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HEALTH CARE REFORM UPDATE March 11, 2013

Implementation of the Affordable Care Act

On March 4th Iowa Governor Terry Branstad (R) proposed his “Health Iowa Plan” as an alternative to Medicaid expansion in his state. Under his plan, Medicaid coverage will be provided to residents at or below 100% of the federal poverty level (FPL). Everyone else above would be placed into the federal-state partnership exchange being developed in Iowa with tax subsidies. Democrats in the state say Gov. Branstad’s plan would cost millions of dollars more and cover half as many people as the standard Medicaid expansion. An article with comments from the governor is available [here](#). On March 7th U.S. Senator Tom Harkin (D-IA), Chairman of the Senate Health, Education, Labor & Pensions (HELP) Committee, said he expects that Department of Health and Human Services (HHS) Secretary Sebelius will reject Iowa’s plan. The latest details on Iowa’s proposed plan can be found [here](#).

On March 4th Florida House Republicans rejected Governor Rick Scott’s (R) Medicaid expansion plan, saying it would increase the federal deficit and increase a program already facing problems. While House Democrats criticized the decision, Republicans said the state cannot rely on the federal government to provide funding and that Florida should not add 900,000 residents to Medicaid simply for the promise of funding. An article on the situation in Florida can be read [here](#).

On March 4th the Minnesota House passed a bill to create a health insurance exchange in the state. Republicans said the bill would reduce consumer choice and privacy while increasing costs. On March 7th, following a 12-hour debate, the Minnesota Senate passed a similar measure. A conference committee will meet to address differences between the two chambers, which include disagreements on funding the exchange and covering abortions through insurance offered on the exchange. Details on the House vote are available [here](#). An article on the Senate vote can be read [here](#).

On March 4th the ADP Research Institute issued a report that notes employees who earn \$22,340 or more each year are likely to obtain better coverage at a lower cost through an employer’s health plan. The report also highlights how employers are better off providing health insurance to low-income

employees versus paying tax penalties for employees who get health care through the exchange system. The report is available [here](#).

On March 4th U.S. District Court Judge Ronald White said the GC Restaurant chain from Texas cannot join an Oklahoma challenge to the legality of the Affordable Care Act (ACA). Judge White said the Texas group sought to join the suit too late and that it should instead file a challenge in its own state. Oklahoma Attorney General Scott Pruitt (R) has said tax penalties cannot be levied in the state and the coverage mandate cannot be enforced because Oklahoma will not establish a state-based exchange. More information on Oklahoma's challenge to the ACA can be viewed [here](#).

On March 5th Representative Sam Graves (R-MO), Chairman of the House Committee on Small Business, wrote a letter to Treasury Secretary Jack Lew expressing his concern with non-discrimination coverage provisions in the ACA. Representative Graves said small business should be able to provide superior benefits to some employees in order to attract talented executives. The letter to Secretary Lew can be read [here](#).

On March 5th the Republican staffs of House Committee on Energy and Commerce, Senate Committee on Finance, and Senate HELP Committee issued a report on the impact of the ACA on higher premiums. The report suggests that the average family premium has increased by \$3,000 since 2008 and that premiums will increase in all states except New York and Vermont. The report on increasing premiums can be viewed [here](#).

On March 5th Representatives Diane Black (R-TN), Jeff Fortenberry (R-NE), and John Fleming (R-LA) introduced the *Health Care Conscience Rights Act*, which would provide an exemption to all persons and business with an objection to the contraceptive mandate in the ACA. Currently, only houses of worship are exempted. A press release from Rep. Black's office on the bill's introduction can be read [here](#). The text of the bill is available [here](#).

On March 5th Virginia Governor Bob McDonnell (R) sent a letter to HHS Secretary Sebelius saying he would think of expanding Medicaid in his state only if significant reforms were made to the program. Gov. McDonnell has said he has inappropriately been portrayed as unconditionally approving Medicaid expansion in Virginia. The letter from the governor can be read [here](#).

On March 5th a letter to lawmakers signed by organizations including Planned Parenthood, NARAL Pro-Choice America, and the National Organization for Women (NOW) stated opposition to any language that will weaken the contraceptive mandate of the ACA as Congress makes funding determinations past March 27th. The letter can be found [here](#).

