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Health Care Update

Post- King v. Burwell Strategy is TBD: Health care stakeholders and policymakers alike, are anxiously awaiting a decision from the Supreme Court to what many health policy experts describe as one of the “last serious challenges” to the Affordable Care Act (ACA). A decision from SCOTUS is widely expected to be announced either this Thursday, June 25th, Friday, June 26th, or Monday, June 29th as the end of the high court’s term quickly approaches.

Both Congressional Republicans and the Obama Administration have kept any contingency plans to themselves, with GOP leaders assuring that there is a viable plan to protect consumers who may lose health care coverage and Obama Administration officials arguing that they have no contingency in the works. Politically, both sides may have to rapidly shift their focus on a mitigation strategy that could affect as many as 6.5 million consumers who could see insurance prices rise to over 256 percent according to a recent analysis from the nonpartisan Kaiser Family Foundation.

So far, Congressional Republicans have released a series of bills designed to “replace” the ACA should the Court rule against the Obama Administration. Representative Tom Price (R-GA) has authored two bills, H.R. 2650 and H.R. 1234 which utilize Health Savings Accounts in place of the current federal-subsidy framework. Price’s plan is similar to the Republican Study Committee proposal, H.R. 3121. Senator Bill Cassidy (R-LA) has led a group of Republican lawmakers, including Majority Leader Mitch McConnell (R-KY), in proposing S. 1531, the Patient Freedom Act, a bill that would repeal the individual and employer mandates while emphasizing health savings accounts. None of these proposals would be likely to survive the veto pen of the President.

Although states have been considering their options to continue providing subsidized insurance coverage following a potential reversal from the SCOTUS, the political environment has made possible mitigation strategies politically treacherous for Republican governors and legislators, especially as Presidential election politics continues to ramp up.

Ultimately, if SCOTUS deals a major blow to Obamacare, most health care stakeholders are hoping that Republican lawmakers can find a way to extend tax subsidies, until after the next Presidential election, by leveraging a “win” from the Obama Administration through concessions such as the medical device tax, health insurance tax, etc. Whether that will be successful will largely depend on whether GOP leaders are able to convince a large enough portion of their respective caucuses that palatable concessions (for the Obama White House) will be enough to justify kicking the problem down the road to 2017.

Implementation of the Affordable Care Act

CMS Finds Payment Model Saves Money: The Centers for Medicare & Medicaid Services (CMS) announced the results of the first performance year of the Independence at Home Demonstration. The CMS analysis found that Independence at Home participants saved over \$25 million in the demonstration's first performance year – an average of \$3,070 per participating beneficiary – while delivering high quality patient care in the home.

Federal Regulatory Initiatives

HHS to Revise Head Start Rules: The Department of Health and Human Services (HHS) [announced](#) it will reform Head Start Performance Standards, the first time it will do so since the agency adopted the rules in 1975. HHS will set new standards, such as one encouraging all Head Start programs be open for a full school day during the whole school year.

HHS Targets False Billing Fraud: HHS Secretary and Attorney General Loretta Lynch [announced](#) the conclusion of a nationwide sweep led by the Medicare Fraud Strike Force in 17 districts, resulting in charges against 243 individuals, including 46 doctors, nurses and other licensed medical professionals, for their alleged participation in Medicare fraud schemes involving approximately \$712 million in false billings.

CMS to Pay 100% for Large Claims: CMS [announced](#) it will cover 100% of qualifying claims in the 2014 benefit year for people who received health insurance through the reinsurance program that is a part of the ACA exchanges. CMS had planned to pay for 80% of these claims, which range between \$45,000 and \$250,000, but opted to cover the remaining 20% as there were fewer claims were filed than expected.

AHRQ Finds EHRs Important to Patients, Useful to Hospitals: In 2013, 54.9 percent of patients said having electronic access to their medical records is important, a more than ten percent jump (44.3%) since patients were last asked in 2008, according to [research](#) from the Agency for Healthcare Research and Quality (AHRQ).

