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HEALTH CARE REFORM UPDATE September 30, 2013

Leading the News

House Passes Continuing Resolution, But Government Shutdown Remains Likely

On September 28, the House of Representatives passed a continuing resolution which funds the government through December 15, delays the implementation of the Affordable Care Act (ACA), permanently removes the medical device tax, and postpones a provision of the ACA requiring employers to provide birth-control in their health insurance plans from taking effect until 2015. As we go to press, the bill was tabled by the Senate in a 54 to 46 vote. President Obama said he is not yet “resigned” to a shutdown but reiterated he will not negotiate over the budget or the debt ceiling, making a government shutdown seem all but inevitable at midnight tonight.

Over the weekend, the Department of Health and Human Services (HHS) released their [contingency plan](#) for a government shutdown. In total, 52 percent of HHS employees would be furloughed, though some agencies and offices would be impacted more than others. Implementation of the ACA would largely continue uninterrupted; coordination between Medicaid and the Health Insurance Marketplaces will continue, CMS will conduct insurance rate reviews and assess health insurance premiums, and states will receive funding for Medicaid and the Children’s Health Insurance Program (CHIP).

In other HHS agencies and offices, programs that do not rely on annual appropriations or that involve the safety of human life or the protection of property will continue to operate. However, a number of services will be halted. Agencies would not be able to conduct oversight or fraud and abuse prevention efforts. The Centers for Disease Control and Prevention (CDC) would halt its annual seasonal influenza program and outbreak detection. The National Institutes of Health (NIH) would not admit new patients, unless deemed necessary by the Director. And the Food and Drug Administration (FDA) would be unable to support the majority of its food safety, inspection, import monitoring, and notification programs.

Implementation of the Affordable Care Act

On September 18, the Treasury Inspector General [released](#) a report which found that the IRS did not track all costs associated with the implementation of the Affordable Care Act (ACA) and could improve the process it uses to account for and report such costs.

On September 23, Republican members of the House Energy and Commerce Committee [sent a letter](#) to Center for Consumer Information and Insurance Oversight (CCIIO) Director Gary Cohen following his appearance at a hearing on September 19 with additional questions regarding the Navigator grant program.

On September 24, Senators John Thune (R-SD), Lamar Alexander (R-TN), and 15 other Republican lawmakers [sent a letter](#) to HHS Secretary Kathleen Sebelius asking for a one-year extension for health care providers to complete stage two of the Electronic Health Records (EHR) incentive program.

On September 24, President Barack Obama [appeared](#) at the Clinton Global Initiative's Annual Meeting with former President Bill Clinton to discuss the Affordable Care Act (ACA) and defend it against Republican criticisms.

On September 25, HHS [released](#) a report outlining health insurance plan options and the premiums that will be available in the 36 states with federally supported or fully run Health Insurance Marketplaces. Approximately 95% of consumers will have a choice of two or more insurers, and approximately 95% live in states where average premiums will be below earlier estimates.

On September 25, DC Health Link, the health insurance marketplace for the District of Columbia, [announced](#) that certain functions of their website will not be operating when the exchange opens on November 1.

On September 26, the Centers for Medicaid and Medicare Services (CMS) [awarded](#) a contract to Maximus Federal Services to manage the eligibility appeals process for the federal and state Health Insurance Marketplaces.

On September 26, the Administration announced that there will be two delays impacting the initial enrollment period for the ACA. Due to technical issues, small businesses will not be able to sign up their employees in the Small Business Health Option Program (SHOP) Marketplace until early November. In addition, the Spanish-language enrollment website for the federal run Health Insurance Marketplace will not be available until late October.

On September 30, eHealthInsurance, an online health insurance broker for health plans offered through the federal Health Insurance Marketplace, announced that it wouldn't be able to offer plans on October 1st because CMS provided necessary information to integrate their systems later than anticipated.

On September 30, the Office of Personnel Management released a [final rule](#) governing how Members and staff will obtain health coverage through the exchanges. The OPM will require Members and staff enroll in the D.C. Small Business Health Options Program (SHOP). Participants will not be eligible for subsidies regardless of income, but they will continue to receive an employer subsidy.

Other HHS and Federal Regulatory Initiatives

On September 24, the Office of Personnel Management (OPM) [announced](#) that the average premium rate for the Federal Employees Health Benefits (FEHB) Program will increase by 3.7% in 2014. This is slightly higher than the previous year's increase of 3.4% but less than the national average increase in 2013.

On September 25, the FDA [issued](#) final guidance regarding how it intends to regulate mobile medical applications. The guidance states that the FDA intends to regulate only mobile medical apps that could pose a threat to patient safety if they were to malfunction.

Other Congressional and State Initiatives

On September 25, leaders of the House Energy and Commerce Committee and the Senate Health, Education, Labor, and Pensions (HELP) Committee [announced](#) they had reached a bipartisan agreement on legislation to improve the security of the pharmaceutical supply chain and clarify the regulation of drug compounding. On September 28, the House passed the legislation by voice vote and a bipartisan group of Senators on the Senate HELP Committee urged the Senate to swiftly pass the bill as well.

On September 26, Representative Henry Waxman (D-CA), Senator Dick Durbin (D-IL), Senator Tom Harkin (D-IA), and Senator Jay Rockefeller (D-WV), along with eight other Senators and Representatives, [sent a letter](#) to nine e-cigarette makers expressing concerns about marketing tactics targeted at children and teens and requesting additional information.

Other Health Care News

On September 21, the Advanced Medical Technology Association (AdvaMed) [released](#) a report which found that between 2007 and 2011, the average price trends for several major categories of implantable medical devices between 17 and 34 percent.

On September 23, CMS posted two contracts for research on the effect of payment changes in Medicare. [The first examines](#) the effects of payment cuts enacted by the 1997 Balanced Budget Act, and [the second examines](#) the pilot Systems Dynamics model for payment reductions mandated by the ACA.

Hearings and Mark-Ups Scheduled

Senate

On Wednesday, October 2, the Senate Health, Education, Labor, and Pensions Committee will [mark up](#) pending legislation and nominations, including the Older Americans Act Reauthorization Act of 2013.

House

On Thursday, October 3, the Subcommittee on Health of the House Energy and Commerce Committee will hold a [hearing](#) titled, "Reviewing FDA's Implementation of FDASIA."