



# The 2012 Election

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*Health Care Implications for Colorado*

November 7, 2012

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The Colorado Health Foundation™





## Introduction

*After years of campaigning, months of political advertisements and nearly six billion dollars in campaign spending,<sup>1</sup> the 2012 election is now behind us. With clarity on the presidential winner – Barack Obama – attention turns to what the election will mean for Colorado and the nation.*

Colorado's position as a swing state brought much attention from both presidential campaigns, each sharing a very different vision for the United States. Redistricting meant that several Congressional races were more competitive than in years past, and both Democrats and Republicans fought to maintain their control at the state Capitol.

On the presidential level, voters faced a choice between President Barack Obama and Governor Mitt Romney and their contrasting positions on health policy. President Obama highlighted the more popular provisions in the Affordable Care Act (ACA), and pledged to spend his second term implementing (and defending) his signature legislative achievement. Governor Romney, on the other hand, promised to work to repeal the ACA and issue waivers that would allow states to implement (or ignore) the law.

How many Americans will have access to health insurance - and where they will buy that insurance - in the next decade will be influenced heavily by the country's decision to re-elect President Obama.

For health policy in Colorado, the election represents both an end and a beginning. While the Supreme Court's ruling on the ACA answered questions about its constitutionality, much of the health care community was in a holding pattern awaiting the November elections. The Colorado Health Institute (CHI) anticipates that the next

few months will be characterized by a flood of activity as Colorado - and states across the country - turn their focus to implementation of the national health law. In the ACA, the federal government provided the "what," but it's up to Colorado to figure out the "how."

While the faces representing Coloradans at the State Capitol may have changed, much remains the same:

- The country is still deeply divided. While the electoral college showed a strong win for Obama, the popular vote was close. And views on health care reform are just as divided. Approximately 38 percent of Americans have a favorable impression of the ACA, while 43 percent have an unfavorable impression, according to the latest tracking poll conducted by the Kaiser Family Foundation.<sup>2</sup> President Obama faces a polarized nation and no clear consensus about how to address problems facing the health care system.
- The ACA remains the law of the land. Due to the difficulty of overcoming a presidential veto, it is unlikely that Congress will be able to significantly derail the law. However, Colorado has decisions to make about how the law is implemented. In particular, CHI anticipates a robust discussion about the pros and cons of expanding Medicaid to adults below 133 percent of the federal poverty level - a choice facing all states following the Supreme Court's decision.

# ★ ★ ★ WHO WON? ★ ★ ★

The results did nothing to change the deep political division nationally, with Republicans controlling the House and Democrats controlling the Senate. Colorado is a different story, however. It now has a Democratic governor and Democratic control of both the House and the Senate.

## President

**Barack Obama (D)**

**Mitt Romney (R)**

**332**

Electoral Vote

**206**

**51%**

Popular Vote

**47%**

**51%**

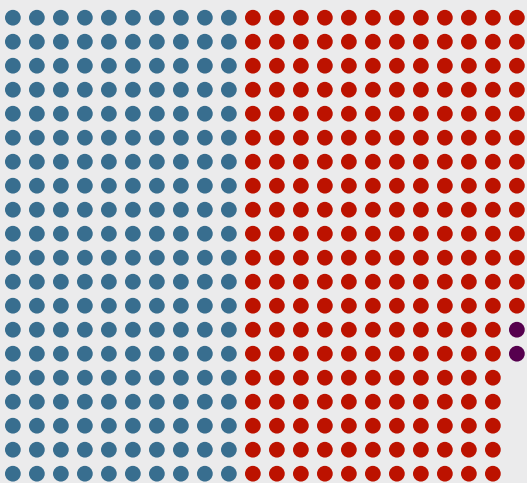
Colorado Vote

**47%**

## Congress

### House of Representatives

**200 Democrat** (Previously 191)  
**233 Republican** (Previously 241)  
**2 Seats Undecided**



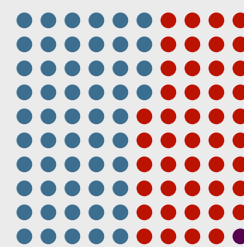
### Colorado Delegation

**3 Democrat**  
**4 Republican**  
 (Unchanged)

- CD 1 – Diana DeGette (D)
- CD 2 – Jared Polis (D)
- CD 3 – Scott Tipton (R)
- CD 4 – Cory Gardner (R)
- CD 5 – Doug Lamborn (R)
- CD 6 – Mike Coffman (R)
- CD 7 – Ed Perlmutter (D)

