



**ML**  
STRATEGIES

**Jeremy Rabinovitz**, JRabinovitz@mlstrategies.com  
**Alexander Hecht**, AHecht@mlstrategies.com  
**Joseph P. Hammang, PhD**, JPHammang@mlstrategies.com  
**Andrew Shin**, AJShin@mlstrategies.com  
**Abby Matousek**, AMatousek@mlstrategies.com  
**Alyssa Franke**, AFranke@mlstrategies.com

**ML Strategies, LLC**  
701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004 USA  
202 434 7300  
202 434 7400 fax  
www.mlstrategies.com

Follow us on Twitter @MLStrategies

## HEALTH CARE UPDATE

February 3, 2014

- President Obama delivered his sixth State of the Union address last Tuesday and made health care one of the more prominent issues he discussed. The President took the opportunity to promote the Affordable Care Act and encourage Americans to sign up for coverage through the exchanges before the March 31<sup>st</sup> deadline. He called on Congressional Republicans to stop attempting to repeal the law unless they could offer a viable alternative. He also called on Congress to reverse sequestration cuts to research initiatives, noting that it has slowed innovation. He specifically mentioned the need for research into drug-resistant bacteria, [earning him praise](#) from the Infectious Diseases Society of America.
- On Thursday, January 30, CMS [announced](#) top line savings projections from the initial 114 Accountable Care Organizations participating in the [Medicare Shared Savings Program](#) (MSSP)- the Medicare program set up by the Affordable Care Act with varying levels of upside and downside risk. The evolution of ACOs will factor in a big way this year as the Obama Administration continues to focus on curbing the trend of health care spending and Congressional activity on physician payment and delivery system reform also ramps up. As [we have noted](#), CMS is already considering substantial changes to the Pioneer ACO program that could also affect the MSSP. Further, Congressional activity has increased around delivery system reform, ranging from bi-partisan legislation designed to reform post-acute care using global capitation—led by incoming Finance Committee Chair, Senator Ron Wyden (D-OR)—to a bill that would implement additional bundled payment approaches, which was introduced by Representatives Diane Black (R-TN) and Richard Neal (D-MA). ***Several other high profile bills have been introduced in the past month and many more are expected over the coming months focusing on alternative payment models and improvements to existing ones.***

## Implementation of the Affordable Care Act

**Republicans Seek ACA Replacement:** Senators Mitch McConnell (R-KY), Lamar Alexander (R-TN), and John Barrasso (R-WY) are [sending letters](#) to Republican governors asking them to provide alternative policy ideas to the Affordable Care Act (ACA) which will inform a replacement bill.

**Senators Introduce ACA Replacement:** Senators Richard Burr (R-NC), Tom Coburn (R-OK), and Orrin Hatch (R-UT) [unveiled](#) the Patient Choice, Affordability, Responsibility, and Empowerment (CARE) Act, which will repeal and replace the ACA.

**CMS Made Emergency Award for Healthcare.gov:** The Centers for Medicare and Medicaid Services (CMS) recently [released](#) a contract modification revealing that it made an emergency \$8.7 million award to Terremark Federal Group days before the online health insurance marketplaces opened to add infrastructure to support more simultaneous visitors to healthcare.gov.

**Shaheen Questions HHS on Provider Networks:** Senator Jeanne Shaheen (D-NH) [sent a letter](#) to Department of Health and Human Services (HHS) Secretary Kathleen Sebelius, expressing concern that the provider network available through the one health plan on the federally facilitated exchange in New Hampshire is too narrow and asking her to review provider network adequacy standards.

**Graves Demands SHOP Enrollment Numbers:** House Small Business Committee Chairman Sam Graves (R-MO) [sent a letter](#) to HHS Secretary Sebelius asking her to provide enrollment data for the federal and state Small Business Health Options Program (SHOP) exchanges.

**IRS IG Cautions on SHOP Tax Credits:** The Treasury Inspector General for Tax Administration has [released](#) a report which found that the IRS is identifying potentially improper tax credit claims made by tax-exempt organizations in the SHOP exchanges, but that the IRS should make improvements to the way it reviews these claims.

**CMS Declares New Home Health Moratoria:** Using authorities granted by the ACA to combat fraud, CMS [declared](#) new temporary moratoria on the enrollment of home health agencies in Fort Lauderdale, Detroit, Dallas, and Houston, and extended existing enrollment moratoria in Chicago and Miami for six months.

## Other Federal Regulatory Initiatives

**CMS Releases Delivery Reform Findings:** CMS [released](#) findings on the progress of a number of its initiatives to reform health care delivery, including the Medicare Accountable Care Organization (ACO) initiatives, Pioneer ACOs, the Physician Group Practice demonstration, and the Bundled Payments for Care Improvement Initiative.

**DOJ Medicare Fraud Force Sets Record:** The Department of Justice's Medicare Fraud Strike Force [announced](#) they have set record numbers for health care prosecutions in Fiscal Year 2013, filing 137 cases, charging 345 people, and securing 234 guilty pleas and 46 jury trial convictions.

**FDA Criticized for High-Risk Feed Additives:** The Natural Resources Defense Council [published](#) a report criticizing the Food and Drug Administration (FDA) for reviewing 30 feed additives,

determining they posed a “high risk” to the food supply, and failing to take action to revoke their approval.

**FDA Releases Sanitary Transportation Rule:** As part of the Food Safety Modernization Act, the FDA has [published](#) a proposed rule establishing requirements for the sanitary transportation of human and animal food.

### **Other Congressional and State Initiatives**

**Waxman Retires:** Representative Henry Waxman (D-CA) [announced](#) that he will not seek reelection in 2014. Waxman, the ranking member of the House Energy and Commerce Committee who was hugely influential in health care issues, has served 20 terms in Congress. Representatives Frank Pallone (D-NJ) and Anna Eshoo (D-CA) have both announced they are seeking the ranking member position and Representative John Dingell (D-MI) has said he has not ruled out competing for the top slot.

**IT Procurement Reform Bill Drafted:** Representatives Anna Eshoo (D-CA) and Gerry Connolly (D-VA) [unveiled](#) draft legislation to reform the federal IT procurement process and create a high-level IT office in the White House to review and guide major IT projects in order to prevent future projects from facing the same difficulties as [healthcare.gov](#).

**Senate Passes Newborn Screening Bill:** The Senate [passed](#) S. 1417, the Newborn Screening Saves Lives Reauthorization Act of 2013, which will renew federal programs that assist states in improving and expanding newborn screening programs.

### **Hearings and Mark-Ups Scheduled**

#### **Senate**

On February 4, the Senate Health, Education, Labor and Pensions Committee will hold a confirmation [hearing](#) to consider the nomination of Vivek Hallegere Murthy to be U.S. Surgeon General.

#### **House**

On February 4, the House Ways and Means Committee will [mark up](#) H.R. 3979, “Protecting Volunteer Firefighters and Emergency Responders Act,” to exempt first responders from the shared responsibility requirements of the ACA

On February 5, the Health Subcommittee of House Energy and Commerce Committee will hold a [hearing](#) titled “Examining the Implementation of the Food Safety Modernization Act.”

On February 5, the House Oversight and Government Reform Committee will hold a [hearing](#) titled “ObamaCare: Why the Need for an Insurance Company Bailout?”

On February 5, the Economic Growth, Job Creation and Regulatory Affairs Subcommittee of House Oversight and Government Reform Committee will hold a [hearing](#) on health insurance co-operatives.