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HEALTH CARE UPDATE December 9, 2013

- **Doc Fix Progress?** Last Friday, the Congressional Budget Office released an [updated score](#) for replacing the Sustainable Growth Rate (SGR) formula. The score reduces the cost of doing away with the SGR by over \$20 billion, revising it from \$139.1 billion to \$116.5 billion. This latest decrease adds to the growing possibility of passing a permanent SGR replacement bill as early as Q1 2014. After meeting with physician groups last Tuesday, the Senate Finance and House Ways and Means Committees scheduled markups for SGR replacement bills for this week. Stakeholders are taking advantage of the opportunity to work with Congressional offices on amendments that could modify Medicare rules and/or reimbursement for various sectors across the health care industry. However, at least in the Democratically controlled Senate, it is not expected that amendments that open up the ACA will be germane and thus could be excluded from consideration. In the meantime, a short term patch bill consisting of 3 months will have to be passed to avoid a 20.1 percent cut due in January – and it is unclear at present how Congress will pay for that 3-month patch.
- **Medicare Payment Rule – Clinical Lab Impact.** On November 27th, CMS published the [Medicare Physician Payment Rule](#). The rule significantly scales back cuts outlined in the proposed version to independent labs that would have decreased reimbursement by 26 percent. Instead, independent labs will receive a 5 percent reimbursement cap. Still, CMS left room for additional modifications to pathology codes, saying it plans to “consider more fully all the comments received, including those suggesting technical improvements.” As such, the agency plans to create a new methodology using hospital outpatient rates for the reimbursement calculation of pathology codes. While CMS backtracked on reimbursement caps for independent labs, it retained provisions that would begin a comprehensive review of the effect of evolving technology on lab costs— *a review that is believed could threaten additional payment reductions in the future*. More on this rule can be found [here](#).
- **What Policymakers are Reading:** The nonprofit research organization, National Bureau of Economic Research, released a working paper detailing how total national health expenditures and Medicare spending per capita has decreased significantly over the past 4 years, beyond recessionary caused decreases. This comes on the heels of a [White House report](#) with similar findings that promoted the ACA as a main driver. The push to lower costs in health care has been a driving force behind recent governmental and commercial payer initiatives that promote quality while reducing spending.

Implementation of the Affordable Care Act

Healthcare.gov Progress Report: The Obama Administration [released](#) a progress report outlining the failures of healthcare.gov and detailing what had been done to fix the website. The report indicates that the team brought in to repair the website has made substantial improvements to increase the website's capacity, improve response time, and reduce error rates to below 1%.

HHS Advises Consumers Using Healthcare.gov: The Department of Health and Human Services (HHS) published a [blog post](#) providing advice to consumers who are still having problems with healthcare.gov and encouraging consumers who haven't used the website to give it a try.

Treasury IG Issues Fraud Warning: The Treasury Inspector General for Tax Administration released a [report](#) recommending that the IRS strengthen controls on premium tax credits in order to prevent fraud. The IRS agreed with six of the seven recommendations.

Pennsylvania Outlines Medicaid Expansion Plan: On December 6, Pennsylvania's Department of Public Welfare [published](#) their official plan for expanding Medicaid in the state. They will be accepting comments on the plan in the next 30 days before submitting an official waiver to CMS.

SHOP Online Marketplace Delayed: HHS [announced](#) in a blog post that the online Small Business Health Options Program (SHOP) Marketplace will be delayed by a year and will not be available until November 2014.

E&C Questions Delay: The House Energy and Commerce Committee [released](#) a series of emails which it says show the Obama administration knew the online SHOP marketplace would need to be delayed as early as August of this year.

Issa Questions Insurers: House Oversight and Government Reform Committee Chairman Darrell Issa (R-CA) [sent letters](#) to 15 insurance companies asking them to provide documentation regarding reevaluation of provider networks and payment rates and any communications with the Administration discussing limiting or changing access to consumers' doctors.

1.46 Million Eligible for Medicaid and CHIP: The Centers for Medicaid and Medicare Services (CMS) released a [report](#) which found that the state-based health insurance marketplaces have determined that over 1.46 million people are eligible for Medicaid and the Children's Health Insurance Program (CHIP).

Applications for Medicaid and CHIP jump 15.5%: CMS released the first of a series of [monthly reports](#) on state Medicaid and CHIP data which found that in October the number of applications for Medicaid and CHIP in states expanding Medicaid jumped 15.5%.

States Refusing Expansion Losing Billions: A new report [released](#) by the Commonwealth Fund found that the net cost to taxpayers who live in states that are refusing to expand Medicaid could be in the billions. Texas residents, who pay billions in taxes and will be forgoing an estimated \$9.58 billion in federal funding in 2022, will face a net cost of \$9.2 billion.

Other HHS and Federal Regulatory Initiatives

FDA Developing Compounding Lists: To develop a series of lists regarding drug compounding, the Food and Drug Administration (FDA) asked interested parties to nominate [drugs that cannot](#) be compounded and [bulk drug substances](#) that can be used in compounding.

\$55.5 Million to Strengthen Healthcare Workforce: HHS [announced](#) that 270 grants totaling \$55.5 million had been awarded to strengthen the healthcare workforce, with the majority of the funding \$45.4 million, awarded to support nursing workforce development.

Other Congressional and State Initiatives

SGR Legislation Forthcoming: House Ways and Means Committee Chairman Dave Camp (R-MI) said in a [statement](#) that the Committee will consider legislation making a permanent fix to the Medicare sustainable growth rate (SGR) before the end of this week.

House Members Oppose Cuts to MA: Representatives Bill Cassidy (R-LA) and John Barrow (D-GA), along with 83 other members of Congress, [sent a letter](#) to Speaker of the House John Boehner (R-OH) and Minority Leader Nancy Pelosi (D-CA) urging them not to make further cuts to the Medicare Advantage program.

Other Health Care News

Russian Diplomats Charged With Medicaid Fraud: Forty nine current and former Russian diplomats and their spouses were [charged](#) with conspiracy to commit health care fraud and conspiracy to steal government funds for fraudulently obtaining \$1.5 million in Medicaid benefits.

MedPAC Meeting This Week: On December 12th and 13th, MedPAC will hold a [public meeting](#) to provide stakeholders with an opportunity to comment on MedPAC deliberations. The meeting will, among other things, consider payment adequacy in a number of spaces including home health and hospital inpatient and outpatient services.

Hearings and Mark-Ups Scheduled

House

On Tuesday, December 10 and Wednesday, December 11, the House Energy and Commerce Committee will [mark up](#) several health care related bills.

On Wednesday, December 11, the House Energy and Commerce Committee will hold a [hearing](#) titled “PPACA Implementation Failures: What’s Next?”

On Wednesday, December 11, the House Small Business Committee will hold a [hearing](#) titled “The Small Business Health Options Program: Is It Working for Small Businesses?”

On Thursday, December 12, the House Oversight and Government Reform Committee will hold a [hearing](#) titled “ObamaCare’s Impact on Premiums and Provider Networks.”

Senate

On Thursday, December 12, the Senate Finance Committee will hold an [open executive session](#) to consider a bill to repeal the Sustainable Growth Rate System, and other health care extenders.