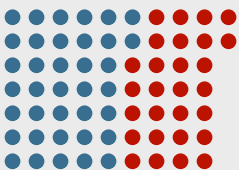
### Senate

**54 Democrat** (Previously 52)  
**45 Republican** (Previously 47)  
**1 Independent\*** (Previously 1)



\*Caucusing with Democrats

## State Legislature



### House of Representatives

**37 Democrat** (Previously 32)  
**28 Republican** (Previously 33)



### Senate

**20 Democrat** (Previously 20)  
**15 Republican** (Previously 15)



# Six Questions Facing Colorado

*With a clear victory by President Obama, the election provided a number of answers. For health policy, perhaps the most significant is the fate of the ACA. Although it may be tweaked by future sessions of Congress, it is likely to be implemented largely as it was passed in March 2010. Now, the questions facing Colorado shift from if the ACA will be implemented to how it will be implemented. But the questions about health policy don't end there.*

*Here are the six most pressing post-election questions identified by CHI:*

## **1 Will Colorado participate in the ACA's Medicaid expansion?**

The Supreme Court upheld most of the ACA, but gave states the opportunity to opt out of the Medicaid expansion without penalty. Governor John Hickenlooper has not disclosed whether he supports expanding Medicaid eligibility. At this time, it isn't even clear who will be allowed to make the decision, although legislators are lining up to stake out a position on the issue. CHI anticipates that legislation favoring and opposing the expansion will be discussed and potentially introduced in the 2013 session.

There have been differing estimates of the cost of the Medicaid expansion. The governor's proposed FY 2013-14 budget doesn't include an estimate for Colorado. In any event, the answer to the question of whether to expand stands to impact hundreds of thousands of uninsured Colorado adults.

The shifting balance of power in Colorado's legislature could influence the decision. Colorado's last major Medicaid expansion was passed during the 2009 legislative session, when Democrats controlled both the House and Senate. But that legislation, the Colorado Health Care Affordability Act, HB 09-1293, leveraged federal dollars to fully fund an expansion of Medicaid eligibility.

CHI doesn't expect the Democratic control in Colorado to signal a blank check for health care spending. There may be fewer ideological and political barriers to fully implementing health reform. Still, with the economic recovery tenuous and Colorado voters indicating that the economy remains their top concern, any spending will most likely come with rigorous expectations for a return on the taxpayers' investment.

## **2 Will Colorado health care programs fall off the "fiscal cliff?"**

Automatic spending cuts and scheduled tax hikes combine to create the so-called "fiscal cliff" facing the nation at the end of the year. Negotiating the potential crisis will be the first major test for President Obama post election. Funding for a number of the state's health programs, including grants to the Colorado Health Benefit Exchange (COHBE), may be subject to deep spending cuts if no compromise is reached. Failing to avert the fiscal cliff would mean 2 percent rate cuts for the state's Medicare providers. In addition, a portion of the budget for the Colorado Department of Public Health and Environment could be impacted. Heads of a number of other programs focusing on health care in Colorado are also watching the fiscal cliff outcomes with worry.

## **3 How will uninsured Coloradans respond to the requirement to purchase health insurance?**

Beginning in 2014, most Coloradans will be required to have health insurance. This will be especially important for a group of about 405,000 Coloradans who have been uninsured for three months or longer and are not eligible for public health insurance. They will be required to purchase coverage or pay a tax.

For many, especially those who aren't eligible for Medicaid, the tax penalty will be significantly cheaper than the cost of purchasing health insurance. How many uninsured Coloradans choose to purchase insurance will have important implications for the long-term viability of COHBE and the diversification of the risk pool.

It will be important for COHBE to have a strong marketing and communications strategy to reach those Coloradans who might opt out of the insurance requirement. COHBE plans to launch a broad initiative, in conjunction with a network of partner organizations, to educate Coloradans about how they can shop for health insurance in the new web-based marketplace starting in October 2013.

The creation of the exchange is a complex technological challenge. COHBE reports that it is moving ahead according to plan and within budget. A related but distinct challenge is to attract uninsured Coloradans to the Exchange and persuade them to purchase coverage. This second challenge will take on new importance and added urgency in 2013.

**4** *How will Colorado employers respond to the requirement to provide affordable health insurance to their employees?*

Also beginning in 2014, employers with 50 or more employees will be required to provide health insurance to all employees who work more than 30 hours per week. In addition, employers will be required to meet federal guidelines demonstrating that insurance is affordable for employees and covers at least 60 percent of health care expenses on average. If an employer decides not to provide affordable coverage, the penalty is at least \$2,000 per worker.<sup>3</sup>

How will Colorado's employers respond to this mandate? CHI anticipates a range of reactions. Many employers offer health insurance now, and this will certainly continue. Nearly 60% of non-senior adult Coloradans receive insurance through their employers.

