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HEALTH CARE REFORM UPDATE

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Leading the News

On March 21st the House approved a stopgap spending measure by a 318-109 vote that avoids a government shut down for the next six months. Opponents of the continuing resolution (CR) said it did not offer adequate funds for the Affordable Care Act (ACA). Democrats who supported the CR say it was the best bill that could be agreed upon at the time. An article on the House vote can be read [here](#).

On March 22nd the Senate introduced amendments following debate over the budget resolution for the remaining six months of the fiscal year. Some of the relevant amendments are noted below.

- An amendment to repeal the ACA, proposed by Senator Ted Cruz (R-TX), was rejected along party lines, 54-45.
- A measure proposed by Senator Mike Crapo (R-ID) to eliminate all taxes under the ACA applicable to middle and working class Americans was defeated 54-45. A spokesperson for Senator Crapo said the measure was intended to apply to individuals making less than \$200,000 and families earning less than \$250,000.
- By a 56-43 count, the Senate approved a budget amendment offered by Senator Jeanne Shaheen (D-NH) to protect provisions of the ACA that expand women's access to healthcare and birth control.
- Senator Deb Fischer (R-NE) proposed an amendment to the ACA that would allow employers to opt out of contraception coverage on moral grounds. The measure was defeated by a 56-43 vote.
- An amendment offered by Senator Pat Toomey (R-PA) that would have returned tax deductions for catastrophic medical expenses to the 7.5 percent threshold set before the ACA was passed was rejected along party lines, 54-45.

After an all-night debate on the proposed budget, the Senate voted 50-49 to approve the \$3.7 trillion spending measure in the early hours of Saturday, March 23rd. The budget was the first the Senate had been able to approve in 4 years. No Republicans voted for the plan. 4 Democrats joined Republicans and opposed it. Senate Democrats and House Republicans now must enter into negotiations to reconcile the differences between their bills.

Implementation of the Affordable Care Act

On March 18th an HHS report highlighted how 71 million more Americans are able to receive free preventative services as a result of the ACA. Covered services include colonoscopy screenings, Pap smears and mammograms, and flu shots for all children and adults. The issue brief, which offers a state-by-state breakdown of Americans who received preventative care under the ACA, can be found [here](#).

On March 18th a federal judge in Missouri said that a state law attempting to provide exemptions from the ACA's contraception coverage mandates for employers based on religious grounds violated the ACA. Judge Audrey Fleissig said the ruling was not on the legitimacy of the contraceptive mandate, but rather on the fact that Missouri's action violated federal law and the Supremacy Clause. The full ruling of Judge Fleissig is available [here](#).

On March 19th House Speaker John Boehner (R-OH) released an overview of the reasons why the Republican budget in the House repeals the ACA. Speaker Boehner suggests the ACA will cause a spike in the premiums of young Americans, make it more difficult for small businesses and manufacturers to hire new employees, and potentially lead to a tax on smartphones and tablet devices. The full post from Speaker Boehner can be read [here](#).

On March 19th HHS stated that Ohio is able to make final determinations on eligible participants for the state's high-risk insurance pool under the ACA. HHS had initially said certain people in the pool were not eligible due to already having coverage, but the Ohio Insurance Department (OID) argued it could determine eligible participants for its own pool. Medical Mutual of Ohio, the pool administrator, filed a lawsuit to determine whether the state or federal government could make eligibility determinations. Details on the ruling are available [here](#).

On March 20th the Congressional Budget Office (CBO) released a report with the latest budgetary projections of the ACA. The CBO says its budget projections have changed very little since a report was first released during the ACA's consideration in March of 2010. The estimated cost of the ACA's insurance coverage provisions between 2013 and 2023 is about \$1.3 trillion. The CBO report and a graph highlighting a comparison of cost estimates can be viewed [here](#).

On March 21st Representative Charles Boustany (R-LA), Chairman of the Ways & Means Oversight Subcommittee, requested information from the Internal Revenue Service (IRS) on the amount of taxpayer dollars being used to implement the ACA. Representative Boustany expressed concern about the number of IRS employees needed to oversee ACA implementation. A letter from the chairman of the House Ways & Means Oversight Subcommittee to the IRS can be found [here](#).

On March 21st the Senate passed a bill to repeal the 2.3% tax placed on certain medical devices under the ACA. The bill, which is part of the nonbinding budget resolution, included support from 34 Senate

Democrats. Senator Amy Klobuchar (D-MN), one the lead Democratic sponsors, said the tax places medical device companies at a competitive disadvantage. A press release from the Senator's office can be found [here](#).

On March 21st Maine wrote a letter to HHS requesting 100% federal funding of its Medicaid expansion program for 10 years, as opposed to the three years of full federal funding that is currently offered as part of Medicaid expansion. Maine believes its Medicaid expansion a decade ago has put it at a disadvantage because people Maine provided care for 10 years ago are now not eligible for the 100% federal matching funds being offered. The letter from Maine to HHS is available [here](#).

