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## **HEALTH CARE REFORM UPDATE**

### **October 10, 2011**

#### Implementation of the Affordable Care Act (ACA)

On October 4<sup>th</sup> the Wyoming Health Benefits Exchange Steering Committee voted to recommend that Wyoming Governor Matt Mead (R) use an executive order to set up the state's exchange. More background on the Committee can be found [here](#).

On October 5<sup>th</sup> the HHS office of the Inspector General released its work plan for FY 2012 that included plans for oversight of some ACA programs including implementation of the CLASS Act and of the Prevention and Public Health Fund. A copy of the work plan can be found [here](#).

On October 5<sup>th</sup> House Energy & Commerce Committee Chairman Fred Upton (R-MI), Health Subcommittee Chairman Joe Pitts (R-PA), and Oversight & Investigations Subcommittee Chairman Cliff Stearns (R-FL) sent a letter to HHS Secretary Kathleen Sebelius requesting that HHS provide a report to the Committee no later than October 6<sup>th</sup> on the viability of the CLASS long-term program of the ACA. The following day, 10 GOP Senators on the Senate Budget Committee sent a letter to Budget Committee Chairman Kent Conrad (D-ND) requesting that the Chairman schedule a hearing with Secretary Sebelius on the CLASS Act. The Energy & Commerce request can be found [here](#).

On October 5<sup>th</sup> 26 Republican Senators joined Sens. Orrin Hatch (R-UT) and Mike Johanns (R-NE) and sent a letter to Secretary Sebelius asking the Department to rewrite the interim final rule on preventative services coverage "so that it is consistent with long-standing constitutional principles respectful of human life, individual liberties, and personal conscience." The letter can be found [here](#).

On October 6<sup>th</sup> the Institute of Medicine (IOM) released its long-awaited report with recommendations on the essential health benefits package under the ACA. In the report, the IOM urges HHS to set a minimum health care benefit level by May 2012, based on the typical small business employer plan. Other recommendations include setting national average costs of the benefits below estimated national average premiums, and excluding new treatments from coverage until they are determined medically necessary. In addition, the report recommends that states should be permitted to implement alternative care packages so long as they meet ACA standards and achieve lower costs. More information can be found [here](#).

On October 6<sup>th</sup> HHS began posting explanations offered by insurers that are raising premiums by more than 10 percent as part of a new rate review initiative of the ACA. More information on the rate review program can be found [here](#).

On October 6<sup>th</sup> HHS released new data showing that approximately 20.5 million Medicare beneficiaries received free preventative care and that 1.8 million beneficiaries received a discount on prescription drugs in the Part D coverage gap thanks to the ACA. The HHS announcement can be found [here](#).

#### Other HHS and Federal Regulatory Initiatives

On October 3<sup>rd</sup> CMS released a new proposed rule that would give the agency broad new powers to drop Medicare Advantage and prescriptions drug plans for failing three consecutive years to maintain certain quality standards. The CMS release can be found [here](#).

On October 5<sup>th</sup> FDA Commissioner Margaret Hamburg released a report titled “Driving Biomedical Innovation: Initiatives for Improving Products for Patients” outlining steps how the agency could speed up innovative medical products. The report can be found [here](#).

On October 6<sup>th</sup> the FDA issued guidance to provide answers to common questions to the implementation of the fee provisions of the Food Safety Modernization Act. The guidance can be found [here](#).

On October 6<sup>th</sup> the FDA announced that it was partnering with the NIH to jointly study the impact of how new tobacco regulations are impacting tobacco use. The FDA announcement can be found [here](#).

On October 7<sup>th</sup> the FDA and CMS announced the launch of a new “parallel review” pilot program to jointly review new, innovative medical devices for FDA approval and Medicare coverage. The FDA announcement can be found [here](#), and the notice in the *Federal Register* can be found [here](#).

#### Other Congressional and State Initiatives

On October 3<sup>rd</sup> Senate Finance Committee Chairman Max Baucus (D-MT) and former Ranking Member Chuck Grassley (R-IA) released a new committee report on home health care and the Medicare therapy threshold. The Senators claimed in the report that many home health companies used questionable tactics to maximize payments from Medicare. The report can be found [here](#).

On October 4<sup>th</sup> the GAO released its report on fraud and prescription drug abuse in the Medicare Part D program. That report can be found [here](#).

On October 5<sup>th</sup> nearly 80 House Democrats sent a letter to Super Committee Members asking them to include a provision to allow HHS to directly negotiate drug prices for Medicare Part D. A full copy of the letter can be found [here](#).

On October 5<sup>th</sup> Rep. Elijah Cummings (D-MD), the Ranking Member of the House Oversight Committee, sent five letters to “gray market” pharmaceutical vendors requesting information on their business and drug-safety practices. More information can be found [here](#).

On October 5<sup>th</sup> House Appropriations Committee Chairman Hal Rogers (R-KY) and Labor-HHS Appropriations Subcommittee Chairman Denny Rehberg (R-MT) sent a letter to the GAO asking for an immediate review of the Medicare National Competitive Bidding Program for durable medical equipment. The letter to the comptroller general specifically asks for the impact on beneficiary access and job loss for small business. The letter can be found [here](#).

On October 7<sup>th</sup> MedPAC voted 15-2 to officially send its recommendations to overhaul the formula for reimbursing physicians under Medicare. The \$200 billion proposal would repeal the current formula by cutting the pay of non-primary care physicians by 5.9 percent each year for the next three years and freezing payments to primary care physicians. More information on MedPAC meetings can be found [here](#). The vote came one day after Rep. Allyson Schwartz (D-PA) sent a letter co-signed by 113 Members of Congress to the Super Committee urging Committee members to address the physician formula in its package of deficit reduction. Rep. Schwartz's press release can be found [here](#).

#### Other Health Care News

On October 3<sup>rd</sup> the Robert Wood Johnson Foundation released a new report prepared by the Urban Institute outlining why Medicare should take the lead in improving the quality of care for beneficiaries dually eligible for both Medicare and Medicaid, one of the costliest populations in the American health care system. The report can be found [here](#).

On October 4<sup>th</sup> the BlueCross BlueShield Association released an action plan titled "Building Tomorrow's Healthcare System: The Pathway to High-Quality, Affordable Care in America" outlining steps for policy makers to save over \$300 billion over 10 years. The report includes certain controversial measures such as shortening exclusivity for biologics and can be found [here](#).

On October 4<sup>th</sup> the Employee Benefit Research Institute released a new survey showing strong public opposition to raising the eligibility age for Medicare. Several proposals floated by lawmakers to address the nation's long-term deficit problem have suggested raising the eligibility age as a way to stem the growth of costs of the program. The survey can be found [here](#).

On October 4<sup>th</sup> the National Association of County & City Health Officials released a report showing that over half of all local health departments reduced or eliminated at least one program between July 2010 and 2011. The report can be found [here](#).

#### Hearings & Mark-ups Scheduled

##### *House of Representatives*

On October 12<sup>th</sup> the Energy & Commerce Committee will be holding a hearing titled Food Marketing: Can 'Voluntary' Government Restrictions Improve Children's Health? More information can be found [here](#).

##### *Senate*

On October 12<sup>th</sup> the HELP Committee will be holding a hearing titled "The State of Chronic Disease Prevention." More information can be found [here](#).