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HEALTH CARE REFORM UPDATE

February 4, 2013

Implementation of the Affordable Care Act

On January 25th Oklahoma Attorney General Scott Pruitt (R) argued to the U.S. District Court in Muskogee that the Affordable Care Act (ACA) does not grant the IRS the authority to provide subsidies to persons in a state that is part of the federal government insurance exchange. Pruitt and other critics say the IRS rule will place burdensome tax penalties on employers and suggest that the IRS actions infringe on state sovereignty. Details on Pruitt's lawsuit are available [here](#).

On January 25th the U.S. District of D.C. threw out a case involving five Catholic non-profit organizations arguing against the constitutionality of the ACA's contraceptive mandate. The District Court ruled that the plaintiffs' claims are not ripe for review and that the Obama administration may change contraceptive rules by April. The ruling is available [here](#).

On January 25th the U.S. Chamber of Commerce issued a formal complaint to the Department of Labor regarding the wellness programs that are part of the ACA. The Chamber argues the wellness programs inappropriately reward all participants and do not create adequate competition. The comments also suggest the Obama administration did not fully examine the economic impact of its wellness policies. The full letter from the Chamber is available [here](#).

On January 28th Tennessee Governor Bill Haslam (R) said in his State of the State address that he did not include Medicaid expansion in his budget due to concerns over the already large costs of the program. However, the governor indicated he is not ruling out the potential for a Medicaid expansion. Full comments from the governor are available [here](#).

On January 30th HHS released a much-anticipated proposed rule that exempts qualified religious organizations from the contraceptive mandate of the ACA. The contraceptive mandate has been

contested by businesses, Catholic organizations, and religious institutions of higher education which say the law infringes on their beliefs. The proposed rule is available [here](#).

On January 30th the Department of the Treasury released new proposed rules to implement the individual responsibility provisions of the ACA. The Treasury bulletin can be found [here](#).

On January 30th Montana Governor Steve Bullock (R) called on his state's legislature to approve the Medicaid expansion in the ACA. Governor Bullock said that Montana residents will pay for the federal program regardless of the decision to expand. The governor also noted other Republican governors who have embraced expansion. Full text of the governor's state of the state speech is available [here](#).

On January 31st CMS' Center for Medicare & Medicaid Innovation (CMMI), created by the ACA, announced participants in the Bundled Payments for Care Improvement initiative (BPCI). CMMI says the program may lead to higher quality and lower cost for Medicare by bundling services under a single reimbursement arrangement to encourage financial and performance accountability. The models cover a broad range of health operations and problems. Details on the models and program participants are available [here](#).

On February 1st CMS announced the final rule implementing the Physician Payment Sunshine Act as part of the ACA. The rule is intended to increase transparency and eliminate conflicts of interest by requiring manufacturers of drugs and other devices covered by Medicare and Medicaid to report payments made to physicians and teaching hospitals. The press release from CMS is available [here](#). The final rule can be read [here](#).

On February 3rd New Hampshire's insurance and health departments called for a state-federal partnership to implement the new ACA insurance market changes. While certain legislators have expressed concern about the costs of funding the partnership program once federal money runs out, New Hampshire has ruled out running its own system. Governor Margaret Hassan (D) has until February 15th to make a decision. The article can be read [here](#).

On February 4th Ohio Governor John Kasich (R) released his state's annual budget that contained provisions expanding the state's Medicaid program under the ACA. The budget can be found [here](#).

Other HHS and Federal Regulatory Initiatives

On January 31st HHS Secretary Sebelius wrote an email to staff at the Department stating that Carolyn Clancy, director of the Agency for Healthcare Research and Quality, will step down from her position after 10 years of service. An article on Dr. Clancy's departure is available [here](#).

On January 31st CMS introduced a plan to help African Americans living in three counties in Alabama receive increased access to services designed to prevent heart attacks and strokes. The Morehouse School of Medicine and HHS awarded \$900,000 to the National Baptist Convention to help connect communities with counseling, education, and medication services. Additional details of the plan are available [here](#).

On February 1st the Centers for Disease Control and Prevention (CDC) released its weekly flu season report for the week ending on January 26th. Flu cases in Eastern states continued to decline while

reported cases in Western states rose. Eight pediatric deaths were reported, which matched the previous week, and senior populations continued to be the hardest hit by the virus. The agency recommends that all high-risk individuals, including seniors, seek treatment immediately if they feel the onset of flu symptoms. The full report is available [here](#).

