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**health-2-20-11.pdfHEALTH CARE REFORM UPDATE**

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Implementation of Health Care Reform Law

On February 14<sup>th</sup> a conservative activist group with support from Tea Party sympathizers and led by former House Majority Leader Dick Armey (R-TX) sent a letter to GOP leaders in the House insisting that Republicans should refuse to “reward collaborators” by not helping industry groups that ultimately endorsed passage of the Affordable Care Act (ACA) in any of their legislative priorities. The memo also outlines a repeal strategy with seven key points. A copy of the memo can be found [here](#).

In a letter released on February 14<sup>th</sup>, a group of eight Democratic Senators wrote leaders at the Department of Justice and the Federal Trade Commission to encourage them to coordinate anti-trust issues that may arise under the ACA’s accountable care organizations (ACOs). The letter was signed by Sens. Mark Udall (D-CO), Jeanne Shaheen (D-NH), Tom Udall (D-NM), Mark Warner (D-VA), Michael Bennet (D-CO), Jeff Merkley (D-OR), Kay Hagan (D-NC), and Ron Wyden (D-OR).

On February 16<sup>th</sup> Kentucky joined Maine, Nevada, and New Hampshire in requesting waivers from HHS from the new medical-loss ratio (MLR) requirements. In her letter to Secretary Sebelius, Kentucky Insurance Commissioner Sharon Clark noted that Kentucky would benefit from a three-year transition period until 2014 whereby it could feasibly be in full compliance with the law.

The Obama administration announced on February 16<sup>th</sup> that it had rewarded \$241 million in “early innovator” grants to seven states to develop online exchanges for consumers to purchase health insurance. The seven states that will share the rewards are Kansas, Maryland, Massachusetts, New York, Oklahoma, Oregon, and Wisconsin.

The Department of Justice on February 17<sup>th</sup> filed a request with federal Judge Roger Vinson, the judge who recently ruled the ACA was unconstitutional in a suit brought by 26 states, to clarify his ruling that the entire law is unconstitutional. Vinson responded on February 18<sup>th</sup> by giving the 26 states who brought the suit before the court three business days to respond to the request.

On February 17<sup>th</sup> the House Ways & Means Committee considered and voted in favor to report two separate bills out to the full House to repeal the new 1099 tax filing requirement in the ACA. One of the bills, sponsored by Rep. Dan Lungren (R-CA), would repeal the statute without offsetting the costs. The other bill, sponsored by Committee Chairman Dave Camp (R-MI), would repeal the provision by repealing exchange subsidies from low-income people who are found to misreport their annual earnings. A copy of Chairman Camp’s statement on the events can be found [here](#).

The Centers for Medicare and Medicaid Services (CMS) published a proposed rule in the *Federal Register* on February 17<sup>th</sup> to prohibit federal payment to states for medical assistance for health care acquired conditions. The proposed rule, required by the ACA, would “require States to, at a minimum, apply the Medicare Hospital Acquired Condition (HAC) standard while providing State’s the flexibility to identify other provider-preventable conditions inside and outside the inpatient hospital setting for nonpayment.” A copy of the proposed rule can be found [here](#).

On February 17<sup>th</sup> Alaska Governor Sean Parnell (R) stated publicly that his state will not apply for federal grants to establish insurance exchanges under the ACA. Governor Parnell attributed his refusal to comply with implementation efforts to the ruling in Florida by Judge Vinson that the law is unconstitutional. Many states, even those who have worked against the law, have continued with some aspects of implementation including the exchanges.

On February 18<sup>th</sup> the GOP majority at the House Energy & Commerce Committee sent a fifth information request to the Obama administration asking the White House to disclose notes from “every meeting, briefing, or telephone call” tied to health care reform efforts with outside groups over the past two years. The letter was addressed to White House Deputy Chief of Staff Nancy-Ann DeParle, the top aide in charge of health care reform, and requested a response by March 4<sup>th</sup>.

