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HEALTH CARE REFORM UPDATE

July 11, 2011

Implementation of the Affordable Care Act (ACA)

On July 5th the U.S. District Court for the Northern District of Ohio upheld the mandate for individuals to purchase health insurance in the case of U.S. Citizens Association v. Sebelius. The 6th Circuit court said its decision was based on the need to follow the ruling of the 6th Circuit Appeals Court decision in the Thomas More Law Center case.

On July 6th the Ohio Project, the Ohio Liberty Council, Ohioans for Healthcare Freedom, and the 1851 Center for Constitutional Law submitted 546,000 signatures to the Ohio Secretary of State's office to place the "Health Care Freedom Amendment" on the statewide November 2011 ballot. The amendment would block the individual mandate for Ohio residents. The group will need 368,000 validated signatures to place the measure on the ballot. More information on the amendment can be found [here](#).

On July 8th Secretary Kathleen Sebelius announced that HHS will create two new financial alignment models to improve coordination of health care for dually eligible beneficiaries of Medicaid and Medicare to be tested by the new Center for Medicare and Medicaid Innovation established by the ACA. The Department also announced the creation of a technical resource center available to all states to help improve care. The announcement can be found [here](#).

On July 8th HHS announced that almost 4,500 organizations, including 2,000 hospitals have pledged their support to the Partnership for Patients, the administration's patient safety initiative. The announcement comes as the initiative meets its initial goal of having 2,000 hospitals pledge their support. The announcement can be found [here](#).

On July 8th House Majority Leader Eric Cantor (R-VA) released a floor schedule for the following week with time allotted to debate the Financial Services Appropriations bill that included two health care measures. The measures include blocking funding for the IRS to enforce the individual mandate of the ACA and banning funding for abortions in the District of Columbia. The full text of the report issued by the House Appropriations Subcommittee on Financial Services can be found [here](#).

Today, July 11, Secretary Sebelius announced the much-awaited release of the proposed rule for state health exchanges. The proposed rule is now open for a 60-day period for public comment. In her remarks, the Secretary said the exchanges are supposed to prevent discrimination against people with pre-existing conditions as well as

create a competitive marketplace for individuals and small businesses to purchase private health insurance through state-based competitive marketplaces called Affordable Insurance Exchanges. Key features of the exchange regulation include a one-stop shop for insurance and price comparison; sets conditions to ensure insurers compete on price and quality; and to ensure a basic level of coverage. The regulation is meant to serve as a platform for minimum standards for the state health exchanges that are due to begin in 2014. The proposed rule can be found [here](#). More information on the Affordable Insurance Exchanges can be found [here](#). In addition, the Secretary also announced the release of a second regulation dealing with the reinsurance and risk adjustment programs that are intended to reduce fluctuations in premiums offered on the insurance exchanges. That regulation can be found [here](#).

Other HHS and Federal Regulatory Initiatives

On July 5th CMS issued a proposed rule that would decrease payments through Medicare to home health agencies by 3.35 percent. That same day the agency announced that over 100 home health agencies will share \$15 million in savings through the Medicare Home Health Pay for Performance demonstration. The proposed rule can be found [here](#). The announcement on the home health shared savings can be found [here](#).

On July 5th the FDA released an interim final rule that is meant to keep smuggled food out of the United States. The interim final rule can be found [here](#). That same day the agency released draft guidance on the procedure for notifying the FDA when dietary supplement manufacturers add new dietary ingredients to their products. The draft guidance can be found [here](#).

On July 7th CMS announced expanded coverage of MRIs for beneficiaries with implanted pacemakers when used according to FDA-approved labeling. CMS Administrator Don Berwick released a statement claiming that this would increase access to MRIs and demonstrate the agency's commitment to innovation and technology that improves the health of beneficiaries. The announcement can be found [here](#).

On July 7th the NIH announced that it would be funding research to explore and evaluate the potential effects of the Deepwater Horizon disaster. The study would be looking at effects on reproduction and birth outcomes, the cardiovascular system, and behavior and mental health in particular. The study will be conducted under the leadership of NIH's National Institute of Environmental Health Sciences (NIEHS). The announcement can be found [here](#).

On July 7th the NIH released a report showing a drop in adolescent birth rates for the second consecutive year. Preterm births declined for the third consecutive year, adolescent injury deaths declined, and fewer 12th graders binge drank. The report is an annual analysis of the well-being of the nation's children and youth. The announcement can be found [here](#).

