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HEALTH CARE REFORM UPDATE

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Implementation of the Affordable Care Act (ACA)

On July 18th, just a week after HHS released its much anticipated insurance exchange proposed rule, CMS released its proposed rule under the ACA to encourage the creation of Consumer Operated and Oriented Plans (CO-OPs) along with \$3.8 billion in loan financing to help capitalize their operation. According to administration officials, these plans will help inject competition and accountability into the marketplace. The proposed rule can be found [here](#).

On July 20th the National Association of Insurance Commissioners (NAIC) sent a letter to Secretary with comments on the most recently published rate review regulations that discuss how individual and small group coverage sold through associations should be treated under the rate review process. NAIC recommended that; the rate review requirements in the law for individual/family coverage apply to every block of association or trust coverage that is individually underwritten or rated (applicants provide health information to determine eligibility for coverage or to determine a rate level); and the rate review requirements in the law for small group coverage apply to every block of association or trust business that covers small group employees through their employer. A copy of that letter can be found [here](#).

On July 21st Florida state lawmakers rejected \$50 million in child abuse prevention funds available through the ACA. Many of the lawmakers who opposed the funding cited philosophical opposition to the ACA as reasoning for their decision to reject the funds. The decision to reject the funds may also lead Florida to lose an additional \$100 million in education funds through the federal government's Race to the Top reform effort since the programs are tied together. More information can be found [here](#).

On July 22nd HHS denied North Dakota's application for a waiver to the new medical-loss ratio (MLR) rules under the ACA, making it the first state to be completely denied. The state was seeking a three-year phase-in period. In a letter to the state's Insurance Commissioner, HHS officials claimed that the state had failed to show that the application of an 80 percent MLR standard would lead to destabilization of the individual market. That same day, HHS also partially approved waivers for Iowa and Kentucky, providing them with shorter phase-in times than they originally requested. Those states now join Maine, Nevada and New Hampshire as states having had waivers approved. Seven states still have applications pending.

Other HHS and Federal Regulatory Initiatives

On July 19th the FDA outlined oversight for some of the more complex health applications on smartphones and other devices that mimic the roles of medical devices. Currently, these devices face an unclear regulatory environment, and the FDA insists that more consistent regulation is needed for these devices to protect patients in the marketplace. More information on the initiative can be found [here](#).

On July 19th the CDC released a report analyzing national obesity data showing that every state had at least a 20 percent obesity rates among adults in 2010. More information on the report can be found [here](#).

On July 19th the IOM recommended to Secretary Kathleen Sebelius to offer complete insurance coverage, without co-pays, for contraceptives, lactation counseling and equipment, and domestic violence screening and counseling as part of the minimum standard for insurance selling policies on the online insurance exchanges. The IOM report can be found [here](#).

On July 20th the FDA and other federal partners released a web-based collection of scenarios that will help regulators, public health organizations and the food industry test their readiness for food-related emergencies. More information on the program can be found [here](#).

On July 22nd HHS announced that the government is looking into ways of enhancing the regulations overseeing research on human subjects. The departments is seeking public comment on an array of issues before changing what is known as the “common rule” on ethics, safety, and oversight of human research. More information on the announcement can be found [here](#).

Other Congressional and State Initiatives

On July 18th Texas Governor Rick Perry (R) signed S.B. 7 into law. The new law forces the state to formally request a Medicaid block grant, defund any abortion providers including Planned Parenthood, enter into a health care compact with other states, and among other provisions, introduces co-payment for non-emergency visits to hospital emergency rooms. The text of the bill as enrolled can be found [here](#).

On July 19th the U.S. House of Representatives passed the “Cut, Cap, and Balance” legislation by a vote of 234-190, the most recent legislative effort to raise the country’s debt ceiling while negotiations continue with the President. Five Democrats supported the bill, while nine Republicans opposed it. The bill would establish discretionary spending limits at \$1.019 trillion in new budget authority and \$1.224 trillion in outlays, would amend the CBA to prescribe requirements for enforcing GDP outlay limits, and would prohibit the Secretary of the Treasury from exercising additional borrowing authority until a balanced budget amendment to the Constitution is submitted to the states for ratification. Meanwhile, the bill would increase the debt limit from \$14.294 trillion to \$16.7 trillion to avoid a government default. Sen. Mike Lee (R-UT) introduced companion legislation in the Senate that was defeated on July 22nd by a party-line vote of 51-46. The text of the legislation can be found [here](#).

