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HEALTH CARE REFORM UPDATE

May 7, 2012

Implementation of the Affordable Care Act (ACA)

On April 27th the Center for Medicare and Medicaid Services (CMS) sent a letter to state Medicaid directors regarding the process by which states can receive “section 1115 waivers” for Medicaid demonstrations. Section 1115 of the Social Security Act allows the Department of Health and Human Services (HHS) to waive certain requirements of the Medicaid program for states to carry out demonstration projects. The ACA amended the section to require greater transparency in the waiver approval process. The letter outlines requirements that were published in a February Rule on the subject as well as providing further guidance to states. The letter can be found [here](#). The February rule can be found [here](#).

On May 1st HHS announced the awarding of over \$728 million to support renovation and construction projects at community health centers. An HHS news release can be found [here](#).

Other HHS and Federal Regulatory Initiatives

On April 27th CMS, the Department of Labor, and the IRS issued a Request for Information (RFI) regarding trends in the use of stop-loss insurance by self-insured employee benefit plans. While the RFI does not create any new policies, it suggests that the agencies are concerned about employers using self-insurance arrangements to avoid certain rules of the ACA, such as medical loss ratio (MLR) requirements and the requirement to provide essential health benefits. The RFI can be found [here](#).

On May 2nd HHS tentatively agreed with Oregon to help fund a \$1.9 billion demonstration project to overhaul Oregon’s Medicaid system. The demonstration would create “coordinated care organizations” to manage Medicaid beneficiaries’ care. Oregon expects the project to save \$11 billion over five years. A press release from Oregon Governor John Kitzhaber’s (D) office can be found [here](#). Local news coverage can be found [here](#).

On May 2nd HHS Secretary Kathleen Sebelius and Attorney General Eric Holder announced that the Medicare Fraud Strike Force engaged in an operation in seven cities resulting in the arrests of 107 medical professionals accused of being involved in approximately \$452 million in false billing. The HHS press release announcing the operation can be found [here](#).

On May 3rd FDA Commissioner Margaret Hamburg wrote a blog post describing the FDA's progress in tackling drug shortage problems in the six months since President Obama issued an executive order addressing the issue. The post states that the FDA has seen a six-fold increase in early notifications of potential shortages and has been able to prevent 128 drug shortages. The blog post can be found [here](#).

On May 3rd the National Institutes of Health announced the creation of a new collaborative program with some top drug makers to establish the new National Center for Advancing Translational Sciences. The new Center will build off of promising experimental therapies in development that the pharmaceutical companies have shelved. The NIH announcement can be found [here](#).

Other Congressional and State Initiatives

On May 1st the House Ways & Means Committee issued a report surveying 71 Fortune 100 companies regarding their health insurance costs. The report claims that these companies could save \$28.6 billion in 2014 by dropping their employee benefit plans and instead paying employer penalties under the ACA. The report does not indicate whether any of the companies surveyed actually planned to drop coverage. The report can be found [here](#).

On May 2nd Senate Finance Committee Chairman Max Baucus (D-MT), Ranking Member Orin Hatch (R-UT) and several other members of the committee issued an open letter to stakeholders in the health care community soliciting new ideas for effective solutions to improve federal efforts to combat waste, fraud, and abuse in Medicare and Medicaid. Submissions are due June 29, 2012 to the Committee. The letter can be found [here](#).

Other Health Care News

The American Journal of Infection Control published a survey examining the effect of a 2008 CMS policy where the agency no longer makes additional payments to hospitals for treatment of hospital-acquired infections (HAIs). The survey finds that 81 percent of hospital preventionists reported that their hospitals were paying increased attention to HAIs since the policy was put in place. The study can be found [here](#).

On April 30th the Government Accountability Office (GAO) issued a report on the first year of CMS's program to incentivize health care providers to adopt electronic health records (EHRs). The report recommends that CMS improve the process by which it verifies whether providers have complied with the standards of the program. The report can be found [here](#).

On April 30th the GAO issued a report describing how fraud and abuse rules governing Medicare and Medicaid affect attempts to implement financial incentive programs. The report finds that innovative arrangements are difficult to structure within the rules and that the burdensome process might hinder the development of financial incentive programs. The report can be found [here](#).

On May 1st the Institute of Medicine issued a report recommending that the FDA increase its post-approval surveillance of prescription drugs. The report notes that clinical trials conducted before a drug is approved may not detect all possible risks, which cannot be identified until after a drug has been used by a large group of patients over a longer time period. The report can be found [here](#).

Hearings & Mark-ups Scheduled

Senate

On May 10th the Senate Finance Committee will hold a roundtable discussion entitled “Medicare Physician Payments: Understanding the Past so We Can Envision the Future.” More information can be found [here](#).

House of Representatives

On May 8th the House Energy & Commerce Subcommittee on Health is scheduled to hold a markup on legislation to reauthorize the FDA user fee programs. More information can be found [here](#). The draft legislation, which was released late on May 4th, can be found [here](#).

On May 9th the House Ways & Means Subcommittee on Health will hold a hearing on the Medicare Durable Medical Equipment Competitive Bidding Program. More information can be found [here](#).

On May 9th the House Energy & Commerce Subcommittee on Oversight and Investigations will hold a hearing entitled “Budget and Spending Concerns at HHS.” More information can be found [here](#).