On March 5th the Urban Institute said that young Americans are likely to see reasonable premiums by 2017 under the ACA. About 96% of Americans ages 21 to 27 who purchase non-group coverage will receive subsidies to control costs. Some youth will also benefit from an expanded Medicaid program. The Urban Institute article can be read [here](#).

On March 6th Mila Kofman, the Executive Director Washington, D.C. Health Benefit Exchange said small businesses in the District that already provide health coverage to employees will be given a two-year period before being required to join the marketplace for individuals and small groups. All other new entrants to the small group market must join in 2014. The D.C. transition plan can be read [here](#).

On March 6th North Carolina Governor Pat McCrory (R) signed legislation that rejected Medicaid expansion for about 500,000 residents in his state. Gov. McCrory said he wants to make sure that people already enrolled in the program are receiving the services they need. The governor said he would reconsider expansion at a later date. Details on the governor's decision are available [here](#).

On March 6th the Federal Reserve issued a report that noted employers in certain areas of the country are planning layoffs and are indicating a reluctance to hire new employees due to the uncertainty of the ACA. The full report can be found [here](#).

On March 6th HHS announced its 2013 agenda to use health IT to decrease costs and improve care quality. HHS said it is working to enhance the effective use of electronic health records (EHRs) and the interoperability of an electronic exchange across providers. An announcement from HHS can be found [here](#). HHS also issued request for information (RFI) that seeks to identify methods to accelerate electronic health information exchange across providers. The RFI can be found [here](#).

On March 7th Consultancy Towers Watson and the National Business Group on Health conducted the annual survey of more than 500 of the nation's largest employers, who self-insure, or pay for employee healthcare treatments. The survey indicated that 60% of these employers plan to continue providing health care plans for full-time employees over the next five years. The employers are not as certain about healthcare plans in the next 10 years. An article on employer insurance trends can be read [here](#).

On March 7th HHS provided initial approval for the partnership exchanges in Iowa, Michigan, New Hampshire, and West Virginia. Partnership exchanges in Arkansas, Delaware, and Illinois have already received HHS approval. A press release from HHS is available [here](#).

On March 7th the Heritage Foundation indicated that 40 states would experience increased costs as a result of Medicaid expansion. Heritage says that states will experience further costs when the 100% federal matching rate is lowered after three years. A chart, identifying which states will experience increased costs as a result of expansion, can be viewed [here](#).

On March 7th Secretary Sebelius wrote a blog post on the HHS website stating that the ACA has led to a slowing in health care spending. Citing a report by *USA TODAY*, Secretary Sebelius said the ACA has established more coordinated care and quality in services. Secretary Sebelius's post can be read [here](#), and an article on the *USA TODAY* study can be found [here](#).

On March 7th the American Action Forum released an update on the impact of Medicare Advantage cuts in the ACA. The update projects an enrollment drop of 11% and an average value loss of \$2,235 per beneficiary. The update from American Action Forum, with a state-by-state breakdown, is available [here](#).

Other HHS and Federal Regulatory Initiatives

On March 5th HHS reached a settlement with Genesis HealthCare, a company operating 400 skilled nursing and assisted living facilities. A Maryland resident said Genesis did not provide a sign language interpreter. HHS said the lack of an interpreter significantly compromised the patient's care. The

settlement mandates that Genesis notify its deaf residents of aids and services. The full settlement agreement is available [here](#).

On March 7th Paul Layman of Miami pleaded guilty for his role in a \$63 million health care fraud scheme. Layman, the director of Health Care Solutions Network Inc., was complicit knowing that his company accepted ineligible patients and fabricated medical records. Details on the case from the Department of Justice are available [here](#).

On March 7th the Food and Drug Administration (FDA) released a draft of its five-year plan for developing and implementing a structured framework for the benefit-risk assessment of drugs and biologic products. The FDA will finalize its plan following a period of 60 days for public comment on the draft. The plan can be read [here](#).