On July 21st 219 House members and 45 Senators sent a letter to CMS Administrator Don Berwick asking the agency to reconsider its proposed rule for hospital payment cuts under the inpatient prospective payment system. The proposed rule could lead to \$6 billion in cuts in fiscal 2012. The lawmakers took issue with the methodology used by CMS to calculate the payments and asked for the agency to ensure that the final rule takes into account potential changes in patient severity and mitigates the cuts as currently proposed.

Other Health Care News

On July 18th the American Enterprise Institute released a new Financial Services Outlook outlining how the ACA might slow economic recovery due to uncertainty by employers over the law's impact on employer-sponsored health coverage and various taxes and fees that could raise costs of insurance. More information on the outlook can be found [here](#).

On July 19th Kansas Insurance Commissioner Sandy Praeger (R) wrote an op-ed in which she claimed that the HHS rules on state health insurance exchanges were "encouraging." Praeger's tepid approval of the first round of regulations was perceived as a potential for opening for increased cooperation between HHS and Republican-controlled states, but Praeger reserved her endorsement of the regulations warning that the process of revising the regulations will be tedious and difficult. The op-ed can be found [here](#).

On July 19th the U.S. Supreme Court set a date of October 3rd for oral arguments in *Douglas v. Independent Living Center of Southern California*. The case presents the court with a decision as to whether individuals have the right to bring a suit under the supremacy clause against the state for its administration of the Medicaid program.

On July 19th the National Council of La Raza issued a new report that warns that deep cuts to Medicaid and Children's Health insurance Program would severely impact Latinos in the U.S. The report says that in 2009 one in four Latinos were covered by Medicaid or CHIP. The report by La Raza can be found [here](#).

On July 20th the Kaiser Family Foundation released a new report which shows that scaling back Medigap coverage would save money for most Medicare beneficiaries but would force sicker and lower-income beneficiaries to spend more out-of-pocket. The report by the foundation can be found [here](#).

On July 21st Standard & Poors released the latest Healthcare Economic Commercial Index showing that health care costs rose year over year by 5.6 percent for private insurance and Medicare expenses. Commercial costs were up by 7.4 percent, while Medicare claims costs rose at a slower 2.6 percent. The latest S&P Healthcare Economic Commercial Index can be found [here](#).

On July 21st the American Action Forum headed by Former CBO Director Douglas Holtz-Eakin (R) released a new report that says the proposal by Democrats that says large savings could come from drug rebates in the Medicare Part D program is wrong as it such an action could raise Part D premiums by over 40 percent. The study by AAF can be found [here](#).

On July 22nd MedPAC released its 2011 Data Book which contains information on national health care and Medicare spending, dual-eligibles, quality of care in Medicare, and other services. The data book can be found [here](#).

Hearings & Mark-ups Scheduled

House of Representatives

On Tuesday, July 26th at 10:00a.m., in room 2123 of the Rayburn House Office Building, the Energy & Commerce Subcommittee on Health will be marking-up three bills, the Pandemic and All-Hazards Preparedness Reauthorization Act, the Synthetic Drug Control Act, and the Children's Hospital GME Support Reauthorization Act.

On Thursday, July 28th at 2:00 p.m., in room 2128 of the Rayburn House Office Building, the Financial Services Subcommittee on Oversight will hold a hearing entitled, "Insurance Oversight."

On Thursday, July 28th at 9:30 a.m., in room 2154 of the Rayburn House Office Building, the Oversight and Government Reform health subcommittee will hold a hearing entitled, "Impact of Health Care Overhaul on Businesses Offering Health Insurance."

On Thursday, July 28th at 9:30 a.m., in room 2247 of the Rayburn House Office Building, the Oversight and Government Reform government organization subcommittee will hold a hearing entitled, “Improper Medicare Payments.”

Senate

On Tuesday, July 26th at 10:00 a.m., in room 215 of the Dirksen Senate Office Building, the Senate Finance Committee will hold a hearing entitled, “Deficit Reduction Issues.”

On Wednesday, July 27th at 10:00 a.m., in room 215 of the Dirksen Senate Office Building, the Senate Finance Committee will hold a hearing entitled, “Tax Code and the Economy.”

On Wednesday, July 27th at 10:00 a.m., in room 124 of the Dirksen Senate Office Building, the Special Appropriations subcommittee on Labor, Health and Human Services, Education, and Related Agencies will hold a hearing entitled, “Fiscal 2012 Appropriations: Labor, Health and Human Services, Education, and Related Agencies.”

On Thursday, July 28th at 9:45 a.m., in room 430 of the Dirksen Senate Office Building, the Senate HELP Committee will hold a hearing entitled, “FDA User Fees.”