Industry and Consumer Groups Press FDA at GDUFA Talks: Generic drug companies and consumer advocates joined in criticizing the FDA at the first public [meeting](#) at the Generic Drug User Fee Agreement talks. They agreed little progress has come from the agreement that FDA and industry struck in which the former meet performance goals if the latter provides the agency funding.

Congressional Initiatives

House Committee Considers Labor-HHS Approps: The House Appropriations Committee [allotted](#) \$153 billion in appropriations to the Departments of Labor and HHS for FY2016—\$3.7 billion below this year's enacted level and \$14.6 billion below the White House's request. A major source of the disparity between the House and the President's Budget levels is the Office of National Coordinator for Health IT (ONC) funding. The committee did however increase NIH's funding to \$31.2 billion, \$1.1 billion above enacted levels last year.

Sens. Warner, Isakson Reintroduce Chronic Care Bill: Senators Mark Warner (D-VA) and Johnny Isakson (R-GA) [reintroduced](#) the Care Planning Act to incent chronic care management planning. One of the bill's provisions requires Medicare pay for 24-hour emergency support conducted over the telephone or through telemedicine visits.

Hatch, Grassley Seeks Answers on ACA Insurer Payments: Senators Orrin Hatch (R-UT) and Chuck Grassley (R-IA) sent a letter to CMS Acting Administer Andy Slavitt demanding an explanation on how the agency issues ACA tax subsidies to insurers. The letter follows an HHS Inspector General report, which found that CMS failed to confirm the accuracy of \$2.8 billion in payments.

Lawmakers Press for Review of Fraud Prevention Program: Members of the House Energy and Commerce and House Ways and Means Committees signed onto a [letter](#) to the Government Accountability Office (GAO) urging it review CMS's Fraud Prevention System. The letter asks want GAO to evaluate FPS' success in detecting and reducing fraud in Medicare, Medicaid, and CHIP.

Bipartisan Group Criticizes Part D Cures Pay-For: In a [letter](#) to Speaker Boehner and Leader Pelosi, more than 40 House members expressed opposition to a 21st Century Cures pay-for that would cost Medicare Part D plans an estimated \$7 billion. The Members argue that the offset, a delay in certain reinsurance payments, from which the government would incur any interest, amounts to a tax because it would increase premiums.

Alexander Talks Delaying Stage 3 Meaningful Use at Hearing: At a hearing on the state of EHRs, Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-TN) proposed postponing the mandatory start date of Stage 3 of the meaningful use program. He received pushback from witnesses who said the 2018 start date won't undermine the program that they said is critical to improving patient care.

House Passes Med Device Tax Repeal: The House passed a repeal of the medical device tax by a 280-140 vote. All Republicans supported it, as did forty-six Democrats. The President has vowed to veto both bills.

House E&C Considers Food Biotechnology: The House Energy and Commerce Subcommittee on Health held a [hearing](#) to consider sensitivities that exist around genetically modified organisms (GMOs) and the role biotechnology plays in the nation's agriculture.

Other Health Care News

Texas to Consider Rule on "On-Call" Telemedicine Coverage: The Texas Medical Board announced it will meet July 23 with telemedicine stakeholders to seek input on a rule for "on-call coverage" — emergency visits for existing patients during off hours.

Upcoming Congressional Hearings

Senate

On June 23rd, the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies will hold a [hearing](#) to mark up FY 2016 Labor-HHS-Education Appropriations.

On June 24th, the Senate Finance Committee will hold an [executive session](#) to consider health care bills.

House

On June 24th, the House Energy and Commerce Subcommittee on Health will hold a [hearing](#) titled, "Examining the Administration's Approval of Medicaid Demonstration Projects."

On June 25th, the House Energy and Commerce Subcommittee on Health will hold a [hearing](#) on public health legislation.

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