Some have speculated that smaller employers may stop offering insurance to their employees. An

October 2012 survey of Colorado employers suggests that is not likely to be a widespread issue. When asked if they planned to stop offering coverage in 2014, 72 percent said no. Only 4 percent of employers reported that they were planning to drop coverage.<sup>4</sup>

One point of concern relates to part-time workers. A recent survey from Mercer suggests almost one half of retail and hospitality employers are re-thinking their workforce strategy regarding part time workers. Some employers are evaluating scenarios where workers are dropped to less than 30 hours a week in order to avoid the cost of coverage or the employer penalty. While CHI does not anticipate rampant adoption of this strategy, we are monitoring the impact of this unintended consequence.<sup>5</sup>

**5** *Will pending Colorado health care reform projects get funding and approval?*

CHI anticipates that the election will unleash a cascade of funding and rule-making decisions that have been on hold during the campaign. These decisions could affect implementation of the ACA as well as other health reform demonstrations. The Department of Health and Human Services is expected to release a number of ACA rules and regulations governing how health insurance exchanges are to be run, the definitions of full-time and part-time for employer mandates, and religious exemptions for contraceptives.

In addition, Colorado is awaiting word on a number of grant applications that the state has submitted to the Centers for Medicare & Medicaid Services (CMS). Getting the go-ahead will mean Colorado can build on work underway across the state to reform the health care system to provide better health, improved care and lower costs for Coloradans.

Demonstration projects awaiting approval include:

- State Innovation Models (SIM) Initiative – CMS wants states to design and test new models of payment and health care delivery models that involve public and private payers. It has set aside \$275 million for up to five states, and is expected to announce its selections in December. Colorado’s proposal is called the Statewide Health Innovations Fostering Transformation, or Colorado SHIFT. It focuses on integrating care for people with physical and behavioral health issues and builds on the infrastructure being built within the Medicaid system to coordinate care.
- Dual Eligible Demonstrations Project – Colorado was one of 15 states selected to submit proposals to streamline the care of people who are eligible for both Medicaid and Medicare, a patient group that tends to be the most expensive. Two states have already won approval to proceed, and Colorado hopes to hear by the end of the year whether it can launch its demonstration.

## 6 Who will set the health and health care agenda for the 2013 legislative session?

Colorado has become a purple state, though the precise shade of purple changes each year. The election set the stage for a shift in power to the Democrats, a change that has the potential to impact health policy. How that will play out remains to be seen.

January 1, 2013, will mark the unofficial launch of Governor Hickenlooper’s re-election campaign. The governor, who has supported health care in Colorado without making it a top priority, will turn at least some of his attention to the re-election campaign. In addition, for the first time in his term as governor, he will be working with a Democratic House and a Democratic Senate, a tricky proposition for a governor who has worked hard to build bipartisan appeal.

The governor provides a glimpse of his health policy priorities in his proposed budget, including adding a dental benefit for adults covered by Medicaid, capping it at \$1,000 per patient annually. In addition,



the governor proposes creating a behavioral health crisis system, increasing Medicaid provider rates by 1.5 percent, hiking community-based mental health funding by \$4.7 million, providing an additional \$1.5 million for early intervention services for infants and toddlers with development delays or disabilities and offering additional assistance for counties dealing with high enrollments in the Supplemental Nutrition Assistance Program (SNAP), which was formerly known as food stamps.

Watch for new health care leadership in the 2013 session after significant lawmaker turnover. Six of the 13 House Health and Environment Committee members aren’t back in the General Assembly this session. And its chair, Republican Ken Summers, lost his re-election bid. In the Senate, four of the nine Senate Health Committee members won’t be returning. Chair Betty Boyd, a Democrat, was term-limited out.

Democrats will have a majority on most committees, including the influential Joint Budget Committee. The JBC will have a 4-2 Democratic majority.

The 2013 session will see opportunities for new leadership and new voices when it comes to health care in Colorado.



# What's to Come: *Colorado Health Policy in 2013, 2014 and Beyond*

The election raises many questions. Even so, there are a number of certainties about the future of health policy in Colorado.