On March 8th the Associated Press reported that, while the U.S. Army has doubled the number of military and civilian behavioral health workers over the last five years, the rate of soldiers' suicides still is greater than the rate of combat deaths. An Army report states that confusing paperwork and inconsistent training have hindered the service as it seeks to address behavioral health issues. The AP article can be read [here](#).

Other Congressional and State Initiatives

On March 1st Republicans on the House Energy and Commerce Committee wrote to FDA Commissioner Margaret Hamburg. The lawmakers want to know if mobile device applications constitute a medical device, which can be taxed under the ACA. The FDA has the authority to define what products are medical devices. The letter can be read [here](#).

On March 4th Representatives Sander Levin (D-MI), Ranking Member of the House Ways and Means Committee, and Henry Waxman (D-CA), Ranking Member of the House Energy and Commerce Committee, released a report from the Government Accountability Office (GAO) that addressed overpayments to Medicare Advantage (MA) plans. The report indicated that accurate risk score adjustments would have saved \$3.2 billion to \$5.1 billion that was overpaid to MA plans between 2010 and 2012. The full GAO report can be read [here](#).

On March 4th a bipartisan group of eight Senators signed a letter to GAO Comptroller General Gene Dodaro that requested a report on the communication and coordination challenges faced by stakeholders and government agencies regarding prescription drug abuse reduction. The Senators indicated they want to understand how drug abuse can best be combated. The letter to Comptroller General Dodaro can be viewed [here](#).

On March 5th Oklahoma Attorney General Scott Pruitt issued a "petition for certiorari" to the U.S. Supreme Court to review a decision to prevent the use of off-label drugs, such as RU-486, to induce abortion. The Oklahoma Supreme Court struck a state law that instituted the ban. A statement from Attorney General Pruitt is available [here](#). The petition for cert can be found [here](#).

On March 5th members of the House Republican leadership sent a letter to President Obama expressing concern over the administration's suspension of enrollment in the Pre-Existing Insurance Plan (PCIP) program. The \$5 billion program was created as part of the ACA to help those with

preexisting conditions find insurance before 2014. The Obama administration said allowing additional enrollees would have caused the program to run out of funds. The letter from House Republicans can be found [here](#).

On March 6th Senator Dianne Feinstein (D-CA) introduced legislation to allow the Secretary of HHS to block insurance rates hikes that are deemed unreasonable when an insurance commissioner in a state lack the authority to do so. The companion legislation was introduced in the House Representative Jan Schakowsky (D-IL). Details on the proposed bill are available [here](#). The actual text of the bill can be found [here](#).

On March 6th the Arkansas legislature overrode a veto by Governor Mike Beebe (D) of a bill that establishes a ban on abortions after 12 weeks of pregnancy if a heartbeat is detected. The law has exceptions for rape, incest, and the life of the mother. Gov. Beebe explained his veto by saying the law, the *Human Heartbeat Protection Act*, contradicted precedent set forward by the Supreme Court. A copy of the bill text can be found [here](#).

On March 6th Senator Lindsey Graham (R-SC) introduced the *NICS Reporting Improvement Act*, a bill to require those who plead not guilty by reason of insanity in gun crime cases to register with the National Instant Criminal Background Check System (NICS). The National Rifle Association (NRA) expressed support of the bill. Senators Mark Begich (D-AK), Jeff Flake (R-AZ), and Mark Pryor (D-AR) cosponsored the legislation. An article on the bill can be found [here](#). A press release from Senator Graham can be found [here](#).

On March 6th Judge B. Lynn Winmill of the U.S. District Court for the District of Idaho rejected an Idaho law that restricted most abortions after 20 weeks. Judge Winmill said the law violates *Roe v. Wade*, which states that an abortion cannot be restricted until viability is reached. The ruling of Judge Winmill is available [here](#).

On March 6th Representative Frank Pallone (D-NJ) and Senator Bob Menendez (D-NJ) introduced the *Access to Health Information Centers for Families with Disabilities Act*. The legislation would assist families with special needs children to find health care. Current funding only supports these centers through 2013. A copy of the House bill text can be found [here](#). A press release from Sen. Menendez's office can be found [here](#).

