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HEALTH CARE REFORM UPDATE December 17, 2012

** Editor's Note: The next edition of the Health Care Reform Update will be published after the New Year.*

Implementation of the Affordable Care Act (ACA)

On December 4th 17 Senate Democrats signed a letter to Majority Leader Harry Reid (D-NV) encouraging a delay to the medical device tax that is part of the Affordable Care Act. The Senators wrote that the jobs and trade benefits of the medical technology industry should be considered further before implementation of the provision. The letter is available [here](#).

On December 10th the U.S. Chamber of Commerce asked HHS to extend the comment period for three rules on essential health benefits, health insurance markets, and benefit and payment parameters for 2014. The Chamber says the comment period does not allow for a full analysis. The release from the Chamber is available [here](#).

On December 10th Utah Governor Gary Herbert (R) wrote President Obama to request that the state's exchange be accepted as the minimum standard for all exchanges. The exchange, known as Avenue H, currently offers choices to over 7,500 small business employees, and Gov. Herbert says an expansion to individuals and larger businesses will take place. The letter from Gov. Herbert is available [here](#). On December 14th Secretary Sebelius responded with a letter saying she would be willing to work with Utah. An article on the secretary's response is available [here](#).

On December 10th HHS Secretary Kathleen Sebelius issued a notice that six states have received conditional approval of their health exchange programs. These states are Colorado, Connecticut, Massachusetts, Maryland, Oregon, and Washington. The full statement from Secretary Sebelius is available [here](#).

On December 10th the Centers for Medicare and Medicaid Services (CMS) issued an FAQ on health exchanges and Medicaid. Addressing the issue of partial Medicaid expansion, CMS said no state could

expand to less than 133% of the federal poverty level (FPL) and still receive full federal matching funds. However, CMS said that limited expansions might be covered under the regular federal matching rate. CMS also said it no longer supports the Medicaid blended Federal Medical Assistance Percentages (FMAP), the process used to determine Federal matching funds to States for Medicaid and other social services program. The full FAQ is available [here](#).

On December 11th Idaho Governor Butch Otter (R) said he was opting for a state-based insurance exchange. Gov. Otter expressed unease at being controlled by a federal exchange and said he would rather take a seat at the table and have some role in the process. The statement from the Idaho governor is available [here](#).

On December 11th Nevada Governor Brian Sandoval (R) said he supports expanding Medicaid coverage in the state as part of the ACA. The Medicaid expansion is expected to cover 78,000 people and save about \$16 million in mental health programs. A story from the Associated Press is available [here](#).

On December 12th Pennsylvania Governor Tom Corbett (R) announced that the state will not pursue a state-based exchange. The governor expressed frustration with a lack of guidance from HHS and said the decision was too important to be left haphazard planning. The letter from Gov. Corbett is available [here](#).

On December 14th Florida missed the deadline to notify HHS of the state's intention to run its own health care exchange. Governor Rick Scott (R) said he still hopes to meet with Secretary Sebelius about the costs of exchange implementation and Medicaid expansion. An article with the latest developments from Florida is available [here](#).

On December 14th Virginia Governor Robert McDonnell (R) wrote HHS Secretary Sebelius to indicate that the state will not run its own health care exchange. While he called Medicaid expansion irresponsible, Gov. McDonnell said he remains open to a partnership exchange or developing a Virginia-run exchange in the future. The letter from Gov. McDonnell is available [here](#).

On December 14th Iowa Governor Terry Branstad (R) announced that the state would operate a partnership exchange, after previously saying Iowa would run its own exchange. Gov. Branstad said he will limit federal involvement and maintain control over state Medicaid and CHIP programs. The letter to HHS is available [here](#).

Other HHS and Federal Regulatory Initiatives

On December 10th the Government Accountability Office (GAO) noted that the National Medicaid Audit Program (NMAP) operates inefficiently and at a higher cost than necessary. The NMAP uses separate contractors to complete the same key functions, and factor leading to poor communication, longer audits, and significantly increased overpayments. The GAO report brief is available [here](#).

