

What Do the Election Results Mean for Medicaid?

BY [AARON KASE](#)
NOVEMBER 15, 2012

The election is finally over, and President Obama's victory and upcoming second term in office mean that his signature Patient Protection and Affordable Care Act (ACA), or [Obamacare](#), will be fully enacted by 2014. The implementation of the law will mean big changes and potentially big savings for Medicaid, the nation's public health insurance plan for low-income families.

The biggest change is the most obvious — Medicaid rolls could be expanded by as many as 17 million people across the country with ACA rules that will put families making up to 133 percent of the federal poverty line into the program. The actual number will be less than that, after the [Supreme Court ruled in June](#) that the federal government could not compel states to add more people to the public health plan.

Several states have already announced they will refuse to expand Medicaid even though Washington D.C. would pick up an overwhelming majority of the costs — estimates now predict that perhaps an additional 11 or 12 million people will be signed up rather than the 17 million who would otherwise be eligible.

Beyond simply adding more people to its program, there are several changes within Medicaid that could soon be put into effect now that regulators know that the ACA isn't in immediate danger of getting scrapped, as was promised by presidential challenger Mitt Romney. "Given that there wasn't a change, conventional wisdom is that there are a number of regulations that have been held up pending the election results and we should start to see some of those regulations come out in the next several months," says [Ellyn L. Sternfield](#), an attorney with the health law section of Washington D.C. firm [Mintz Levin](#).

In particular, new rules could be issued soon about how the health plan prices prescription drugs for its rebate program. Consumers might also expect to see greater federal/state cooperation on fraud enforcement.

Drugs and Fraud on the Radar



Ellyn L. Sternfield

The [drug rebate program](#) governs how much of a discount manufacturers give the government in exchange for their products being covered by Medicaid. The rebate increased to 23.1 percent for most drugs when the ACA was enacted in 2010, and new regulations could be on the way. Essentially the rules will change how companies calculate the prices of their drugs, which could lead to a more favorable deal to the government. The takeaway is that savings to taxpayers could be in the billions. "Draft regulations were issued some time ago," Sternfield says. "I think everybody is waiting with bated breath. Manufacturers are eager to see guidance."

Another measure to keep Medicaid costs low is to root out bad-faith actors through the [Health Care Fraud Prevention and Enforcement Action Team](#) (HEAT). “There’s been a lot of increased health care enforcement through the HEAT initiative through the Justice Department and the Department of Health and Human Services,” says Sternfield. “I expect to see that effort continue with increased joint state and federal efforts.”

In theory, communication and coordination between various agencies could reduce compliance costs to health providers in addition to preventing fraud. “The problem is, the more people who are auditing and reviewing a Medicaid provider, the more administrative costs there are,” the attorney explains. “My hope is that some of these coordinated efforts may decrease the number of people who are looking at a particular billing or particular type of claim and hopefully limit some of the administrative burden. I’m not optimistic but that’s my hope.”

Reprinted with permission from [Lawyers.com](#)