On February 4th HHS' Office on Women's Health launched a new heart attack awareness campaign targeting Spanish speaking women 50 years and older. More information on the campaign can be found [here](#).

On February 4th CMS announced a new proposed rule designed to reform unnecessary regulatory processes and save health care entities money by removing red tape. The announcement from HHS can be found [here](#).

Other Congressional and State Initiatives

On January 28th a report released by the Government Accountability Office (GAO) noted the impact of the ACA on beneficiaries of the Health Coverage Tax Credit (HCTC), which is scheduled to expire in 2013. According to the GAO, about 69% of HCTC participants will receive fewer benefits through the ACA, but 23% of Americans will likely receive a more generous tax credit. The report can be found [here](#).

On January 29th health groups in California, including doctors, hospitals, and pharmacists, sent a request to the 9th Circuit Court of Appeals to review a recently upheld decision that would lead to a 10% rate cut for Medicaid providers. The healthcare providers argue California must consider their costs when making Medicaid decisions. The petition for rehearing is available [here](#).

On January 31st members of the Senate Finance Committee released recommendations for Medicare and Medicaid cost savings. The bipartisan report included contributions from experts and stakeholders in the health community. Recommendations include increased private sector participation in Medicare, increased anti-fraud funding for states, and alternative payment policies. The full release and report can be read [here](#).

On February 1st five GOP leaders of the House Energy & Commerce Committee sent a letter to Food and Drug Administration Commissioner Margaret Hamburg requesting documents from the Agency relating to contaminated products from the New England Compounding Center (NECC). The NECC products are believed to have caused a nationwide meningitis outbreak that injured hundreds of patients. The letter from the Committee can be found [here](#).

Other Health Care News

On January 25th the Republican National Committee (RNC) passed a resolution to take funding away from Planned Parenthood. The RNC says that Planned Parenthood has decreased screening and prevention services since 2009 and that abortions made up 92% of their pregnancy services. The resolution, which suggests moving funds to cancer screening organizations, can be read [here](#).

On January 28th the Pharmaceutical Care Management Association (PCMA) released a report suggesting that increased use of preferred and limited pharmacies could save payers up to \$115 billion over 10 years and still meet Medicare pharmacy access standards. The full PCMA report is available [here](#).

On January 28th the Annals of Internal Medicine released its Recommended Adult Immunization Schedule for the United States in 2013. Along with annual flu vaccines, adults should be aware of their last immunizations for tetanus, varicella, and measles. The full recommendations, which include comprehensive schedule tables, are available [here](#).

On January 28th Rasmussen Reports released a poll on public perception of the ACA. About seven out of 10 Americans believe the ACA will cost more than official estimates, and 51% of Americans view the law unfavorably, versus 45% who have a somewhat favorable view. Among likely voters, 54% expect that the ACA will lead to increased healthcare costs. The full poll can be viewed [here](#).

On January 30th the Kaiser Family Foundation released a new report on policy options that would make Medicare more sustainable in the long run. The report can be found [here](#).

On February 1st America's Health Insurance Plans (AHIP) released a survey suggesting that many doctors charge exorbitant rates to out-of-network patients. The trend, which the report suggests is national, sees doctors charging rates that dramatically exceed Medicare reimbursement rates for similar procedures. Some doctor groups retort that the survey was selective in including only certain stories which helped make their case. The survey is available [here](#).

On February 1st Grant Thornton released a new report on biosimilar drugs. Expensive, brand-name drugs command a large portion of spending on medicine, the report claims, and allowing the production of cheaper biosimilars as the patents on these drugs run out could save the nation 20-25% by 2019. However, the FDA must create a pre-market approval pathway place before biosimilar production can go forward. The full report is available [here](#).

Hearings and Mark-Ups Scheduled

House of Representatives

On February 5th the House Veterans' Affairs Subcommittee on Oversight and Investigations will hold a hearing "Analyzing VA's Actions to Prevent Legionnaire's Disease in Pittsburgh." More information is available [here](#).

On February 5th the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs will hold a hearing "The 100% Temporary Disability Rating: An Examination of Its Effective Use." More information is available [here](#).