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## HEALTH CARE REFORM UPDATE July 5, 2011

### Implementation of the Affordable Care Act (ACA)

On June 28<sup>th</sup> CMS Administrator Donald Berwick uploaded a blog post outlining how the ACA has strengthened Medicare by \$260 million so far this year with reforms to Medicare's Part D coverage. In his post, Berwick claims that a half million Medicare beneficiaries have received a 50 percent discount on their out-of-pocket costs in the first five months of 2011. The post can be found [here](#).

On June 29<sup>th</sup> the 6<sup>th</sup> Circuit Court of Appeals ruled in the lawsuit filed by the conservative Thomas More Law Center (TMLC) that the ACA's individual mandate is a valid exercise of the Congress's authority under the Commerce Clause. The group's President Richard Thompson said that an appeal is likely. The ruling can be found [here](#).

On June 29<sup>th</sup> the National Alliance of State Health Cooperatives said it will begin an initiative to create what it calls Consumer Oriented and Operated health plans (CO-OPs). The initiative will begin at a conference on July 17<sup>th</sup>-18<sup>th</sup>. The health care cooperatives are authorized under the ACA.

On July 1<sup>st</sup> the Rhode Island state legislature failed to pass an exchange bill despite the fact the state was one of the first to receive an establishment grant from the Center for Consumer Information and Insurance Oversight (CCIIO). The failure on consensus was due to an impasse over abortion language. Rhode Island Governor Lincoln Chafee (I) is now considering establishing an exchange through an executive order.

On July 1<sup>st</sup> South Carolina Governor Nikki Haley (R) announced that her state would not seek any more federal funds to set up a state health care insurance exchange. The state already missed the deadline to pass legislation establishing an exchange on June 2<sup>nd</sup>. More information on the Governor's decision can be found [here](#).

### Other HHS and Federal Regulatory Initiatives

On June 29<sup>th</sup> HHS announced plans to collect data on sexual orientation as a part of national data collection processes by 2013. The Department announced this effort as well as the beginning of an effort to collect information on gender identity. More information on the announcement can be found [here](#).

On June 29<sup>th</sup> President Obama held a press conference to address the ongoing debt ceiling and deficit debate in Washington and noted that Medicaid and Medicare spending cuts need to be part of the package. The President

insisted, though, that any changes to the entitlement programs must curb spending in the long-run and must not shift costs to seniors.

On June 30<sup>th</sup> CMS issued interim final rules intended to simplify transactions between providers and insurers using electronic health records. These rules are anticipated to save upwards of \$12 billion over the next 10 years. The interim final rule can be found [here](#).

On July 1<sup>st</sup> HHS awarded more than \$352 million to continue improving disaster preparedness of hospitals and health care systems within every state, and three large metropolitan areas. These Hospital Preparedness Program (HPP) grants support readiness activities for hospitals and health care facilities, including the medical surge capability in communities across the nation. More information on the grants can be found [here](#).

On July 1<sup>st</sup> CMS released a proposed rule on the Medicare hospital outpatient prospective payment system. CMS says that the proposed rule would “continue to emphasize the importance of ensuring that beneficiaries receive high quality care without regard to the setting in which that care is provided.” More information on the rule can be found [here](#). That same day CMS released proposed policy changes and payment updates for dialysis facilities under a new bundled prospective payment system which CMS says will strengthen incentives for “improved quality of care and better outcomes for beneficiaries” under improvements to the ESRD Quality Incentive Program (QIP). More information on the proposed rule can be found [here](#). Finally the Department issued a proposed rule changing the fee schedule and other Medicare Part B policies. This effort is part of a larger initiative to address the Sustainable Growth Rate (SGR) formula to ensure Medicare is paying accurately for physician services and manages the payment system more closely. The proposed rule can be found [here](#).

On July 1<sup>st</sup> the National Governors Association sent a letter to HHS Secretary Sebelius asking for reimbursement for some Medicaid funds for money spent on patients that were dually eligible for both Medicaid and Medicare. A copy of that letter can be found [here](#).

#### Other Congressional and State Initiatives

On June 28<sup>th</sup> Senators Joe Lieberman (I-CT) and Tom Coburn (R-OK) released a proposal to overhaul Medicare in the context of the ongoing debt and deficit debate. The Senators claim their plan will save \$600 billion over 10 years through a series of proposals that include asking wealthier Americans to pay more, gradually raising the eligibility age and strengthening efforts to fight waste, fraud and abuse. Although the Coburn-Lieberman plan is unlikely to be adopted as written, lawmakers could pull certain elements of it to include in a debt reduction package. The proposal can be found [here](#).

On June 29<sup>th</sup> the Energy & Commerce Health Subcommittee scheduled a hearing for July 7<sup>th</sup> on the Prescription Drug User Fee Act (PDUFA) which is up for reauthorization in 2012. More information on the hearing can be found [here](#).

On June 30<sup>th</sup> Senate Budget Committee Chairman Kent Conrad (D-ND) announced that he plans to release the Senate Democrats’ budget proposal on July 5<sup>th</sup> in the hopes of advancing the negotiations over a debt reduction package. Senate Majority Leader Harry Reid (D-NV) canceled the Senate’s scheduled recess to continue work on budget issues.

On June 30<sup>th</sup> a U.S. District Court Chief Judge issued an injunction that halts the implementation of a South Dakota abortion restriction that requires a 72 hour waiting period prior to an abortion. Such a restriction would be the longest in the country and would also mandate a visit to a crisis pregnancy center for those seeking an abortion. The bill can be found [here](#).