On March 7th a Pennsylvania judge rejected Governor Tom Corbett's (R) plan to reduce funding for the state's adultBasic and Medicaid insurance programs. Judge Dan Pellegrini said the actions of the governor were unconstitutional because he used money from the federal tobacco settlements to pay for non-healthcare items. The adultBasic program supports adults who make too much to qualify for Medicaid but are not insured by an employer. An article on the ruling can be found [here](#).

On March 8th South Dakota Governor Dennis Daugaard (R) signed a bill to extend the state's mandatory waiting period to receive an abortion. With a 72-hour period, South Dakota now has one of the longest waiting periods. Utah is the only other state with a 72-hour waiting period. The bill can be read [here](#).

Other Health Care News

On March 1st America's Health Insurance Plans (AHIP) sent a letter to the Centers for Medicare and Medicaid Services (CMS) on a proposed 2.3% reduction in the Medicare Advantage (MA) growth rate. AHIP says the proposal, coupled with cuts from the ACA, will cost beneficiaries \$50 to \$90 per month in extra costs or care reductions. The letter from AHIP can be read [here](#).

On March 3rd Mississippi doctors announced that a baby born with H.I.V. was cured of the infection for the first time. Just 30 hours after birth, the baby was aggressively treated with antiretroviral drugs. In 2011, 330,000 babies were born with H.I.V. Details on the case are available [here](#).

On March 4th the National Commission on Physician Payment Reform released a report calling for the end of fee-for-service models due to inherent inefficiencies and problematic financial incentives. The plan also recommends the elimination of the Sustainable Growth Rate (SGR). The full report can be found [here](#).

On March 4th Victor L. Campbell was elected as chairman of the Federation of American Hospitals (FAH). Campbell was the FAH chairman in 2006 and 1992. The term lasts for one year. A release from FAH can be read [here](#).

On March 6th Gallup released its annual findings on obesity rates in states across the country. For the third straight year, Colorado had the lowest obesity rate, and the state is the only place in the country where less than 20% of adults are obese. Also for the third year in a row, West Virginia is the state with the highest rate of obesity, at 33.5%. The Gallup results are available [here](#).

On March 6th a report from *Reuters* noted that the Cancer Treatment Centers of American (CTCA) use suspect methods to advertise higher-than-normal survival rates for its patients. According to the report, CTCA is highly selective in the patients it takes, and it only calculates survival rates for patients who receive CTCA care for the duration of the illness. The report can be read [here](#).

On March 6th *Journal of the American Medical Association* published a study on the relationship between gun laws and gun-related fatalities. The study, "Firearm Legislation and Firearm-Related Fatalities in the United States" was conducted by doctors at Boston Children's Hospital, and it found that a higher number of gun laws resulted in fewer firearm-related deaths. The study analyzed legislation and deaths in every state between 2007 and 2010. The study can be read [here](#).

On March 7th the Urban Institute and the Robert Wood Johnson Foundation released a report suggesting that the Medicare eligibility age should be raised to 67, but people who are 65 and 66 and want to buy into the program should be allowed to do so at a higher cost. The proposal and other measures could save \$734 billion between 2013 and 2022. The report can be viewed [here](#).

Hearings and Mark-Ups Scheduled

House of Representatives

On March 13th the House Veterans' Affairs Health Subcommittee will hold a hearing titled, "Meeting Patient Care Needs: Measuring the Value of VA Physician Staffing Standards." More information can be found [here](#).

On March 13th the House Energy and Commerce Subcommittee on Health will conduct a hearing on titled "Obamacare's Impact on Jobs." Detail on the hearing can be found [here](#).

On March 14th the House Veterans' Affairs Oversight and Investigations Subcommittee will hold a hearing called, "Waiting for Care: Examining Patient Wait Times at VA." Details on the hearing are available [here](#).

On March 15th the House Energy and Commerce Committee will conduct a hearing called "Unaffordable: Impact of Obamacare on Americans' Health Insurance Premiums." More information can be found [here](#).

On March 15th the House Ways and Means Health Subcommittee will hold a hearing on "MedPAC's Annual March Report to Congress." More information can be found [here](#).