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HEALTH CARE REFORM UPDATE

November 19, 2012

Leading the News

Over the past week, states across the country have released decisions on moving forward with the implementation of health insurance exchanges under the Affordable Care Act (ACA). While the Department of Health and Human Services Secretary Kathleen Sebelius recently provided states with additional time to make exchange declarations, many states elected to announce their decisions on the original, November 16th deadline. The decisions of states announcing their intentions in the last week can be found below. Click on the states to view press releases, letters, and other relevant information on the declarations.

The letter from Secretary Sebelius that extends the deadline for states to decide on what type of exchange they will implement to December 14th can be found [here](#).

Many states have already decided their exchange status. A map of state decisions as of November 9th can be seen [here](#).

State-Based Exchange:

[Iowa](#)
[Mississippi](#)

State-Federal Partnership Exchange:

[North Carolina](#)

Federal Exchange:

[Alabama](#)
[Indiana](#)
[Maine](#)
[Montana](#)
[Nebraska](#)

Ohio
Oklahoma
South Carolina
Wisconsin
Wyoming

Still Deciding:

Arizona
Arkansas
Florida
Idaho
New Jersey
Tennessee
West Virginia

Implementation of the Affordable Care Act

On November 14th three Republican members of Congress sent a letter to colleagues urging the creation of a House Committee on Healthcare. Representatives Hastings (R-WA), Ribble (R-WI), and Woodall (R-GA) said the Committee would have total legislative authority and jurisdiction over health care matters, including Medicare and Medicaid. The Committee would also have oversight of the ACA. An article on the proposed Committee can be read [here](#).

On November 14th a Kaiser Health News article reported that technology issues may prevent a key online component from being ready for Americans who expect to use the internet to shop for insurance options in October of 2013. Several regulations are needed from the Obama administration before the software can be updated. The article on the tech issues is available [here](#).

On November 14th the House Ways and Means Committee subpoenaed HHS Secretary Kathleen Sebelius, demanding to know how the ACA is being promoted to the public by HHS. Committee Chairman Dave Camp (R-MI) and Oversight Subcommittee Chairman Charles Boustany (R-LA), who is facing a runoff election in December, issued the subpoena. An article on the Committee's actions can be seen [here](#).

On November 15th former Senator Alan Simpson (R-WY) and Erskine Bowles, Co-Chairs of the National Commission on Fiscal Responsibility and Reform (a.k.a. Simpson-Bowles Commission), stated that the parts of ACA would need to be eliminated or scaled back for deficit reduction to become a reality in America. The duo made their comments at a conference in Chicago. An article on the comments is available [here](#).

On November 16th the U.S. District Court for D.C. granted a preliminary injunction to Tyndale House Publishers, a private Bible-publishing company. The injunction protects Tyndale House, at least for now, from the ACA mandate that requires employers to cover contraceptives as part of employee health insurance plans. The decision from the District Court can be read [here](#).

Other HHS and Federal Regulatory Initiatives

On November 13th HHS announced the first class of the HHS External Innovation Fellows Program. The six Fellows will spend the next six to twelve months working to solve health care challenges. A list of the Fellows and a press release from HHS can be found [here](#).

On November 13th the HHS Office of Inspector General (OIG) released a report finding that skilled nursing facilities (SNFs) billed one-quarter of claims in error in 2009, costing \$1.5 billion in inappropriate Medicare payments. The report recommends that the Centers for Medicare and Medicaid Services (CMS) expand the reviews of SNF claims. The full report from OIG can be seen [here](#).

On November 15th a report from the Government Accountability Office (GAO) noted that less than four percent of full-year Medicaid beneficiaries reported trouble receiving care. However, Medicaid beneficiaries did have trouble receiving dental care, and those with less than a year of coverage were almost twice as likely to have difficulty getting coverage. The GAO report is available [here](#).

On November 15th the GAO issued a report on fraud prevention at CMS. The GAO report finds that while CMS offers useful systems that broadly address fraud, more details and specifics need to be figured out and integrated into the plan. The report from GAO can be found [here](#).

On November 16th HHS announced three payment rules for the calendar year of 2013. The rules for the Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amount are available [here](#). The Medicare Part B rules are available [here](#), and the Medicare Part A rules for the uninsured elderly and some disabled persons are available [here](#).

Other Congressional and State Initiatives

On November 13th House Energy and Commerce Committee Chairman Fred Upton (R-MI) and outgoing Oversight and Investigations Subcommittee Chairman Cliff Stearns (R-FL) sent a letter to HHS Secretary Sebelius requesting information on a contract awarded to Quality Software Services, Inc. (QSSI). The Congressmen inquired about what kind of work will be performed by QSSI under its contract to serve as the data services hub for federal insurance exchanges and if the company will avoid providing preferential treatment to its parent company, the UnitedHealth Group. The letter to Secretary Sebelius can be found [here](#).

On November 14th Rep. Renee Ellmers (R-NC), who chairs the Small Business Subcommittee on Healthcare and Technology, sent her third letter of the year to Secretary Sebelius, urging for increased attention on the use of health IT. Rep. Ellmers wants information on how HHS plans to reduce health IT patient safety risks. The letter can be viewed [here](#).

