Tom Koutsoumpas, TKoutsoumpas@mlstrategies.com
Jeremy Rabinovitz, JRabinovitz@mlstrategies.com
Alexander Hecht, AHecht@mlstrategies.com
Gary Bacher, GEBacher@mintz.com
Kevin M. Kappel, KMKappel@mlstrategies.com
Robert C. Skinner, RCSkinner@mlstrategies.com
Joshua Booth, JBooth@mintz.com

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

HEALTH CARE REFORM UPDATE
July 23, 2012

Implementation of the Affordable Care Act (ACA)

On July 17th Kentucky Governor Steve Beshear (D) issued an executive order that established the Kentucky Health Benefit Exchange. A press release can be seen here.

On July 17th U.S. District Judge Warren Urbom dismissed a Nebraska lawsuit challenging the rule by the Department of Health and Human Services (HHS) requiring employer insurance to cover contraception. The court ruled that of the plaintiffs had standing to bring the suit at this point. The court's opinion can be seen here.

On July 18th HHS's Office of the National Coordinator (ONC) for Health IT announced the initial accreditation of five electronic health record (EHR) certification bodies and five EHR testing laboratories. This represents the first step in these organizations being authorized by ONC to test and certify EHR system for the ONC's permanent certification program. More information about the permanent certification program can be found here.

On July 18th HHS issued a final rule on the data that must be provided by health plans to determine if they provide essential health benefits. The rule also describes the process by which accrediting agencies will be selected to accredit health plans that wish to participate in Exchanges. The rule can be seen here.

On July 18th the Centers for Medicare and Medicaid Services (CMS) announced that 15 Accountable Care Organizations (ACOs) that are currently part of the Medicare Shared Savings Program will also be participating in the Advance Payments ACO Model. Information provided by CMS can be seen here.

On July 19th HHS announced the State Health Care Innovation Initiative. The initiative provides grants to states to design and test improvements to their health care systems that would bolster health care quality and decrease costs. An HHS press release can be seen here.

On July 20th the Office of Personnel Management issued a proposed rule regarding coverage for children up to age 26 and for children of same-sex domestic partners of enrollees in the Federal Employees Health Benefits Program. The proposed rule can be seen here.

On July 20th West Virginia Governor Earl Ray Tomblin (D) wrote a letter to HHS Secretary Sebelius asking several questions about how HHS would implement the ACA's Medicaid expansion in light of the Supreme Court's ruling making the expansion optional for states. The letter can be seen here.

Other HHS and Federal Regulatory Initiatives

On July 16th the FDA announced that it had approved Truvada, the first drug approved to prevent the transmission of H.I.V. in uninfected, high-risk patients. The FDA press release can be seen here. One day later, the FDA also announced that it had approved the drug Qsymia for certain adults as an addition to a reduced-calorie diet and exercise for chronic weight management. The FDA press release can be seen here.

On July 17th the House Appropriations Committee posted a draft of its FY2013 Labor-HHS bill. On July 18th the Labor-HHS subcommittee approved the bill 8-6, with Republican Congressman Jeff Flake of Arizona voting against the bill. The draft bill can be seen here.

On July 17th the FDA announced that it has formally banned the plastic additive BPA (Bisphenol A) in sippy cups and baby bottles. Although the additive has not, in practice, been used in baby products for years, the plastics industry and consumer advocates joined in calling for the ban to ensure its discontinued use in the future. The regulation can be found here. An NPR report can be seen here.

On July 18th HHS Secretary Sebelius joined First Lady Michelle Obama, and other local officials from across the country, to announce the next chapter in the *Let's Move!* Cities, Towns, and Counties program. An HHS press release can be seen here.

On July 19th CMS announced the release of updated and enhanced versions two websites that allow consumers to compare health care providers—Hospital Compare and Nursing Home Compare. The new tools are designed to make navigation easier and provide new comparison tools like findings from nursing home inspections. A CMS press release can be seen here.

On July 19th the Agency for Healthcare Research and Quality (AHRQ) released a handbook for primary care providers on how to best use personal health records to promote prevention efforts. The guide can be found here. On July 20th AHRQ published a notice in the *Federal Register* soliciting ideas from a variety of health care stakeholders on health IT-enabled quality measures. That notice can be found here.

Other Congressional and State Initiatives

Only July 20th Senator Chuck Grassley (R-IA) wrote letters to six government agencies asking about their contracts with Quality Associates, a government contractor that archives documents for various agencies including the NIH. Quality Associates recently posted several thousand pages of government documents online, some of which may have contained confidential information. Senator Grassley's letter to NIH can be seen here.

On July 20th House Ways & Means Committee Chairman Dave Camp (R-MI) and Health Subcommittee Chairman Rep. Wally Herger (R-CA) wrote a letter to HHS Secretary Sebelius questioning the $8.3 billion Medicare Advantage quality bonus demonstration program. The letter claims that the HHS exceeded its legal authority in implementing the program. The letter can be seen here.

Other Health Care News

On July 17th the *Archives of Internal Medicine* released a study that found safety-net hospitals were rated lower than other hospitals on customer satisfaction and provider communication. The study found that these performance gaps "were sizeable and increasing over time." The study can be seen here.

On July 18th the Physicians Foundation released a report forecasting "possible future strategies for ensuring vital and responsive physician services." A copy of the report can be seen here.

On July 19th a group of more than 140 health groups and individuals sent a letter to Secretary Sebelius encouraging her to direct the U.S. Surgeon General to conduct a report on the health effects of sugary beverages. The letter was organized by the Center for Science in the Public Interest. A press release and copy of the letter can be found here.

On July 20th Merritt Hawkins released a study finding that 75 percent of all new doctor hires in 2014 would be made through hospitals. A preview of the study can be viewed here.

Hearing & Markups Scheduled

Senate

On July 25th at 2:30 pm the Senate Commerce Committee will hold a hearing entitled "Short-Supply Prescription Drugs: Shining a Light on the Gray Market." More information can be found here.

House of Representatives

On July 24th at 10:00 am the House Ways & Means Subcommittee on Health will hold a hearing on how physician organization efforts to promote quality and efficiency can inform Medicare physician payment reform. More information can be found here.

On July 25th at 9:30 am the House Oversight & Government Reform Committee will hold a hearing on the Medicare Advantage quality bonus demonstration program entitled "GAO Report: The Obama Administration's $8 Billion Extralegal Healthcare Spending Project." More information can be found here.