Much of the Colorado health policy community has been in a holding pattern and postponing implementation activities awaiting the election results. Opponents and proponents of the Medicaid expansion are likely to become more vocal in the coming months. Some may seek to modify Colorado's definition of essential health benefits. Others may decide it's important to work on syncing state law so that it is in compliance with the insurance regulations in the ACA.

Soon we will be able to measure, for the first time, the results of health reform efforts, both at the state and federal levels. For example, the Colorado Department of Health Care Policy and Financing recently released a report summarizing results from the first year of its Accountable Care Collaborative (ACC) program. While the report indicated modest savings and promising decreases in the use of expensive services, the jury is still out on whether the ACC will bend the curve on Colorado's Medicaid costs in the long-term. As more data on the ACC becomes available, will lawmakers choose to double down on Medicaid care coordination efforts or experiment with other reforms?

On the federal level, within the next few years we will be able to begin quantifying the impacts of the ACA. How many Coloradans will choose to purchase

insurance through COHBE, and will that number be large enough to make the Exchange financially self-sufficient? What happens if it isn't? Would Colorado's public and private entities step in to financially support COHBE after federal funding dries up?

Looking ahead, the demographic shifts that influenced the presidential election are evidenced in Colorado as well and will become more pronounced over the coming years. Colorado is one of eight states with more than a million Hispanic residents. On election night, 74 percent of Colorado's Hispanic voters selected Obama. The 2010 U.S. Census found that the state's children are, for the first time, more likely to be non-white and Hispanic than ever before. Minorities have often faced barriers to insurance coverage as well as to accessing health care, presenting unique health policy challenges.

Meanwhile, as decisions about health reform come faster and have more impact, Coloradans remain divided about the health reform law. Approximately 18 percent of Colorado voters reported that health care was the most important issue influencing their vote, according to exit polls. But 55 percent of Coloradans want to repeal all or some of the ACA, six percentage points higher than the national number.<sup>6</sup>

Whatever the future holds, Colorado leaders have shown creativity and determination in tackling a health care system that continues to become more expensive and now accounts for a quarter of the state's general fund.



 The logo consists of a cluster of orange dots of varying sizes arranged in a pattern that suggests movement or a network, positioned to the left of the word "Endnotes".

## Endnotes

<sup>1</sup> Center for Responsive Politics. (2012). "2012 Election Spending Will Reach \$6 Billion, Center For Responsive Politics Projects." (Retrieved November 7, 2012 from: <http://www.opensecrets.org/news/2012/10/2012-election-spending-will-reach-6.html>).

<sup>2</sup> Kaiser Family Foundation. (2012). "Kaiser Health Tracking Poll: October 2012." (Retrieved November 7, 2012 from: <http://www.kff.org/kaiserpolls/upload/8381-C.pdf>).

<sup>3</sup> Kaiser Family Foundation. (2012). "Penalties for Employers Not Offering Affordable Coverage Under the Affordable Care Act Beginning in 2014." (Retrieved November 7, 2012 from: [http://healthreform.kff.org/~media/Files/KHS/Flowcharts/employer\\_\\_penalty\\_flowchart\\_1.pdf](http://healthreform.kff.org/~media/Files/KHS/Flowcharts/employer__penalty_flowchart_1.pdf)).

<sup>4</sup> Lockton Companies. (2012). 2013 Colorado Employer Benefits Survey Report. (Retrieved November 7, 2012 from: [http://www.lockton.com/Resource\\_/PageResource/MKT/2013%20Survey%20Report%20-%20FINAL.pdf](http://www.lockton.com/Resource_/PageResource/MKT/2013%20Survey%20Report%20-%20FINAL.pdf)).

<sup>5</sup> Sealover, E. (2012) "Employers ponder cutting hours to avoid insurance." Denver Business Journal. (Retrieved November 7, 2012 from: <http://www.bizjournals.com/denver/print-edition/2012/08/24/employers-ponder-cutting-hours-to.html?page=all>).

<sup>6</sup> CNN. (2012). "Exit polls: Obamacare remains a hot-button issue." (Retrieved November 7, 2012 from: [http://politicalticker.blogs.cnn.com/2012/11/07/exit-polls-obamacare-remains-a-hot-button-issue/?hpt=he\\_c2](http://politicalticker.blogs.cnn.com/2012/11/07/exit-polls-obamacare-remains-a-hot-button-issue/?hpt=he_c2)).



CHI is a trusted source of independent and objective health information, data and analysis for the state's health care leaders. CHI, celebrating its tenth anniversary in 2012, is funded today by the Caring for Colorado Foundation, Rose Community Foundation, The Colorado Trust and the Colorado Health Foundation.

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