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## HEALTH CARE REFORM UPDATE

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### Implementation of the Affordable Care Act

On February 19<sup>th</sup> Department of Health and Human Services (HHS) Secretary Kathleen Sebelius announced that Iowa, Michigan, New Hampshire, and West Virginia had applied to run partnership exchanges. Upon conditional approval of these states' exchanges, the number of states running their own exchange or a partnership with the federal government could increase to 25, including the District of Columbia. Under the current schedule, people will be able to shop for health plans within the exchange starting in October 2013, with the health plans scheduled to begin in January of 2014. The notice from Secretary Sebelius is available [here](#).

On February 20<sup>th</sup> the Centers for Medicare and Medicaid (CMS) released a final rule on essential health benefits (EHB), actuarial value, and accreditation requirements as part of the Affordable Care Act (ACA). Secretary Sebelius said the final rule will make it easier for consumers to purchase health coverage and provides insurance standards for EHB and extends mental health benefits. Also included in the rule is a requirement that insurance plans must cover one prescription drug in each class or the number of medications covered in the state's benchmark plan, whichever is greater. The release from HHS can be read [here](#). The full final rule can be viewed [here](#).

On February 19<sup>th</sup> a group of Republican lawmakers, led by U.S. Senate Minority Leader Mitch McConnell (R-KY) and Senator Orrin Hatch (R-UT), filed an amicus brief with the U.S. Tenth Circuit Court of Appeals arguing that employers with sincere religious objections should be exempt from the contraceptive mandate of the ACA. The Republicans say forcing groups, like crafts store Hobby Lobby, to cover contraceptives for their employees violates the Religious Freedom Restoration Act of 1993. The brief can be found [here](#).

On February 20<sup>th</sup> Florida Governor Rick Scott (R) surprised many by calling for an expansion of the state's Medicaid program. Gov. Scott has been a steadfast opponent of the ACA, however, earlier in day, CMS approved Florida's 1115 waiver for Medicaid expansion which would allow Florida to enroll its Medicaid patients into private managed-care plans. An article on Gov. Scott's decision is available [here](#). The letter from CMS Director Cindy Mann on requirements the state must meet can be read [here](#).

On February 20<sup>th</sup> the Department of Labor (DOL) released an additional FAQ regarding the ACA. The FAQ notes that an employer cannot just cover oral contraceptives, and over-the-counter contraceptives must be covered if they are FDA-approved and prescribed by a health provider. The full FAQ document can be found [here](#).

On February 20<sup>th</sup> Virginia Governor Bob McDonnell (R) sent a letter to state legislators expressing his deep concerns with the expansion of the state's Medicaid system. Gov. McDonnell said major reforms need to be made to the current Medicaid system in Virginia, and the state must receive funding assurance from the federal government before it can move forward with any expansion. The letter can be read [here](#).

On February 20<sup>th</sup> the DOL released an interim final rule to offer whistleblower protections to employees of insurers who report violations of consumer protections, like the right to insurance regardless of a pre-existing condition, under the ACA. The DOL rule can be viewed [here](#).

On February 21<sup>st</sup> CMS awarded \$300 million in ACA funds to six states to help reduce care costs. Arkansas, Maine, Massachusetts, Minnesota, Oregon, and Vermont will receive funding as part of the State Innovation Models Initiative to overhaul their delivery systems. Nineteen other states will receive awards to develop plans for delivery system reform. Information on the awards from CMS is available [here](#).

On February 22<sup>nd</sup> the *Washington Post* reported that House and Senate budget conferees of the Virginia General Assembly reached a deal that will make it easier to expand Medicaid coverage in the state. A compromise between the Virginia House and Senate would allow a 10-member commission to authorize expansion as soon as the federal government allows the state to implement reforms in Medicaid operation. An article on the deal can be read [here](#).

