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HEALTH CARE REFORM UPDATE June 3rd, 2013

Implementation of the Affordable Care Act

On May 28th the Maryland Health Benefit Exchange (MHBE) announced 13 insurers submitted plans to be part of Maryland's ACA insurance exchange. Information on the insurers that submitted plans and the essential health benefits (EHBs) that these plans must cover is available [here](#).

On May 29th a joint rule was released by HHS, the Department of Treasury, and the Department of Labor regarding wellness programs in group health coverage through the ACA. The rule increases the maximum reward to 30% of the cost of coverage for a wellness program offered with a group plan. Permissible rewards are increased to 50% for programs that are designed to prevent or reduce tobacco use. The rule can be found [here](#).

On May 29th the Urban Institute and the Robert Wood Johnson Foundation (RWJF) released a study on Medicaid expansion in eight states across the country. The report suggests that states which already have strong managed care programs will be able to effectively implement Medicaid expansion. State concerns include the capacity to meet demand and the need to effectively integrate IT systems into the expansion process. The report is available [here](#).

On May 29th the RAND Corporation issued a report on the health care savings for young adults who are under 26 years old and able to stay on their parents' insurance through a provision of the ACA. The report notes that young people saved \$147 million on nondiscretionary care costs over a year-long research period following the implementation of the provision. Without the coverage provided through the ACA, young people and hospitals would have been burdened with the cost of care. More information on the report is available [here](#).

On May 30th Senators Lamar Alexander (R-TN), Orrin Hatch (R-UT), and Tom Coburn (R-OK) sent a letter to the HHS Inspector General Daniel Levinson with a request for information about Secretary Sebelius' efforts to solicit funds for Enroll America and the implementation of the ACA. The Senators

questioned whether Secretary Sebelius followed appropriations and ethics laws when reaching out to the private sector for funds. The letter can be read [here](#).

On May 30th the moderate Democratic group Center Forward released a study on the ACA's impact on insurance premium rates in several states across the country. The report indicates that average premiums will rise between 5-25% in the individual market depending on the state and the insurance plan. The report does not account for the subsidies that will be available to persons who earn 400% or less of the federal poverty level (FPL). The full report is available [here](#).

On May 30th the Obama administration released a memo on the insurance exchanges and the competitive benefits of the ACA. The White House notes that the ACA will attract new insurers into state marketplaces, a step that the administration hopes will increase competition and lower costs. The memo is available [here](#).

On May 31st HHS posted a final rule on the Small Business Health Options Program (SHOP) and clarified how exchanges within SHOP will operate in 2014. The rule notes that federal SHOP exchanges will only be able to offer a single plan to employees in 2014 in order to prepare an employee choice model and increase stability of the small group market. The rule can be found [here](#).

On May 31st the actuary of the Centers for Medicare and Medicaid Services (CMS) wrote to Administrator Marilyn Tavenner that Medicare spending will remain below a level that would require action by the Independent Payment Advisory Board (IPAB) until at least 2015. The notice is available [here](#).

On May 31st a report released by the Robert Wood Johnson Foundation suggests that the ACA will increase the number of persons who will leave their jobs at large companies and pursue self-employment. RWJF notes that up to 1.5 million Americans could leave their current jobs because they no longer fear going without insurance. The report can be read [here](#).

Other HHS and Federal Regulatory Initiatives

On May 24th the administration filed with the Second Circuit Court of Appeals in support of a stay in the case involving the nonprescription status of the Plan B One-Step contraceptive pill. A district court has ruled that anyone, regardless of age, must be allowed to obtain the contraceptive pill. The FDA has indicated it will make the pill available to individuals who are 15 and older. The case is currently going through the appeals process. The request for a stay pending the conclusion of the appeal can be found [here](#).

On May 24th the Department of Justice (DOJ) announced that ISTA Pharmaceuticals pleaded guilty to a conspiracy scheme to introduce the misbranded drug *Xibrom* into interstate commerce. The guilty plea is part of a settlement agreement in which ISTA will pay \$33.5 million to the United States. The DOJ release on the case is available [here](#).

On May 28th the Supreme Court ruled that Planned Parenthood may continue to receive Medicaid payments in Indiana. A law passed in Indiana in 2011 prohibited Medicaid reimbursements for providers that perform abortions. Planned Parenthood notes that abortions constitute a small

percentage of its services; the organization independently funds abortion care. An article on the case can be read [here](#).