On November 14th Mississippi Governor Phil Bryant (R) released his budget proposal for FY 2014. There was no money allocated for an expanded Medicaid program. Gov. Bryant said the state should not spend money it does not have. The proposal from Gov. Bryant is available [here](#).

On November 14th Arkansas Governor Mike Beebe (D) said that an expansion of Medicaid eligibility under the ACA would be the best way to avoid removing thousands of senior from nursing home care. Nearly \$140 million in cuts have been proposed by state officials who want to balance the state's Medicaid budget, and Governor Beebe believes nursing homes would suffer. An article on Governor Beebe's comments can be viewed [here](#).

On November 15th the Senate Health, Education, Labor, and Pensions Committee released a report on the meningitis outbreak at the New England Compounding Center (NECC). The report determined that three separate lots of methylprednisolone acetate MPA, totaling over 17,000 doses produced by NECC between May 21, 2012 and August 10, 2012, were contaminated with the *exserohilum rostratum* fungus which caused the infections. The full report from the HELP Committee is available [here](#).

On November 15th six Democratic members of Congress asked the GAO to investigate whether prescription drug shortages over the last several years placed an increased burden on compounding pharmacies, which previously had more of a focus on tailoring drugs to meet a specific patient need. The letter to the GAO is available [here](#).

On November 15th, Montana Governor Brian Schweitzer (D-MT) proposed a budget that would place 80,000 more Montanans on health insurance through expanded Medicaid access. The letter from Gov. Schweitzer is available [here](#).

Other Health Care News

On November 9th the Congressional Research Service (CRS) analyzed four different proposals to avert sequestration. President Obama's alternative to the sequester is an increase in taxes for families earning over \$250,000 and includes changes to Medicare and Medicaid. Other proposals would include a decrease in non-defense discretionary spending. The analysis from the CRS can be found [here](#).

On November 12th the Kaiser Family Foundation (KFF) released a report indicating that employees are paying an increasing deductible for employer-sponsored insurance coverage. Over the last six years, the number of workers who had to pay a deductible for their coverage plans increased by 20 percent. The full report from KFF is available [here](#).

On November 12th the American Hospital Association (AHA) sent a letter to HHS Secretary Sebelius and Attorney General Eric Holder indicating an interest in working with HHS to ensure that health systems can use electronic health records (EHRs) efficiently. The letter from the AHA can be read [here](#).

On November 13th the Pharmaceutical Distribution Security Alliance (PDSA) praised legislation introduced by Senate HELP Committee Chairman Tom Harkin (D-IA) to track and trace the pharmaceutical distribution supply chain. The PDSA called on lawmakers to overcome any remaining differences and formulate a final bill. The draft legislation can be found [here](#).

On November 13th more than 800 companies and organizations sent a letter to Senate leadership requesting that the 2.3% medical device tax be repealed. The House passed a repeal of the device tax in the summer. A letter from the 800 groups is available [here](#).

On November 13th the National Community Pharmacists Association (NCPA) issued a survey addressing the importance of compounding services. The NCPA said that of 400 community pharmacists surveyed, 85 percent offer traditional compounding services. The survey also offers accounts of how compounding services have saved lives. The survey report is available [here](#).

On November 14th the Center for American Progress (CAP) released a report with a plan that serves as an alternative to premium support and could save up to \$385 billion over 10 years. The plan would increase premiums for higher-income Medicare beneficiaries and cut administrative costs and improper payments. The report from CAP can be found [here](#).

On November 14th the American Hospital Association (AHA) released its own deficit reduction proposal that includes modernizing cost sharing for Medicare and Medicaid, increasing the use of generic drugs, and taxing junk food and sugary drinks. The proposal from AHA is available [here](#).

On November 14th a report from Mercer, a global consulting company, found that the growth of health benefit costs was 4.1% in 2012, the lowest increase in 15 years. Consumer-directed, high-deductible plans contributed to the low increase. The report from Mercer is can be seen [here](#).

On November 14th the U.S. Chamber of Commerce urged the President and Congress to restructure the nation's entitlement program. The Chamber believes federal spending on the entitlement programs of Medicare, Medicaid, and Social Security as significant contributors to rising debt. The letter from the Chamber is available [here](#).

On November 15th Georgetown University's Health Policy Institute released a report indicating that 800,000 to 1.3 million uninsured people in the state of Florida would gain coverage if the state elects to move forward with Medicaid expansion. The expansion could be done with no net costs to the state. The full report is available [here](#).

On November 15th the Federation of American Hospitals sent a letter to members of Congress urging for a fix to the sequester problem and noting the drastic impact that cuts would have on America's health services and providers. The letter from the Federation can be viewed [here](#).

On November 15th the National Institutes of Health (NIH) issued a statement on a study that examined the brain activity of rappers while they were "freestyling." The report found increased brain activity in areas responsible for motivation of thought and action. The statement from NIH is available [here](#).

Hearings and Mark-Ups Scheduled

Both the Senate and the House of Representatives return from the Thanksgiving recess on Monday, November 26th.