### **Other HHS and Federal Regulatory Initiatives**

On February 19<sup>th</sup> the Supreme Court ruled that state-action immunity did not apply in a case, *Phoebe Putney Health System v. Federal Trade Commission (FTC)*, involving the merger of a Georgia town's two hospitals. The FTC argued that the merger violated anti-trust laws and eliminated competition. The Court determined that the hospitals were not immune from FTC regulations, even though the government was involved in the merger. The Court's opinion is available [here](#).

### **Other Congressional and State Initiatives**

On February 20<sup>th</sup> Representative Rosa DeLauro (D-CT) who is ranking member on the House Labor, Health, Human Services, and Education Appropriations Subcommittee, released a new report that highlights cuts to HHS spending since 2002. The report notes how the last decade has brought spending cuts of \$4 billion at HHS, and the sequester would cut spending by another \$3.7 billion. The report can be viewed [here](#).

On February 21<sup>st</sup> South Carolina House Republican Leadership put forth a proposal to pay hospitals to steer low-income people from emergency rooms and instead encouraged them use free health clinics. Republicans in the state legislature see the plan as an alternative to the ACA and a way to reduce costs on the state's health system. Full details of the proposal are available [here](#).

### **Other Health Care News**

On February 19<sup>th</sup> Erskine Bowles and former Senator Alan Simpson (R-WY), former Co-chairs of the National Commission on Fiscal Responsibility and Reform, a.k.a the "Simpson-Bowles Commission," introduced new ideas to help the United States achieve fiscal stability. The pair says Medicare and Medicaid spending should be reduced by offering more provider and beneficiary incentives, reducing provider payments, improving cost-sharing, raising premiums for higher earners, reducing drug costs, and adjusting benefits to fit an aging population. An outline of the new ideas from Simpson and Bowles is available [here](#).

On February 19<sup>th</sup> the *Journal of Caffeine Research* published a report that suggests drinking coffee may help decrease the risk of death. A 12-year study of 400,000 adults who were 50-71 at the start of the study showed a small decrease in death rates for those who drank the most cups versus people who seldom have coffee. The report can be found [here](#).

On February 20<sup>th</sup> the Institute of Medicine (IOM) released a report on the President's Emergency Plan for AIDS Relief (PEPFAR). The report notes that while the program has helped improve the health of many people across the globe, PEPFAR must work to develop program sustainability in its partner countries. The IOM report is available [here](#).

On February 20<sup>th</sup> the American College of Physicians released its report for 2013 on the state of U.S. health care. The American College of Physicians says the poorest and most vulnerable population should continue to be focused on in the implementation of the ACA, and that the Sustainable Growth Rate (SGR) model should be eliminated and replaced with new payment methods. The full report can be viewed [here](#).

On February 21<sup>st</sup> America's Health Insurance Plans (AHIP) issued a report that highlights the benefits of the Medicare Advantage (MA) program. The report was in response to a proposed 2.2% cut to MA by the Obama administration. AHIP says 28% of Medicare beneficiaries are enrolled in MA. The report highlights how 41% of MA beneficiaries have incomes of less than \$20,000, and AHIP is concerned that proposed cuts and changes under the ACA will negatively impact seniors. The report is available [here](#).

## **Hearings and Mark-Ups Scheduled**

### *House of Representatives*

On February 27<sup>th</sup> the House Energy and Commerce Subcommittee on Health will hold a hearing entitled “Fostering Innovation to Fight Waste, Fraud and Abuse in Health Care.” More information can be found [here](#).

On February 27<sup>th</sup> the House Ways and Means Health Subcommittee will hold a hearing to review the current benefit design of the Medicare Fee-For-Service program and consider ideas to update and improve the benefit structure to better meet the needs of current and future beneficiaries. Additional details are available [here](#).

On February 27<sup>th</sup> the House Veterans’ Affairs Committee will hold a hearing titled “Electronic Health Record U-Turn: Are VA and DoD Headed in the Wrong Direction.” More information on the hearing is available [here](#).