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HEALTH CARE REFORM UPDATE May 28th, 2013

Implementation of the Affordable Care Act

On May 17th Oregon and Washington released the proposed rates offered by insurance companies on the ACA exchanges. Exchange officials said they were pleased with the rates, which were significantly lower than some experts had anticipated. An article on the Oregon and Washington insurance markets is available [here](#).

On May 21st Iowa Governor Terry Branstad (R) and state legislators agreed to accept federal dollars for Medicaid expansion. Under the plan, Iowans making 100-138% of the federal poverty level (FPL) will be able to obtain private insurance through the insurance exchanges using federal dollars. Gov. Branstad is the ninth Republican governor to endorse Medicaid expansion for his state. More information on the deal can be found [here](#).

On May 21st Senator John Thune (R-SD) sent a letter to Attorney General Eric Holder and Treasury Secretary Jack Lew with a request for information on the involvement of Sarah Hall in the IRS's targeting of conservative groups. Senator Thune says Hall was inexplicably promoted to oversee the ACA office at the IRS. Senator Thune writes that the IRS should stop issuing or implementing any regulations made under Hall. The letter can be viewed [here](#).

On May 22nd 17 insurers provided rates for the insurance exchanges in Colorado. Officials say the premium rates available vary widely. Colorado will review all the plans to ensure that they meet ACA requirements. The rates can be viewed [here](#), and a statement from the Department of Insurance can be read [here](#).

On May 23rd California chose 13 health plans to operate on the state's insurance exchange. Covered California, the agency implementing ACA provisions, said insurers decreased profit margins down to less than 3% to compete on the exchanges. Proposed premium rates on the individual market range from 2% higher to 29% lower than the average premium in the small-group market. Most consumers will have about five health plans to choose from. An article on the California plans is available [here](#).

On May 23rd the Maine legislature passed a bill to expand the state's Medicaid program through the ACA, but Governor Paul LePage (R) has indicated that he will veto the attempt to expand Medicaid in the state. Proponents of expansion said it would help the state pay off its debt to hospitals. More information on the battle over Medicaid expansion in Maine is available [here](#).

On May 23rd the New Hampshire Senate Finance Committee voted 4-2 to reject the Medicaid expansion plan that had been passed by the House and has approval from Governor Maggie Hassan (D). Senators in the state are concerned about the federal government's ability to fund expansion. A budget for the state must be set by July 1st. Details on the fight over expansion in New Hampshire are available [here](#).

Other HHS and Federal Regulatory Initiatives

On May 20th the Government Accountability Office (GAO) issued a report on the drug cost disparities between the Department of Defense (DOD) and the Department of Veterans Affairs (VA). GAO notes that DOD paid nearly 32% higher than VA for a sample of 83 drugs. VA pays nearly 137% more for brand-name products. The report is available [here](#).

On May 22nd HHS Secretary Sebelius announced that a majority of medical providers now receive Medicare or Medicaid incentive payments for using electronic health records (EHRs). The number of providers using health IT has more than doubled since 2012. Secretary Sebelius noted that health IT helps save money and improve patient care. The release is available [here](#).

On May 23rd the HHS Office of Inspector General (OIG) indicated that New York overbilled Medicaid by \$54 million from 2007-2009. A report from OIG says New York claimed illegitimate reimbursements for a traumatic brain injury waiver program. The OIG report can be read [here](#).

Other Congressional and State Initiatives

On May 20th Vermont Governor Peter Shumlin (D) signed a bill to allow physician-assisted suicide in his state. Governor Shumlin said the bill provides options to people facing terminal illness and excruciating pain. Critics of the law worried about negative consequences and abuse of the bill. The Vermont Health Department is now tasked with developing regulations for the law. An article on the bill is available [here](#).

On May 21st the National Governors Association (NGA) announced the formation of a sustainability task force program to improve health care quality and reduce costs of public programs. Governors John Kitzhaber (D-OR) and Bill Haslam (R-TN) will co-chair the taskforce. More information on the program is available [here](#).

