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HEALTH CARE REFORM UPDATE

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Implementation of the Affordable Care Act (ACA)

On August 20th the American Hospital Association (AHA) sent a letter to the Department of Health and Human Services (HHS) asking for clarification on several issues regarding the ACA's Medicaid expansion following the Supreme Court's June ruling making the expansion optional for states. Among the questions asked are whether HHS is considering granting states certain waivers in order to encourage the expansion and how states' decisions regarding the expansion will affect Medicaid's Disproportionate Share Hospital (DSH) payment system. The AHA letter can be seen [here](#).

On August 22nd several Republican members of the House Oversight and Government Reform Committee, including Committee Chairman Darrell Issa (R-CA) and Health Subcommittee Chairman Trey Gowdy (R-SC), sent a letter to the IRS questioning the legality of the IRS's rule permitting the ACA's premium assistance tax credits to be distributed in states that do not operate a Health Insurance Exchange. The letter argues that the ACA permits the tax credits only in state-based Exchanges, not federal Exchanges. The IRS rule applies the credits in either type of Exchange. A press release and the text of the letter can be viewed [here](#).

On August 22nd Center for Medicare and Medicaid Innovation (CMMI) announced that it had selected 500 practices to participate in the Comprehensive Primary Care initiative. Under the initiative, the Centers for Medicare and Medicaid Services (CMS) will pay primary care practices a care management fee to support enhanced, coordinated services on behalf of Medicare fee-for-service beneficiaries. A CMS press release can be read [here](#).

On August 23rd HHS announced that eight states (California, Connecticut, Hawaii, Iowa, Maryland, Nevada, New York, and Vermont) had received new grants to set up Health Insurance Exchanges. California, Hawaii, Iowa, and New York were awarded Level One Exchange Establishment grants, which provide one year of funding to states that have begun the process of building their Exchange. Connecticut, Maryland, Nevada, and Vermont were awarded Level Two Establishment grants, which

are provided to states that are further along in building their Exchange and offers funding over multiple years. The HHS press release can be seen [here](#).

Other HHS and Federal Regulatory Initiatives

On August 23rd CMS announced a final rule describing the meaningful use standards for Stage 2 of the Electronic Health Records (EHR) Incentive Program. The standards describe the criteria that providers must meet in order to show “meaningful use” of EHR systems and thus qualify for incentive payments and avoid penalties. In an official statement, the AHA noted that although the standards are somewhat less onerous than standards previously proposed by CMS, the rules are still complicated and unrealistic. An HHS news release can be seen [here](#). The final rule can be seen [here](#). The AHA statement can be read [here](#).

On August 24th CMS released a final rule creating standards for a national unique health plan identifier (HPID) system. The system assigns health plans and other entities standardized identifiers that can be used in electronic transactions. CMS estimates that the new standards will save providers up to \$6 billion in by reducing errors and simplifying the transaction process. The final rule also officially delays the date by which providers must comply with the ICD-10 medical coding system until October 1, 2014. A CMS press release can be found [here](#). The final rule can be found [here](#).

On August 24th HHS announced the “Reducing Cancer Among Women of Color App Challenge.” The Challenge asks developers to create an application for mobile devices that can help underserved and minority women fight and prevent cancer. An HHS press release can be seen [here](#).

Other Congressional and State Initiatives

On August 20th House Energy and Commerce Committee Chairman Fred Upton (R-MI) and Health Subcommittee Chairman Joe Pitts (R-PA) sent a letter to CMS asking for clarifications regarding the impact of the Supreme Court’s decision making the ACA’s Medicaid expansion optional. The letter also notes that the Republican Governors Association and the National Association of Medicaid Directors (NAMD) have sent HHS separate letters asking for clarity on the U.S. Supreme Court’s decision this summer regarding the 2014 implementation of the state exchanges and the Medicaid expansions. The letter can be found [here](#).

On August 22nd the Congressional Budget Office (CBO) released an updated fiscal projection report predicting slower growth in Medicare spending than it had previously predicted. The updated report can be seen [here](#). News coverage of the report can be seen [here](#).

On August 24th the Government Accountability Office (GAO) released a report describing the amount of Medicaid supplemental payments, such as DSH payments, which are intended to offset the uncompensated costs of care provided to uninsured individuals and Medicaid beneficiaries. The report estimates that, in 2010, Medicaid programs paid \$17.6 billion in DSH payments and \$14.4 billion in other supplemental payments—an increase in over \$8 billion from 2006. The report can be seen [here](#).

On August 27th the GAO released a report describing the efforts state Medicaid programs take to verify the assets and income of applicants. The report finds that states vary widely in their attempts to verify applicant-submitted data. The report can be found [here](#).

Other Health Care News

On August 21st the Pew Research Center released a poll finding that Republican Vice Presidential candidate Paul Ryan's (R-WI) plan to convert Medicare into a premium subsidy system is unpopular. Of those who have heard of the plan, 49 percent oppose it, while 34 percent favor the plan. The results can be seen [here](#).

On August 24th the federal Court of Appeals for the D.C. Circuit ruled that the National Institute of Health (NIH) could continue to fund research involving embryonic stem cells in cases where the stem cells were provided by private labs. The court ruled that the Dickey-Wicker amendment, which generally prevents federal funding of research that involves the destruction of human embryos, "permits federal funding of research projects that utilize already-derived [stem cells]." News coverage of the ruling can be found [here](#). The court's opinion can be found [here](#).

On August 24th the federal Court of Appeals for the D.C. Circuit struck down a federal law that requires tobacco companies to include graphic warnings on cigarette packages. The court ruled that the law violates the companies' free speech rights. This ruling contradicts an earlier ruling in another circuit upholding the law. The court's opinion can be seen [here](#). A response from HHS Secretary Kathleen Sebelius can be seen [here](#).

On August 24th the Center for American Progress released a report describing the predicted effects of the "Romney-Ryan" plan to convert Medicare into a premium support system. The Center argues that the plan would increase the prescription drug costs of both current and future beneficiaries and drastically increase overall costs for future beneficiaries. The report finds that, for seniors who qualify for Medicare after 2022, lifetime costs for Medicare coverage will increase by \$60,000 under the plan. The report can be found [here](#).

Hearing and Mark-Ups Scheduled

The Senate and House of Representatives are in recess until September 10, 2012.