Other HHS and Federal Regulatory Initiatives

On March 20th the Food and Drug Administration (FDA) warned doctors about Clinical Specialties, a compounding pharmacy in Georgia that produces the drug Avastin. Avastin is used to treat macular degeneration, although there are reports of eye infections in five patients who used the drug. Clinical Specialties recalled 40 lots of Avastin sent to clinics in Georgia, Louisiana, South Carolina, and Indiana since December. An article on the recall is available [here](#).

On March 20th the Centers for Disease Control (CDC) released a report on the increasing number of autism diagnoses in children. In 2011-2012, the CDC reports that autism was reported in about 2% of children ages 6-17, a notable increase from an estimate of 1.16% in 2007. The report notes that an increase in the number of children diagnosed with autism is a result of more mild cases being reported. The CDC report can be found [here](#).

On March 20th, in a 6-3 vote, the Supreme Court ruled that North Carolina cannot require Medicaid patients to turn over one-third of any claims earned in a malpractice lawsuit. The Court said that North Carolina's law is contrary to federal statute and that arbitrary limits cannot be placed on how much a state can collect as a result of a malpractice lawsuit. The ruling is available [here](#).

On March 22nd AP reported that the Department of Justice (DOJ) will not ask the Supreme Court to review a case involving graphic warning labels on tobacco products. The U.S. Court of Appeals for the District of Columbia refused to fully address the case in December, and the government had considered taking the case to the Supreme Court. Tobacco companies argued that the proposed labels, which would have taken up at least half the space on cigarette packs, violated their free speech. An article on the decision by DOJ to forgo a challenge can be read [here](#).

On March 22nd the FDA issued a proposal to improve the quality of automated external defibrillators. The proposal requires manufacturers to submit pre-market approval (PMA) applications. The agency said defibrillators will remain available during the review process. The release from the FDA expressed concern over manufacturing problems and recalls that led to more than 45,000 adverse events from 2005 to 2012. The FDA release is available [here](#).

Other Congressional and State Initiatives

On March 15th a bipartisan group of 22 Senators sent a letter to Centers for Medicare and Medicaid Services (CMS) Acting Administrator Marilyn Tavenner. The Senators expressed concerns about cost-reduction proposals to CMS that could lead to a decrease in access for constituents enrolled in

Medicare Advantage (MA). The letter urges CMS to delay any further cuts or program changes until the impact is fully understood. The letter to Administrator Tavenner can be read [here](#).

On March 18th House Democrats released a response to Representative Paul Ryan's (R-WI) budget proposal. The Democrats say their plan will create 1.2 million jobs in FY2014. The plan maintains current funding of Medicare and provides tax cuts for middle class Americans rather than millionaires. A summary of the Democrats' plan can be found [here](#). A statement on the plan from Representative Chris Van Hollen (D-MD), ranking member of the House Budget Committee, is available [here](#).

On March 18th Republicans on the House Energy & Commerce Committee released a report on the current status of Medicaid. The report indicates that 60 million Americans receive Medicaid benefits, and, according to the report, these beneficiaries already face challenges accessing care. The report laments the current financial burden on states to provide quality Medicaid services. The report can be found [here](#).

On March 18th Democrats in the House and Senate introduced a bill to expand the current cap on the number of Medicare-supported training slots available to doctors. Proponents of the bill note an anticipated shortage of 91,000 doctors by 2020 as a reason to pursue the legislation. The Resident Physician Shortage Reduction Act of 2013 would increase the number of Medicare-supported hospital residency positions to 102,000 over the next five years. A release from the office of Representative Joe Crowley (D-NY) is available [here](#).

On March 19th nine Democratic Senators sent a letter to CMS Administrator Tavenner urging the coverage of pediatric dental services in the Essential Health Benefits (EHBs) in the ACA. A final rule from HHS released last month allowed for a separate out-of-pocket limit of up to \$1,000 per child for pediatric dental services. A release from Senator Ben Cardin's (D-MD) office and the letter to Administrator Tavenner can be found [here](#).

On March 20th Democratic leaders in the House sent a letter to CMS Administrator Tavenner that applauded to efforts of the agency to strengthen Medicare Advantage. The letter highlighted stabilized premium rates and noted that CMS appropriately maintained current limits on out-of-pocket spending for beneficiaries. The letter can be found [here](#).

On March 21st the House passed Wisconsin Representative Paul Ryan's (R) 2014 budget proposal by a 221-207 vote. The budget calls for a repeal of the Affordable Care Act (ACA) and significant changes to Medicare. The Senate rejected the proposal in a vote several hours later. Five Senate Republicans joined Democrats in rejecting Representative Ryan's budget. An article on the House vote can be read [here](#), and an article on the Senate's response is available [here](#).

On March 21st Senator Richard Blumenthal (D-CT) sent a letter to the FDA asking why the agency did not take greater action to regulate Med Prep Consulting Inc., a compounding pharmacy that recently released IV drugs contaminated with mold. Senator Blumenthal noted that the FDA found issues with Med Prep in 2001 and 2010, but he says not enough action was taken to prevent future threats. The letter from Senator Blumenthal can be read [here](#).