On May 21st the Senate Judiciary completed its markup on comprehensive immigration legislation. Health-related amendments introduced included a provision from Chairman Patrick Leahy (D-VT) to mandate that victims of domestic violence and other crimes are given work authorization within 180 days of filing an application. Senators Al Franken (D-MN) and John Cornyn (R-TX) offered an amendment to transfer responsibility from HHS to the Department of Justice (DOJ) for providing

unaccompanied, undocumented immigrant children with lawyers. The full list of amendments is available [here](#).

On May 22nd, during a Senate Homeland Security Subcommittee hearing to investigate CMS payments under Medicare Part B to suppliers of medical products, Jon Letko of U.S. Healthcare Supply invoked the Fifth Amendment and refused to testify. Dr. Steve Silverman of Med-Care Diabetic & Medical Supplies offered testimony. Both companies are accused of inappropriate Medicare billing and marketing practices and were subpoenaed to appear before the committee. More information on the hearing is available [here](#).

On May 22nd the Senate HELP Committee approved by unanimous consent S. 957, a bill on tracking drugs with the pharmaceutical distribution supply chain, and S. 959, a bill relating to increased FDA authority regarding drug compounding. The Senate's track and track legislation includes a unit-level requirement, a component that is omitted from the House bill. The two bills will be considered as a joint bill by the full Senate. A video replay of the committee mark-up can be viewed [here](#).

On May 22nd Senators Roy Blunt (R-MO) and Mark Kirk (R-IL) announced the introduction of the "Health Care Safety Net Enhancement Act," which would provide medical liability protections to emergency room and on-call physicians. Representative Charlie Dent (R-PA) previously introduced companion legislation in the House. Text of the bill, S. 961, can be found [here](#), and an announcement on the bill is available [here](#).

On May 28th the House Energy and Commerce Committee will meet with industry stakeholders to discuss lawmakers' plan to revise the Medicare sustainable growth rate (SGR). The plan is expected to include a method of paying providers for performance and efficiency, although no numbers have been finalized. An article on the meeting can be found [here](#).

Other Health Care News

On May 20th the Kaiser Family Foundation (KFF) released a state-by-state analysis of the Census Bureau's supplemental poverty measure, which accounts for health spending and regional cost of living. KFF notes that the supplemental measure suggests higher poverty rates in all states. In California, for example, the official poverty measure indicates only 8% of seniors live in poverty; however, according to the supplemental measure, 20% of seniors in the state are impoverished. The report is available [here](#).

On May 20th the Pharmaceutical Care Management Association (PCMA) released a survey indicating that 85% of American seniors are satisfied with their Medicare Part D prescription drug plans. Due to cost concerns, 80% of seniors said they would be disappointed if their plan were eliminated. The survey is available [here](#).

On May 21st the Federal Trade Commission (FTC) announced that tobacco companies increased advertising and promotional spending by 4% from 2010-2011. Total marketing costs for tobacco products are \$8.4 million yearly. The FTC release is available [here](#).

On May 22nd Victor Fuchs published an article in the *New England Journal of Medicine* on the relationship between the U.S. gross domestic product (GDP) and a slowdown in health care spending. Fuchs

suggests that the recent recession has led to most of the slowdown in spending, a position that is contrary to other analyses. Fuchs' article can be read [here](#).

On May 22nd Milliman released its 2013 medical index. The report suggests that American health care costs continue to rise, with the average family of four using over \$9,000 in payroll deductions and out-of-pocket costs to pay for health care over the past year. Employers pay nearly \$13,000 to cover additional health care costs, although the employer contribution is growing at a rate slower than the increase in costs. The report is available [here](#).

Hearings and Mark-Ups Scheduled

Both the Senate and the House of Representatives are in recess until the week of June 3rd.