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HEALTH CARE REFORM UPDATE

February 20, 2012

Implementation of the Affordable Care Act (ACA)

On February 13th the Department of Health and Human Services (HHS) announced that it was awarding \$9.1 million in funding to medical students under the ACA's Students to Service program. The program provides loan repayment assistance to medical students who agree to specialize in primary care and to work in health professional shortage areas. An HHS news release can be found [here](#).

On February 15th HHS announced that, because of ACA rules, at least 54 million Americans in private health plans and 32 million in Medicare received at least one free preventive service in 2011. A news release can be found [here](#).

On February 16th HHS released the forms that insurance companies will be required to use to calculate and report their annual medical loss ratios (MLRs). This information will be used to inform consumers about how insurance companies spend premium dollars and to calculate the rebates that insurance companies who do not comply with MLR rules must pay to beneficiaries. HHS attributes the increased recovery to the efforts of the Health Care Fraud Prevention & Enforcement Action Team, created by the Administration in 2009. An HHS news release can be found [here](#). The forms can be found [here](#).

Other HHS and Federal Regulatory Initiatives

On February 14th HHS and the Justice Department released a report showing that health care fraud enforcement efforts recovered a record-high \$4.1 billion in 2011. An HHS news release can be found [here](#). The report can be found [here](#).

On February 15th the U.S. Office of Special Counsel announced that it was broadening a whistleblower investigation against the Food and Drug Administration (FDA). The FDA allegedly monitored employees' emails to the Counsel and took retaliatory actions against whistleblowers who reported concerns about the inappropriate approval of medical devices. A press release can be found [here](#).

On February 16th HHS announced that it would delay the date by which providers have to comply with ICD-10 diagnosis and procedure codes. A 2009 rule required that providers adopt the standard by October 1, 2013, but provider groups have complained that the new standards are overly burdensome. HHS has not announced a new timeline for ICD-10 adoption. An HHS press release can be found [here](#). A response from the American Medical Association can be found [here](#).

On February 17th HHS announced that the number of hospitals utilizing health information technology (IT) more than doubled over 2010 and 2011. HHS Secretary Kathleen Sebelius also announced new data showing nearly 2,000 hospitals and more than 41,000 doctors have received \$3.1 billion in incentive payments for ensuring meaningful use of health IT, particularly certified Electronic Health Records (EHR). An HHS news release can be found [here](#).

Other Congressional and State Initiatives

On February 14th three House Democrats sent letters to the FDA and National Institutes of Health (NIH) expressing concerns that rules regarding clinical drug trial reporting were not being enforced. Federal law requires that sponsors of clinical drug trials publish all trial results within one year of the completion of the trial, but a recent report by the British Journal of Medicine finding that, in 2009, only 22 percent of clinical trials were in fact reported. The letter to the NIH can be found [here](#). The letter to the FDA can be found [here](#).

On February 14th Senator Roy Blunt (R-MO) proposed legislation that would shield religious employers from having to provide contraceptive coverage in their health plans. Senate Majority Leader Harry Reid has said he would allow a vote on the issue. A press conference in which Blunt introduced the amendment can be viewed [here](#). The text of the amendment can be found [here](#).

On February 16th the Centers for Medicare and Medicaid Services (CMS) rejected Wisconsin's request for a waiver from the ACA's medical loss ratio (MLR) standards but approved North Carolina's temporary waiver request. CMS's determination regarding the Wisconsin rejection can be found [here](#). CMS's determination regarding the North Carolina approval can be found [here](#).

On February 16th Senators Tom Coburn (R-OK) and Richard Burr (R-NC) unveiled a legislative proposal to reform Medicare. Entitled the Seniors' Choice Act, the proposal would gradually increase the Medicare eligibility age to 67, impose higher premiums on wealthier beneficiaries, limit the use of Medi-gap policies, and allow private seniors select from private plans or a government plan. A full report on the Senior's Choice Act can be found [here](#).

On February 17th both the House and the Senate voted to extend the payroll tax cut and to delay cuts to physician Medicare payments through the end of 2012. The extension of physician payments is paid for by cuts to other health care spending, including reduction of the bad debt that hospitals can be compensated for, a reduction in Medicare clinical laboratory payment rates, and cuts to the Prevention and Public Health Fund. A conference report with the text of the legislation can be found [here](#). The American Hospital Association responded to the bill by stating that while it supports maintaining physician payments, the bill will place heavy strains on vulnerable hospitals. The AHA's response can be found [here](#).

Other Health Care News

On February 13th the Archives of Internal Medicine published a study analyzing the usefulness of patient satisfaction surveys in rating health care quality. The study found that increased patient satisfaction was associated with higher overall costs and increased mortality. The authors suggest that without measures to ensure that care is evidence-based, an emphasis on satisfying patients may have unintended negative effects. The results of the study can be found [here](#).

On February 14th the California Healthcare Foundation released a poll on Californians' attitudes toward end-of-life care. The poll found that, although 80 percent of respondents would like to talk with a doctor about end-of-life care, only 7 percent have done so. The poll also found that although 82 percent say it is important to have end-of-life wishes in writing, only 23 percent have done so. The poll can be found [here](#).

On February 15th the National Partnership for Women and Families released a poll on patients' attitudes toward electronic health records (EHRs). Over 80 percent of patients thought EHRs would be useful to providers in providing care. 60 percent, however, worried that EHRs would increase privacy breaches. A press release on the poll can be found [here](#).

On February 16th the RAND Corporation released a paper analyzing the effects the ACA is likely to have on the insurance market if the individual mandate is struck down but the rest of the law is left intact. The authors predict that eliminating the mandate would result in a 12.5 million increase in the number of uninsured, a 2.4 percent increase in premiums, and a small increase in government spending. The report can be found [here](#).

On February 17th a group of 11 Democratic Attorneys General and the Governor of Washington filed an amicus brief in the US Supreme Court supporting the constitutionality of ACA and urging the Supreme Court to uphold the law's Medicaid expansion. The attorneys general argue that while expanding Medicaid's eligibility standards, the ACA does not disturb the states' autonomy and freedom to experiment with the program. The brief can be found [here](#).

Hearings & Mark-ups Scheduled

Congress in Recess