On March 21st Virginia Governor Bob McDonnell (R) signed a bill to restrict the substitution of biosimilar drugs for the original biologics. The bill prohibits a pharmacist from substituting a cheaper,

medically-similar drug for the original drug prescribed by a physician. Proponents of the bill say biosimilar drugs are not generic drugs. A release from the Biotechnology Industry Organization is available [here](#). The Generic Pharmaceutical Association (GPhA) says the law is preemptive and carries a lot of red tape. A statement from GPhA on Gov. McDonnell's decisions is available [here](#).

On March 22nd the North Dakota House of Representatives voted to place a personhood amendment up for a vote in 2014. The amendment to the state's constitution would guarantee the right to life of every human being at any stage of development. An article on the potential amendment can be read [here](#).

Other Health Care News

On March 19th the Alzheimer's Association released its annual report on the disease. The Association notes that while deaths from other major diseases have decreased in recent years, Alzheimer's deaths increased 68% from 2000-2010. The report notes that one-third of America's seniors die with Alzheimer's or another form of dementia. The report can be found [here](#).

On March 19th the Urban Institute released a report on the impact of Medicaid expansion for hospitals. The report suggests hospitals will gain \$2.59 from new Medicaid beneficiaries for every dollar that is lost from private health insurance. An expansion of Medicaid services in some states to adults making below 138% of the federal poverty level (FPL) means some people will drop private insurance plans in favor of Medicaid. The full report can be found [here](#).

On March 19th *USA Today* reported on a study suggesting that 1 in 100 deaths of obese people can be attributed to the consumption of too many sweetened drinks. Overall, about 180,000 obesity-related deaths worldwide in 2010 were related to sugary drinks, according to the study. The American Beverage Association countered that the study did not include a clear methodology and was not peer-reviewed. The article from *USA Today* can be read [here](#).

On March 19th Dr. James Madara, CEO of the American Medical Association (AMA), wrote to Senators Barbara Boxer (D-CA) and Tom Coburn (R-OK) urging a revision of the National Organ Transplant Act to allow HIV-positive donors to give organs to HIV-positive recipients. On March 20th the Senate HELP committee held a mark-up on the HIV Organ Policy Equity Act, legislation that would provide this increased flexibility for donations between HIV-positive persons. The letter from Dr. Madara can be read [here](#).

On March 20th the Robert Wood Johnson Foundation and the University of Wisconsin Population Health Institute released annual health rankings for every county in the United States. The rankings show county morbidity rates, clinical care service ratios, and health behaviors. The ranking can be viewed [here](#).

On March 20th JAMA Psychiatry released a study on the relationship between mothers who were abused in their childhood and the likelihood of the mother's children being autistic. The study found that exposure to abuse leads to increased risk for autism in children, with the highest level of abuse associated with the greatest prevalence of autism. A summary of the study can be accessed [here](#).

On March 20th the Kaiser Family Foundation (KFF) released a poll on Americans' perceptions of the ACA. The poll indicates that two-thirds of the uninsured are unaware of how the ACA will impact them, and 40% of Americans say the ACA will have little impact on their lives. About 40% of respondents had an unfavorable view of the law, with 37% expressing favorable views. According to the poll, the public is unaware of many of the more popular ACA provisions. The KFF poll can be viewed [here](#).

On March 21st the Partnership for the Future of Medicare (PFM) released a report offering suggestions to revamp payment methods for Medicare over the next five to seven years. The report says the fee-for-service (FFS) model should be replaced. As FFS is phased out, PFM recommends using enhanced FFS to pay for practices like email consultations and other telehealth practices. The plan also recommends identifying how patient engagement can successfully be incorporated into new payment models. The report can be found [here](#).

On March 21st the National Restaurant Association and several national chain restaurants sent a letter to Congress expressing frustration with H.R. 1249, a bill that would exempt grocery and convenience stores that sell restaurant food from posting product nutrition information. The association says the bill would create an unlevel playing field between restaurants and stores serving restaurant food. The letter is available [here](#).

On March 22nd the International Franchise Association (IFA) issued data on the potential job losses in the franchising industry as a result of the ACA. A table from the IFA noting the number of jobs potentially at risk in each state can be found [here](#).

On March 22nd the Florida Hospital Association (FHA) released a report on the impact of hospitals on the state's economy. The report highlights how Florida's hospitals support almost 930,000 jobs and generate \$120 billion in economic activity. The report can be read [here](#).

On March 22nd the Institute of Medicine (IOM) released a report on the impact of a geographic model to pay Medicare providers. The regional proposal would offer higher payments to providers in a high-performing area, although the IOM report suggests this approach would reward poor providers in strong geographic areas while hurting good doctors in a region that does not perform well. The IOM report is available [here](#).

Hearings and Mark-Ups Scheduled

Both the Senate and the House of Representatives are in recess until the week of April 8th.