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HEALTH CARE REFORM UPDATE April 22, 2013

Implementation of the Affordable Care Act

On April 16th Centers for Medicare and Medicaid Services' (CMS) acting-Administrator Marilyn Tavenner provided answers to follow-up questions from her confirmation hearing before the Senate Finance Committee. Acting Administrator Tavenner said CMS has spent over \$393 million to support the federal insurance exchange and the federal data services hub, and suggested that President Obama will nominate individuals to for the Independent Payment Advisory Board (IPAB) in the near future. The responses are available [here](#).

On April 17th members of the Arkansas Legislature approved a plan to expand Medicaid in the state by using federal funds to provide private insurance to low-income residents. The plan, supported by Governor Mike Beebe (D), received the necessary three-fourths support in the State House and Senate. The plan has received tentative approval from HHS Secretary Sebelius. Details on the vote are available [here](#).

On April 17th Rhode Island posted commercial insurance rate proposals for individual, small group, and large group markets under the ACA. State Insurance Commissioner Christopher Koller is expected to issue a final decision on the rates by June. The proposed rates can be viewed [here](#).

On April 17th a study in *Health Affairs* identified high costs for some participants in the Massachusetts health insurance exchange that was established before the ACA. The study notes that families with many children and with low incomes experienced high cost sharing in the Massachusetts model. The ACA could present similar financial burdens for these large, low-income families, according to the study, which can be found [here](#).

On April 18th Senator Maria Cantwell (D-WA) released an HHS timeline that indicates the Federal Basic Health Plan (FBHP) will begin enrollment in October of 2014. Operations are set to begin in January of 2015. The FBHP timeline is available [here](#).

Other HHS and Federal Regulatory Initiatives

On April 15th HHS launched an effort to promote breastfeeding among African-American women. Nearly 80 percent of U.S. women breastfeed, while only about 55 percent African-American breastfeed. The HHS campaign, *It's Only Natural*, addresses myths of breastfeeding and identifies support sources for women. The campaign's website is available [here](#).

On April 15th U.S. District Court Judge Daniel Jordan issued a preliminary injunction to a Mississippi abortion clinic, temporarily waiving a law that all physicians at the clinic must be certified OB-GYNs with hospital admitting privileges. The law, which attempts to place restrictions on the Jackson Women's Health Organization, is being challenged in court. The preliminary injunction can be read [here](#).

On April 16th North Dakota Governor Jack Dalrymple (R) signed a bill that outlaws abortions 20 weeks into a pregnancy, suggesting that a fetus can feel pain after 20 weeks. Abortion-rights groups have said they will challenge efforts by Governor Dalrymple to limit abortions in North Dakota. An article with information on recent efforts to limit abortions in North Dakota is available [here](#).

On April 16th the FDA approved abuse-deterrent labeling for a reformulated version of OxyContin, a pain-management drug. The FDA also indicated that no generic forms of OxyContin will be accepted. A news release on the decision is available [here](#).

On April 16th the Department of Justice (DOJ) announced the biotechnology company Amgen agreed to pay nearly \$25 million to settle charges that the drugmaker provided incentives for pharmacists to give its drugs to patients. DOJ said it will continue to pursue companies that provide kickbacks to prescribers. The DOJ release can be read [here](#).

On April 17th the Centers for Disease Control and Prevention (CDC) updated its page on ricin, the poisonous substance that was recently sent to several Federal officials through the mail. The CDC notes that ricin can be in the form of a powder, mist, or pellet. Ricin is naturally found in castor beans. Additional details on ricin are available [here](#).

On April 17th DOJ announced that Nabila Mahbub, a manager of All American Home Care Inc. in Detroit, was found guilty of a \$5.8 million Medicare fraud scheme. In order to receive false reimbursements, Mahbub paid Medicare beneficiaries to sign blank documents for services that were not performed. The DOJ release is available [here](#).

On April 18th DOJ sentenced Hugh Marion Willett, an owner of two Texas durable medical equipment companies, to 41 months in prison for submitting Medicare claims for products that were more expensive than what Willett actually provided. The release from DOJ can be found [here](#).

Other Congressional and State Initiatives

On April 16th 19 Senate Democrats, led by Senator Jay Rockefeller (D-WV), introduced a bill to require drug companies to provide a rebate to the federal government on drugs used by dual eligibles. The lawmakers suggest the bill would save \$141.2 billion that could be used to avoid cuts to Medicare

beneficiaries. A companion bill was introduced in the House by Representative Harry Waxman (D-CA). A press release on the bill is available [here](#).

On April 16th several Senate Republicans released a report that criticizes portions of the Health Information Technology and Economic and Clinical Health (HITECH) Act, part of President Obama's stimulus package. The lawmakers—Senators Thune (R-SD), Alexander (R-TN), Roberts (R-KS), Burr (R-SC), Coburn (R-OK), and Enzi (R-WY)—suggest that the HITECH Act increases costs, lacks appropriate oversight, and puts patient privacy at risk. The report can be read [here](#).

On April 16th over 20 health advocacy organizations urged the Senate to consider the health of children and families when addressing gun legislation. A letter from the health groups said that Federal policy should approach the health risk of gun violence the same way that the government has tackled immunizations, motor vehicle safety, and public sanitation. The letter can be read [here](#).

On April 17th the House Energy and Commerce Committee conducted a hearing with FDA Commissioner Margaret Hamburg to address the government response to the NECC meningitis outbreak. Commissioner Hamburg said she regretted not being more directly involved in the investigation. Congress is currently considering whether the FDA needs greater authority to handle similar cases in the future. Earlier in the week, Democrats on the Committee released a memo on the role of the FDA in the outbreak, suggesting suggested that confusion and unclear regulations, along with an ineffective FDA Modernization Act of 1997, led to an inability of the FDA to effectively respond to the NECC meningitis outbreak. The memo can be read [here](#). A similar report from the Committee's Republican majority is available [here](#). An article on the hearing with Commissioner Hamburg is available [here](#).

