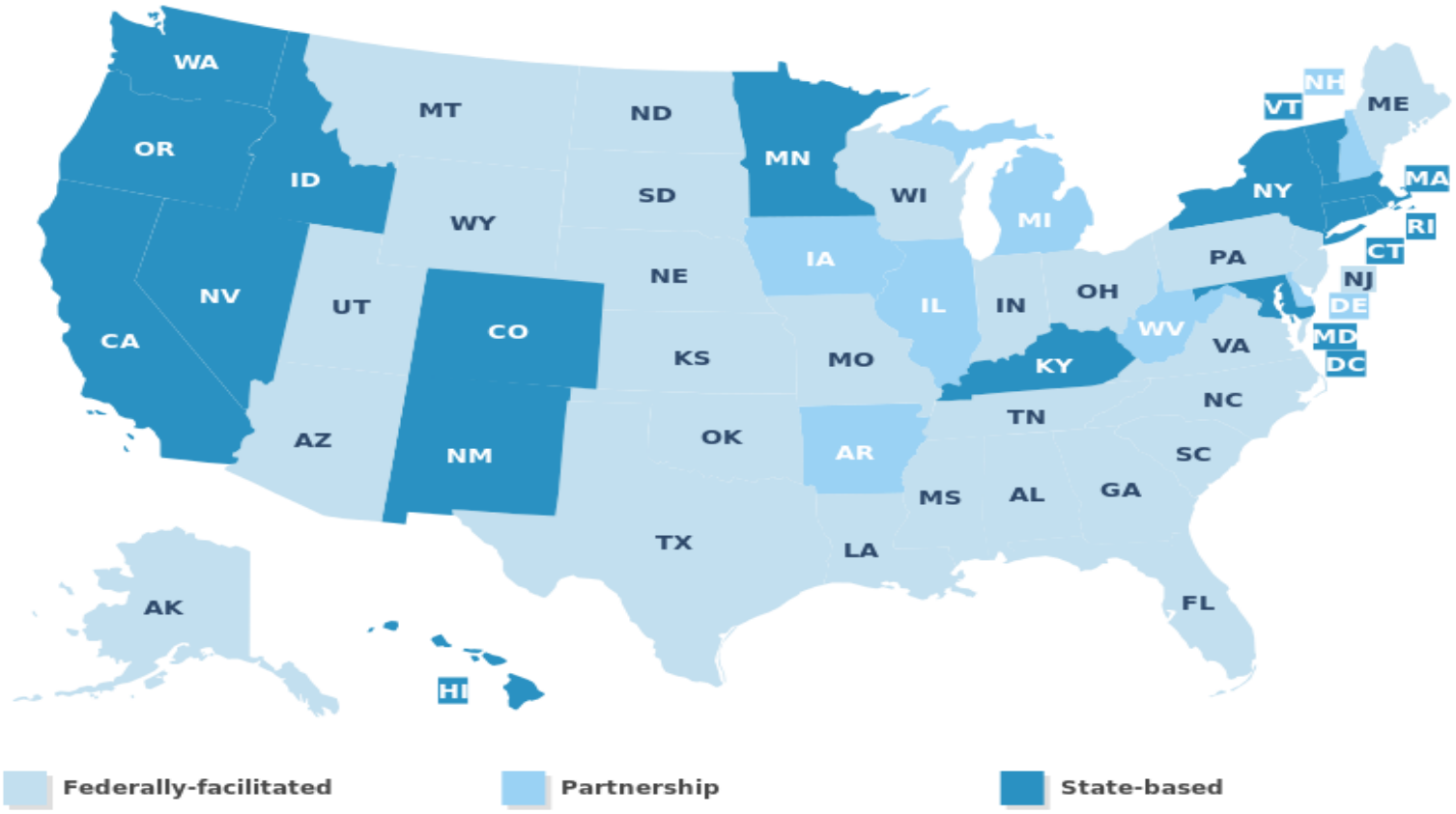
Pending Litigation: Subsidies In Question

- The ACA allows individuals at 100-400% FPL to receive tax subsidies to help pay for Marketplace health insurance
- In 2014, Supreme Court announced it would hear *King v. Burwell,* a case challenging an IRS rule holding that individuals purchasing insurance in federal-run Marketplaces are eligible for tax subsidies

Potential Consequences

- Six million individuals across 34 states with federal-run Marketplaces could immediately loose access to affordable health insurance coverage, including the overwhelming majority of people living with HIV in the 34 states

Geographic Impact of *King v. Burwell*



Source: Kaiser Family Foundation, "Marketplace Enrollees Eligible for Financial Assistance as a Share of the Subsidy-Eligible Population, April 2014"

Addressing the Potential Impact of *King v. Burwell*

If the Challengers succeed

- Establish clear regulations that support states' ability to establish state-based Marketplaces
- Encourage states to run their own Marketplaces or partner with the federal government
- Prepare individuals who depend on the subsidies to seek alternative coverage

If the Administration succeeds

- Increase outreach efforts to support enrollment
- Encourage states to expand Medicaid to guarantee a continuum of coverage for low-income people living with HIV

When You See Discrimination Related to Transparency, Coverage, Cost or Any Other Issue: SPEAK UP!!!

- A team of national and state partners has established "SPEAK UP" to monitor, assess and document barriers to HIV care
- Through SPEAK UP we see patterns of discrimination emerging that need to be addressed
- We need to help inform and shape federal policy to ensure the needs of people living with HIV are addressed

To SPEAK UP, visit:

http://www.hivhealthreform.org/speakup/