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HEALTH CARE REFORM UPDATE June 17th, 2013

Leading the News

HHS Releases Proposed Rule on Exchange Implementation

On June 14th, CMS released a **proposed rule** with program integrity guidelines for the Health Insurance Marketplace. Among other things, the proposed rule requires all qualified health plans to accept additional payment options for premiums including money orders, cashier's checks, and prepaid cards. By allowing these additional forms of payment, CMS is seeking to assuage concerns that underbanked consumers can still purchase health coverage with federal subsidies through online insurance marketplaces. In addition, the proposed rule would:

- Ensure that data sharing requirements will not apply for states opting to only run the SHOP exchange while HHS operates the individual exchange. Utah is the only state that has such a system.
- Build on existing standards for agents and brokers by clarifying the pathways through which they can help consumers and small businesses in Federally-facilitated Marketplaces.
- Establish standards for HHS-approved enrollee satisfaction surveys.

SCOTUS Rules on Pay-for-Delay

On June 17th the Supreme Court **ruled** that federal regulators can sue drug companies for antitrust violations occurring when brand-name drug companies pay generic competitors to keep competing, cheaper drugs off the market. *Federal Trade Commission v. Actavis* was heard in October 2012 and was decided in a 5 to 3 vote with Justices Beyer, Kennedy, Ginsburg, Sotomayor, and Kagan in the majority and Justice Alito abstaining.

Implementation of the Affordable Care Act

On June 10th, the Internal Revenue Service (IRS) released a **final rule** on the enforcement of a tax on indoor tanning which determines that tanning services located within larger physical fitness facilities will be exempt.

On June 13th, California Insurance Commissioner Dave Jones [recommended](#) that Anthem Blue Cross Life and Health Insurance be excluded from the Small Business Health Options Program (SHOP) Exchange due to excessive rate increases in recent years.

On June 14th, CMS offered final waiver approval for Florida Governor Rick Scott's (R) plan to expand Medicaid. Gov. Scott [praised the decision](#) and said the model will provide improved managed care to counties across Florida.

On June 14th, the Michigan House of Representatives approved a [bill](#) to provide Medicaid coverage to up to 470,000 new beneficiaries.

On June 17th, Arizona Governor Jan Brewer (R) [signed](#) into law a Medicaid expansion bill that will provide coverage to an additional 300,000 residents in her state.

On June 22nd, [Enroll America](#) will launch its "Get Covered America" campaign that is intended to help Americans understand obtaining insurance on the ACA exchanges.

Other HHS and Federal Regulatory Initiatives

On June 10th, HHS Secretary Sebelius addressed men's health issues and the role of the ACA and the federal government in a [statement](#) to mark National Men's Health Week.

On June 10th, HHS and the Food and Drug Administration (FDA) announced plans to drop an appeal against a court ruling that individuals of any age should be allowed to purchase emergency contraception over-the-counter.

On June 10th, the Organ Procurement and Transplantation Network (OPTN) [announced](#) revisions to the eligibility of young children for lung transplants. On June 12th, Sarah Murnaghan, the 10-year-old girl who had waited for new lungs, [received her transplant](#).

On June 11th, the Congressional Long-Term Care Commission [selected](#) Bruce Chernof as its chairman.

On June 11th, Walgreens [agreed to pay](#) the Department of Justice (DOJ) \$80 million to settle alleged violations of the Controlled Substances Act.

On June 13th, the Supreme Court [unanimously ruled](#) that human genes cannot be patented. All nine justices determined that genes are not able to be patented because they are natural material, although synthetic DNA can be patented.

On June 13th, Surgeon General Regina Benjamin announced she will step down from her position in July. Deputy Surgeon General Boris Lushniak will serve as the interim replacement.

Other Congressional and State Initiatives

On June 7th, 33 House Republicans sent a [letter](#) to HHS Secretary Sebelius with a request for information on how the navigators on the insurance exchange will be trained.

On June 9th, Senators Tom Harkin (D-IA) and Lamar Alexander (R-TN) sent a [letter to colleagues](#) urging them to support a vote on the Senate floor of legislation that would improve oversight regarding drug compounding facilities.

On June 11th, Senator Bill Nelson (D-FL) sent a [letter](#) to CMS Administrator Marilyn Tavenner that urged the agency to increase the rewards available to individuals who report Medicare fraud.

On June 11th, a bipartisan group of Senators and House members [introduced legislation](#), known as the PRIME Act, to decrease Medicare fraud.

On June 12th, over 200 members of Congress [urged](#) HHS to delay the expansion of a program to set prices for durable medical equipment through competitive bidding.

On June 12th, Senator Pat Toomey (R-PA) introduced a [bill](#) to eliminate unnecessary regulatory burdens on the development of innovative drugs and therapies to treat rare diseases. Companion legislation was introduced by Rep. Jim Gerlach (R-PA) in the House.

On June 13th, Senators Roy Blunt (R-MO) and Jack Reed (D-RI) [introduced a bill](#), S. 1152, to develop the health care workforce and make it easier for students to pursue health care careers.

On June 13th, Senator Barbara Boxer (D-CA) said she will work to [provide at least \\$250 million](#) for state and local governments to fund the health care for uninsured immigrants who seek legal status described in the current immigration legislation before Congress.

On June 13th, Senator Ron Wyden (D-OR) offered potential reforms to the Medicare program during his [keynote speech](#) at the Accountable Care Organization (ACO) Summit.

Other Health Care News

On June 10th, the Kaiser Family Foundation (KFF) [released data](#) that indicates the number of Medicare beneficiaries on Medicare Advantage (MA) increased by 10% over the last year.

On June 11th, a [poll](#) released by the Morning Consult indicated that 76% of Americans are satisfied with the value of their health care, but 58% say premium and medical costs remain the biggest concern in the industry.

On June 12th, a [report](#) released by the Center for American Progress (CAP) recommends that doctors who follow clinical guidelines and best practices of care should not be at risk of malpractice lawsuits.

Hearing and Mark-Ups Scheduled

Senate

On June 18th, the Senate Finance Committee will conduct a [hearing](#) on increasing health care costs.

On June 19th, the Senate HELP Subcommittee on Primary Care and Aging will hold a [hearing](#) to examine reducing senior poverty and hunger and examine the role of the "Older Americans Act."

On June 24th, the Senate Homeland Security and Governmental Affairs Committee will hold a [hearing](#) on curbing drug abuse in Medicare.

House of Representatives

On June 17th, the House Rules Committee will hold an [emergency meeting](#) on H.R. 1797, the District of Columbia Pain-Capable Unborn Child Protection Act.

On June 18th, the House Ways and Means Committee will hold a [hearing](#) on improving the nation's welfare system.

On June 19th, a House Veterans' Affairs Subcommittee will conduct a [hearing](#) on the Infectious Disease Reporting Act.

On June 20th, the House Ways and Means Health Subcommittee will hold a [hearing](#) on the 2013 Medicare Trustees Report.