On December 12th the Department of Justice (DOJ) announced that Pfizer, Inc. agreed to pay over \$55 million to resolve allegations that a misbranded drug, Protonix, was illegally marketed by Pfizer subsidiary Wyeth LLC. Protonix was illegally marketed in 2000 and 2001 as a drug to treat all forms of gastro-esophageal reflux disease (GERD). The announcement from DOJ is available [here](#).

On December 14th CMS released results from the first year of the Fraud Implementation System (FIS). The FIS prompted over 500 new investigations by CMS program integrity contractors. The report on the new fraud prevention is available [here](#).

Other Congressional and State Initiatives

On December 10th Sen. Chuck Grassley (R-IA) and Rep. Fred Upton (R-MI) sent letters to UnitedHealth Group and Quality Software Services, Inc. (QSSI), asking if QSSI would tailor the new health insurance exchange to its interests. UnitedHealth Group recently bought QSSI, which was awarded a contract to support operations of a federal data service hub. The Senators suggest there may be a conflict of interest. The letter to UnitedHealth Group is available [here](#). The letter to QSSI can be read [here](#).

On December 12th Governor John Kasich (R) announced that Ohio became the third state to reach an agreement with CMS to create better coordinated care for beneficiaries on Medicare and Medicaid. The coordination will take place through the creation of an Integrated Care Delivery System (ICDS).

On December 13th the House Energy & Commerce Subcommittee on Health held a hearing on the implementation of the ACA and Medicaid expansion. The Subcommittee issued questions for the panelists, who included state and HHS officials. Testimony and video from the hearing is available [here](#).

On December 13th Rep. Fred Upton and Sen. Orrin Hatch (R-UT) sent a letter to President Obama expressing concern over the White House's decision to change the Medicaid blended rate policy. In an FAQ released earlier in the week, the administration said it no longer supports the FMAP blended rate. The letter from the two Members of Congress is available [here](#).

Other Health Care News

On December 6th a survey from the International Foundation of Employee Benefit Plans (IFEBC) indicated that 84% of U.S. employers will likely continue to offer employer-sponsored health insurance for full-time employees. A 7% spike resulted from the reelection of President Obama, and companies say they want to maintain or increase employee satisfaction and loyalty. The poll results are available [here](#).

On December 11th the annual healthcare rankings released by the United Health Foundation ranked Vermont as the healthiest state for the sixth consecutive year. The report noted that obesity and sedentary lifestyles remain a healthcare challenge throughout the country. The report results are available [here](#).

On December 11th Reps. Ed Markey (D-MA), Jan Schakowsky (D-IL), and Earl Blumenauer (D-OR) wrote a letter to the Food and Drug Administration (FDA) expressing concern over methylene glycol in hair straightening treatments. The products have been classified by the Environmental Protection Agency (EPA) as likely carcinogens, and the Representatives requested that the FDA provide details on its efforts to eliminate the products. The letter is available [here](#).

On December 12th the Commonwealth Fund released a report finding that private employer premiums are steadily rising, up 62% from 2003 to 2011. The report notes that a continuation of current trends could lead to \$25,000 premiums for the average family in 2020. The full report is available [here](#).

On December 13th the Alliance for Aging Research released a report highlighting the importance of using care coordination and prevention to reduce the impact of health care costs on the federal budget. The report says identifying best practice techniques should be part of entitlement reform. The report is available [here](#).

Hearings and Mark-Ups Scheduled

Senate

On December 20th the Senate Judiciary Committee will hold a mark-up to consider S. 1560, which enhances access to controlled substances for residents of institutional long-term care facilities. More information can be found [here](#).

On December 20th the Senate Finance Committee will hold a hearing to consider the nomination of William B. Schultz to be General Counsel of the Department of Health and Human Services. Additional details are available [here](#).