#### Other HHS and Federal Regulatory Initiatives

In the biggest and most anticipated news of the week, President Obama unveiled his FY 2012 budget on February 14<sup>th</sup> filled with cuts across the board to numerous government agencies and programs including many provisions targeting various health care initiatives and the ACA. Among the most high-profile initiatives was a proposal generating \$62 billion in savings from Medicare and Medicaid, including increased use of generic drugs in government health programs, to cover two years of costs to fix the Medicare physician reimbursement payment formula. In addition, although the budget increases funding for the FDA, the President’s proposal also renews the debate over biologics by recommending that Congress change the twelve years of exclusivity for biologics guaranteed under the ACA to seven, what the generic companies had originally proposed. A copy of the President’s budget including summaries and other information on the budget proposal can be found [here](#).

On February 17<sup>th</sup> Attorney General Eric Holder announced that federal officials have arrested 111 people, including executives and physicians from health care companies, in a \$225 million health care fraud scheme. Officials described the fraud scheme as the largest ever uncovered. The arrests followed a string of indictments for 20 people who operated a community mental health center in Miami who were allegedly involved in a \$200 million Medicare false claims scheme.

Minnesota Governor Mark Dayton (D) announced on February 17<sup>th</sup> that HHS had approved his state’s plans to expand Medicaid rolls by 95,000 people. 12,000 previously uninsured people will receive insurance coverage while 83,000 people will receive broader coverage at lower cost under two state-funded programs, MInnesotaCare and General Assistance Medical Care.

On February 18<sup>th</sup> the Department of Veterans Affairs published a rule saying that co-payments for certain medications will be frozen until the beginning of 2012. More information can be found on the VA’s website [here](#).

#### Other Legislative Initiatives

While the debate over FY 2012 federal spending heated up due to the President’s budget release, the House of Representatives began its debate over H.R. 1 on February 15<sup>th</sup> to continue to fund the government for the

rest of FY 2011. The current continuing resolution (CR) is set to expire March 4<sup>th</sup>, and without an agreement over funding levels, the government could shut down. H.R. 1, released on February 11<sup>th</sup> included much deeper cuts than those included in the President's budget. Among the cuts in the proposal, the GOP cut discretionary spending for programs that were authorized to receive additional funding under the ACA including community health centers, the National Health Service Corps and the Maternal and Child Health Block Grant program.

Beginning on February 14<sup>th</sup>, Members of the House of Representatives began filing hundreds of amendments to the proposed CR, which the House Rules Committee began posting on its website for public viewing. More information on H.R. 1 and the amendments filed can be found [here](#). Numerous contentious amendments were filed including one by Rep. Mike Pence (R-IN) to strip Planned Parenthood of its federal funding. The amendment was eventually approved on February 18<sup>th</sup> by a vote of 240-185. In addition, on February 18<sup>th</sup>, the House of Representatives voted on three additional amendments to defund portions of the ACA: one to stop paying any federal employee charged involved with implementing the law, one to defund IRS enforcement of the law, and another one to defund enforcement of the individual mandate. All in all, the House ended up approving each of the many amendments that would defund the ACA. With such provisions highly unlikely to pass the Democratic majority in the Senate, the provisions will either be stripped from the final bill or lead to a government shutdown.

As the votes carried on into the week and it was clear that the spending bill would not receive much, if any, Democratic support in its current form, House Minority Leader Nancy Pelosi (D-CA) filed her own stopgap funding measure that would fund the government at current levels until March 31<sup>st</sup>. That measure was rebuffed by Republican leaders in both the House and Senate who deemed it unacceptable. Early Saturday morning, after days of late-night votes, the House finally passed its CR that ends up cutting over \$60 billion from domestic programs by a vote of 235-189. All Democrats and 3 Republicans voted against the measure, which now heads to the Senate where it faces a standoff with the Democratic majority.

On February 17<sup>th</sup> Sens. John Kerry (D-MA) and Olympia Snowe (R-ME) teamed up to introduce the *Medicare Mental Health Inpatient Equity Act* that would eliminate the current 190-day limit on inpatient psychiatric hospital care and expand patient choice among providers. Sens. Snowe and Kerry introduced similar legislation last Congress, but the bill never received much traction despite receiving broad and diverse support from a wide range of industry groups including the AARP and the American Hospital Association. A copy of the bill can be found [here](#).

The Energy & Commerce Subcommittee on Health held a hearing on February 17<sup>th</sup> to focus on the FDA approval process where FDA officials pleaded with top Republicans for more money to assist in reviewing and approving medical devices for use in the marketplace. Despite their pleas, GOP lawmakers quickly shot down any notion that the agency would receive more money. More information on the hearing can be found [here](#).