Health Care Reform Advisory: NAIC, AHIP, HHS Push MLR Regulations Forward

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On August 13th, America's Health Insurance Plans (AHIP), the national association for health insurance companies, obtained a formal legal opinion stating that an earlier Congressional letter on the topic of medical-loss rations (MLRs), the new reform regulation dictating what percentage of patient premiums must be spent on medical care, should not be read as clarifying the intent of Congress. The letter in reference, signed by the Chairmen of six key committees responsible for drafting the health care reform bill, said that insurers could only exclude the taxes and fees established under the new law, instead of all taxes and fees, when calculating their premium revenues—and thus what portion of total revenues—the companies would have to spend on medical care. The letter was originally written to HHS Secretary Kathleen Sebelius in response to a request for clarification. However, the legal opinion obtained by AHIP claims that legal precedent states that lawmakers cannot "alter the meaning of an otherwise unambiguous statutory provision" through statements made after the enactment of the law.

Despite the dispute over AHIP's legal opinion and continued opposition from other groups, the National Association of Insurance Commissioners (NAIC) overcame a significant hurdle after months of debate by voting to approve a comprehensive form which insurers will have to fill out to prove they are complying with the new MLR regulations. NAIC, made up of the state insurance commissioners from all 50 states, has been working with HHS to develop the new insurance requirements, and the vote on August 17th was the first step in finalizing just what activities can count as "medical care" expenditures. Under the new health care reform law, insurers in the individual and small-group markets will have to spend 80% of premiums on medical care while those in the large-group market will have to spend 85%. Many Democratic lawmakers praised the vote as a victory for consumers, while insurance companies claimed the restrictions on what counts as medical care will hamper initiatives designed to improve care quality.

On August 18th the Centers for Medicare and Medicaid Services (CMS) announced that prescription drug plans under the Medicare program would remain around the same price next year as they were this year. The CMS announcement noted that the average monthly premiums of prescription drug plans in Medicare would rise slightly to $30 in 2011 compared to $29 in 2010, but the announcement also highlighted that the out-of-pocket expenses will be lower once enrollees reach the "doughnut hole." The Obama administration reacted positively to the news and used the opportunity to praise the new health care reform law that, according to recent polls, remains unpopular and confusing with the American public and especially so among seniors.

The above update is an abbreviated version of a more comprehensive weekly alert compiled by ML Strategies in Washington, D.C. If you would like more information or would like to receive the complete update, please do not hesitate to contact ML Strategies.

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For further information regarding this or any issue related to Health Care Reform, please contact one of the professionals listed below or the Mintz Levin attorney who ordinarily handles your legal affairs.

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