Other Congressional and State Initiatives

On July 5th Connecticut Governor Dan Malloy (D) vetoed a bill passed by the state legislature that would have required a public hearing process every time an insurer proposed raising insurance or long-term care rates by 10 percent or more. The veto immediately sparked outrage from consumer groups.

On July 7th the House Energy & Commerce Health Subcommittee held a hearing on the Prescription Drug User Fee Act (PDUFA). In his opening statement, Chairman Joe Pitts (R-PA) noted that it is his goal to have the PDUFA reauthorization bill signed into law by June 30, 2012. The act is set to expire in September of next year. The Chairman's opening statement can be found [here](#).

On July 7th Sen. John Kerry (D-MA) worked with Senate Finance Committee Chairman Max Baucus (D-MT) to strike a provision that would have cut Medicare payments for medical imaging services by \$400 million

Committee's markup of the trade Adjustment Assistance and three Free Trade Agreements. The announcement can be found [here](#).

On July 7th a new study was released in the July edition of Health Affairs showing that the Vermont single-payer system could cut health care spending by 25.3 percent, saving \$580 million dollars in the first year. Vermont is the first state to sign single-payer legislation into law. The study can be found [here](#).

On July 8th Rep. Ed Markey (D-MA) introduced a resolution of disapproval of the Supreme Court's ruling in Sorrell vs. IMS, which said that data miners have the right to purchase, analyze and resell certain de-identified prescription data. Markey's resolution states that the Court erred in applying free speech protections to a Vermont law that lawfully regulated a purely commercial interest. The text of the resolution can be found [here](#).

On July 8th the Lansing State Journal reported that the Michigan State Legislature is considering a plan that would charge a 1 percent fee on health insurance claims so it can draw \$800 million in federal funds for its \$11.5 billion Medicaid program, two-thirds of which is paid for by the federal government. The full text of the article can be found [here](#).

Other Health Reform News

On July 6th the U.S. Chamber of Commerce and the Coalition for Affordable Health Coverage announced that it will hold a day-long conference on controlling health costs on July 12th. Speakers at the conference will discuss the dangers of runaway cost growth and what can be done to meet the challenge. More information on the conference can be found [here](#).

On July 7th a new study was released in the July edition of Health Affairs showing a real cost-shift in hospitals in markets without a great deal of competition. This shift comes as Medicare payments decrease and the hospitals compensate by charging more to private insurance. In markets with more competition the hospitals focus on cutting costs instead of shifting them. The study can be found [here](#).

Hearings scheduled

House of Representatives

On Monday, July 11th at 2 p.m., in room 2123 of the Rayburn House Office Building, the House Energy and Commerce health subcommittee will hold a hearing on HR 1852 — Children's Hospital GME Support Reauthorization Act of 2011 and HR 2005 — Combating Autism Reauthorization Act of 2011.

On Monday, July 11th at 4 p.m., in room 334 of the Cannon House Office Building, the House Veterans Affairs health subcommittee will hold a hearing titled "Implementation of Caregiver Assistance: Moving Forward."

On Tuesday, July 12th at 10 a.m., in room 210 of the Cannon House Office Building, the House Budget Committee will hold a hearing entitled, "Medicare Payment Advisory Board Oversight."

On Tuesday, July 12th at 1p.m., in room 2154 of the Rayburn House Office Building, the House Committee on Oversight and Government Reform health subcommittee will hold a hearing entitled, "Administration Medicare Plan."

On Tuesday, July 12th at 10 a.m., in room B-318 of the Rayburn House Office Building, the House Committee on Ways and Means health subcommittee will hold a hearing entitled, "Child Deaths from Maltreatment."

On Wednesday, July 13th at 10 a.m., in room 210 of the Cannon House Office Building, the House Budget Committee will hold a hearing entitled, "Medicare and Social Security Fiscal Issues."

On Wednesday, July 13th at 9 a.m., in room 2123 of the Rayburn House Office Building the House Energy and Commerce health subcommittee will hold a hearing entitled, "Impact of IPAB on Medicare."

Senate

On Thursday, July 14th at 2 p.m., in room 210 of the Utah State Capitol, the Senate Finance Committee will be holding a hearing entitled, "Perspectives on Medicaid from Governors."

On Thursday, July 14th at 2:30 p.m., in room 430 of the Dirksen Senate Office Building, the Senate H.E.L.P. Committee will be holding a hearing entitled, "Employment for Persons with Disabilities."

On Thursday, July 14th at 10 a.m., in room 418 of the Russell Senate Office Building, the Veteran's Affairs Committee will hold a hearing entitled, "VA Mental health Care."