On April 17th Senator Tom Coburn (R-OK) and Representative Fred Upton (R-MI) praised the FDA for not approving generic forms of the drug OxyContin that would have been made without abuse-deterrent properties. The statement notes that 16,000 Americans die each year as a result of opioid drug overdoses, and the lawmakers said the decision will reduce abuse and protect consumers. The release praising the FDA decision can be read [here](#).

On April 17th the House Energy and Commerce Committee marked up the “Helping Sick Americans Now Act” (H.R. 1549), a proposal to transfer \$4 billion of ACA funds into the Pre-Existing Condition Plan (PCIP). The Committee approved the legislation for consideration by the full House in a 27 to 20 vote. The following day, Dean Clancy, Vice President of Public Policy for FreedomWorks, offered his support for H.R. 1549, suggesting the bill is an opportunity to show the strength of the high-risk insurance pool model. Still, the same day, Club for Growth suggested that House members should vote against the measure, saying the bill simply extends the federal government's role in healthcare. Additional comments from Clancy are available [here](#) and the Club for Growth statement is available [here](#).

On April 19th Erskine Bowles and Alan Simpson released a new report that seeks to provide solutions to U.S. deficit and budget challenges. The report offers \$585 billion in healthcare savings by taking steps that include a permanent fix to the Sustainable Growth Rate (SGR), expanded means-testing for Medicare, and an increased Medicare eligibility age. The full proposal is available [here](#).

Other Health Care News

On April 16th the Association of Academic Health Centers (AAHC) released a report on the health care workforce in the United States. The report warns that with an additional 14 million people needing health care under the Affordable Care Act (ACA), there will not be enough people in the workforce to provide adequate services. The report and a news release from AAHC can be found [here](#).

On April 17th the Journal of the American Medical Association (JAMA) released a study on the relationship between surgical complications and the financial benefit to hospitals. The study suggests that hospitals that increase quality and reduce complications would experience a negative financial impact. The American Hospital Association (AHA) objected to the study, saying that hospitals and medical professionals always put patient care before any financial considerations. An abstract of the study is available [here](#).

On April 18th the Bipartisan Policy Center (BPC) released a plan that offers \$560 billion in health care savings over 10 years. Major components of the plan include prioritizing quality and prevention through improved Accountable Care Organizations (ACOs), replacing the Sustainable Growth Rate (SGR), and merging Medicare Part A and B deductibles into a single, annual deductible of \$500. The full plan from the BPC can be read [here](#).

On April 18th the Paraprofessional Healthcare Institute (PHI) released a report urging the Obama Administration to move quickly to provide federal minimum wage and overtime protections to the 2.5 million home care workers in America. PHI says that a year has passed since the end of the public comment period and that it is time for the President to issue a final rule on the issue. The report can be found [here](#).

On April 18th *Kaiser Health News* reported on increasing skepticism from Congressional Democrats and ACA supporters of actuary projections that premium costs under the ACA could significantly increase next year. Skeptics suggest that most actuaries in the country are employed by insurance companies and that they fail to account for all cost factors. The article on actuary projections is available [here](#).

Hearings and Mark-Ups Scheduled

Senate

On April 23rd the Senate HELP Subcommittee on Primary Health and Aging will hold a hearing titled “Successful Primary Care Program: Creating the Workforce We Need.” More information is available [here](#).

On April 23rd the Senate Finance Committee will vote on the nomination of Marilyn B. Tavenner to be Administrator of the Centers for Medicare and Medicaid Services. More information can be found [here](#).

On April 24th the Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education will conduct a hearing to examine proposed budget estimates for fiscal year 2014 for HHS. More information can be found [here](#).

On April 24th the Senate Special Committee on Aging will hold a hearing on the national plan to address Alzheimer's disease. The hearing is schedule for 2:00pm in room 106 of the Dirksen Building. The committee's website can be accessed [here](#).

On April 24th the Senate Homeland Security and Governmental Affairs Subcommittee on Financial and Contracting Oversight will hold an oversight hearing titled "Oversight and Business Practices of Durable Medical Equipment Companies." More information can be found [here](#).

House of Representatives

On April 24th the House Veterans' Affairs Committee will hold a hearing titled "Examining the Implications of the Affordable Care Act on VA Healthcare." More information is available [here](#).

On April 24th the House Energy and Commerce Subcommittee on Oversight and Investigations will hold an oversight hearing on the efforts of the Center for Consumer Information and Insurance Oversight (CCIIO) to implement the ACA. More information can be found [here](#).

On April 25th the House Energy and Commerce Subcommittee on Health will hold a hearing titled "Securing Our Nation's Prescription Drug Supply Chain." More information can be found [here](#).

On April 25th the House Appropriations Subcommittee on Labor, Health and Human Services, and Education will hold a hearing to examine proposed budget estimates for fiscal year 2014 for HHS. More information is available [here](#).

On April 25th the House Oversight and Government Reform Subcommittee on Energy Policy, Health Care and Entitlements will hold a hearing titled "Examining the Lack of Transparency and Consumer Driven Market Forces in U.S. Health Care." More information can be found [here](#).

On April 26th the House Appropriations Subcommittee on Agriculture, Rural Development, and the Food and Drug Administration will hold a hearing on proposed budget estimates for fiscal year 2014 for the FDA. More information is available [here](#).

On April 26th the House Energy and Commerce Subcommittee on Oversight and Investigations will hold a hearing titled "Does HIPAA Help or Hinder Patient Care and Public Safety?" More information can be found [here](#).