On May 29th the Food and Drug Administration (FDA) announced it is allowing the importation of total parenteral nutrition (TPN) injectable drugs into the United States. TPN benefits premature infants and cancer patients who are unable to eat or drink by mouth. The intravenous food solution is currently in short supply. The release from the FDA is available [here](#).

On May 31st the Medicare Trustees indicated that the program will remain solvent until at least 2026, two years longer than projected a year ago. CMS cites lower overall health spending and certain provisions of the ACA as responsible for the improved outlook. A news release from CMS is available [here](#).

On May 31st, in a letter sent to CMS Administrator Marilyn Tavenner, Center for Medicare and Medicaid Innovation (CMMI) Director Rick Gilfillan indicated he will leave the post at the end of June. CMS Chief Medical Officer Patrick Conway will serve as acting director. An article on Gilfillan's departure is available [here](#).

On June 3rd HHS released information on outpatient charges and Medicare spending for 30 different procedures and county-by-county data on Medicare spending and utilization. The data and new research opportunities were announced by HHS Secretary Sebelius during the beginning of Health Datapalooza IV, a national conference on health data transparency. More information can be found [here](#).

Other Congressional and State Initiatives

On May 28th Republicans on the House Energy and Commerce Committee released draft legislation that would repeal the Sustainable Growth Rate (SGR) physician payment system and implement quality measures to incentivize better care. The draft bill includes input provided from stakeholders following an initial proposal. The draft legislation can be accessed [here](#).

On May 29th the United Health Foundation released its 2013 report on the health of seniors across the United States. In the report, Minnesota is identified as having the healthiest seniors, while Mississippi is noted as having the seniors in the poorest health. The full report can be found [here](#).

On May 29th the California Supreme Court began hearing arguments to determine who can administer insulin to diabetic children during the school day. The American Nurses Association (ANA) argues that allowing non-licensed school personnel to administer insulin to students is dangerous. The American Diabetes Association (ADA), which has appealed previous court rulings, notes that millions of students safely receive insulin from family, babysitters, and school employees on a daily basis. A statement from the ANA can be read [here](#), and ADA's argument is available [here](#).

On May 31st Senator Mary Landrieu (D-LA) and Bill Nelson (D-FL) asked the HHS inspector general to determine if federal regulators are appropriately screening Medicare mental health claims. The senators say that increasingly successful fraud schemes must be addressed. The letter to the HHS inspector general can be read [here](#).

Other Health Care News

On May 27th the American Health Care Association (AHCA) and the Alliance for Quality Nursing Home Care announced a merger that is expected to be completed by July 1st. The new organization, which will keep the AHCA name, will allow the groups to continue providing quality care and advocacy, according to a statement from AHCA President and CEO Mark Parkinson. Parkinson's full statement and comments from Alliance President Alan Rosenbloom are available [here](#).

On May 28th a study released in the journal *Medical Care Research and Review* suggests that geographic variation in Medicare costs is largely due to health disparities in different regions. The study conflicts with previous research that argues treatment patterns and inefficient care delivery are the cause of spending differences. An abstract of the study can be found [here](#).

On May 30th a study from Harvard Medical School in the latest edition of *Health Affairs* indicates that immigrants are generating revenue for Medicare rather than draining the program of resources. Immigrants are often younger, healthier, and more likely to work, and they generate funds through payroll taxes. From 2002-2009, immigrants provided over \$115 billion to Medicare; non-immigrants took over \$30 billion from the program in the same period. The report is available [here](#).

Hearings and Mark-Ups Scheduled

Senate

On June 5th the Senate Veterans' Affairs Committee will hold a hearing on pending benefits legislation. More information is available [here](#).

House of Representatives

On June 4th the House Education and Workforce Committee will hold a hearing titled "Reviewing the President's Fiscal Year 2014 Budget Proposal for the U.S. Department of Health and Human Services." HHS Secretary Kathleen Sebelius is scheduled to testify at the hearing. More information is available [here](#).

On June 4th the House Judiciary Committee will hold a mark-up of H.R. 1797, the District of Columbia Pain-Capable Unborn Child Protection Act. Additional details are available [here](#).

On June 5th the House Energy and Commerce Health Subcommittee will hold a hearing on reforming the Medicare SGR payment method. Details on the hearing can be found [here](#).