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## Expanding Medicaid: A Cross-State Comparative Analysis

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2014 ANNUAL SYMPOSIUM  
*EXPANDING MEDICAID: A CROSS-STATE COMPARATIVE ANALYSIS*



APRIL 10TH, 2014, 3PM-6PM  
WALTER A. SLOWINSKI COURTROOM  
THE CATHOLIC UNIVERSITY OF AMERICA,  
COLUMBUS SCHOOL OF LAW

The staff of the thirtieth anniversary volume of *The Journal of Contemporary Health Law and Policy* was pleased to host its annual symposium on April 10 of 2014 at The Catholic University of America.<sup>1</sup> In 2012, the U.S. Supreme Court addressed constitutional challenges to two separate provisions of the Patient Protection and Affordable Care Act of 2010 (ACA), President Obama’s signature domestic legislation.<sup>2</sup> The Supreme Court upheld the constitutionality of the individual mandate, but a majority of the court found the ACA’s expansion of Medicaid to be unconstitutionally coercive of states.<sup>3</sup> As a result of the ruling, participation

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1. Press Release, Catholic University of America, Columbus School of Law, Future of Medicaid Expansion Discussed at CUA Law Symposium (Apr. 11, 2014), *available at* <http://www.law.edu/Future-of-Medicaid-Expansion-Discussed-at-CUA-Law-Symposium.cfm>.

2. Nat’l Fed’n of Indep. Bus. v. Sebelius, 132 S. Ct. 2566 (2012).

3. *Id.* at 2608-09 (“The Affordable Care Act is constitutional in part and unconstitutional in part. . . . As for the Medicaid expansion, that portion of the Affordable Care Act violates the Constitution by threatening existing Medicaid funding.”).

by states in the expansion of Medicaid under the ACA became voluntary.<sup>4</sup> The 2014 Symposium introduced Medicaid and its coverage throughout the country, provided a state-by-state analysis of the ACA expansion, and featured a lively discussion on the merits of the underlying policy rationale for expansion.

Opening remarks were delivered by Dean of the Columbus School of Law and Knights of Columbus Professor, Daniel Attridge. Dean Attridge commented on the value of the law journals in promoting legal scholarship and debate at the law school. The Symposium Editor, Angel R. Hernandez, provided a brief introduction, and Melissa Youssef, the Deputy Symposium Editor introduced the first speaker, Laura Snyder, a policy analyst from Kaiser Commission on Medicaid and the Uninsured.<sup>5</sup>

Ms. Snyder began the first session with a presentation introducing Medicaid and providing an overview of the ACA's expansion of the program.<sup>6</sup> Snyder pointed out that the ACA expanded the scope of Medicaid coverage from covering specific low-income groups to other nonelderly adults with incomes less than 138% of the federal poverty level.<sup>7</sup>

Snyder explained that the federal government was willing to pay for the vast majority of costs to cover newly-eligible people, but that, due to the Supreme Court ruling, states effectively have the option to implement the Medicaid expansion.<sup>8</sup> Snyder then provided a state-by-state breakdown: as of March 2014, 27 states were implementing the expansion (including Washington, D.C.), five states were openly debating the idea in legislatures,

4. *Id.* at 2608 (“The Court today limits the financial pressure the Secretary may apply to induce States to accept the terms of the Medicaid expansion. As a practical matter, that means States may now choose to reject the expansion. . . . Some States may indeed decline to participate . . . Other States, however, may voluntarily sign up”).

5. *Laura Snyder*, HENRY J. KAISER FAM. FOUND., <http://kff.org/person/laura-snyder/>.

6. Laura Snyder, *Journal Contemporary Health Law and Policy Symposium on the Medicaid Expansion under the Affordable Care Act, Medicaid: 2014 and Beyond*, at 8 (Aug. 10, 2014) (Presentation on file with Journal).

7. 132 S. Ct. at 2606 (“It is no longer a program to care for the neediest among us, but rather an element of a comprehensive national plan to provide universal health insurance coverage.”); *see also* HENRY J. KAISER FAM. FOUND., *A Guide to the Supreme Court’s Decision on the ACA’s Medicaid Expansion*, at 3 (Aug. 1, 2012), <http://kaiserfamilyfoundation.files.wordpress.com/2013/01/8347.pdf> (citing ACA § 2001(a)(1), codified at 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII)).

8. Snyder, *supra* note 6, at Figures 10 and 12.

and nineteen states were not moving forward with implementation.<sup>9</sup> Finally, Snyder noted that, in states that are not implementing the ACA's Medicaid expansion, there is a large gap in health insurance coverage potentially impacting 4.8 million uninsured nonelderly adults below poverty nationwide.<sup>10</sup> "The decision of each state matters significantly," Snyder explained. "This is a fluid situation. We'll be watching to see what each state does as we move forward."<sup>11</sup> Ms. Snyder then answered questions from attendees.

The second panel focused on the competing policy considerations affecting the adoption of the Medicaid expansion. The speakers were Thomas Miller, resident fellow with the American Enterprise Institute,<sup>12</sup> and Dr. Len M. Nichols, director of the Center for Health Policy Research and Ethics at George Mason University.<sup>13</sup>

The 2014 Symposium was followed by a reception in the atrium of The Columbus School of Law.

BRIAN J. FARNKOFF  
*Editor in Chief*

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9. *Id.* at Figure 12 ("AR, IA and MI have approved waivers for Medicaid expansion (MI plans to implement Apr. 2014). IN and PA have pending waivers for alternative Medicaid expansions. WI amended its Medicaid program to cover adults up to 100% FPL, but did not adopt the expansion. NH has passed legislation approving the Medicaid expansion to begin in July 2014.").

10. *Id.* at Figures 13-15.

11. Press Release, *supra* note 1.

12. See Thomas Miller Resident Fellow Biography, AM. ENTER. INST., <http://www.aei.org/scholar/thomas-p-miller/>.

13. See Dr. Len Nichols Biography, GEORGE MASON UNIV., COLL. HEALTH AND HUM. SERVS., <http://chhs.gmu.edu/faculty-and-staff/nichols.cfm>.

