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HEALTH CARE REFORM UPDATE September 13, 2011

Implementation of the Affordable Care Act (ACA)

On September 7th, as part of its increased efforts to raise awareness of the small business tax credit in the ACA, the IRS and HHS sent a letter to insurance brokers and included a new post on the ACA's website trying to encourage people to determine if they qualify before the September 15th and October 17th deadlines. The web posting can be found [here](#).

On September 8th HHS released new data showing that 18 million people in fee-for-service Medicare have received a free preventative service so far this year, and 1.3 million have received a discount on their prescription drugs when they hit the Medicare coverage gap, both initiatives from the ACA. More information on the HHS release can be found [here](#).

On September 8th the 4th Circuit Court of Appeals threw out two lawsuits against the ACA, one brought by conservative Liberty University and another one brought by Virginia Attorney General Ken Cuccinelli (R), saying that the groups had no standing to challenge the law. The Court cited the Anti-Injunction Act for its ruling and noted that the penalty associated with the individual mandate is essentially a tax. The Justice Department's press release following the ruling can be found [here](#).

On September 9th HHS announced \$700 million in new funding authorized by the ACA to help build, renovate and repair Community Health Centers (CHCs). \$600 million is slated to go to longer-term projects while \$100 million will emphasize shorter-term projects to address immediate needs. The HHS press release can be found [here](#).

On September 9th HHS released a request for information (RFI) to solicit public feedback on pending regulations for the Basic Health Program. This is an initiative created by the ACA to provide states flexibility to create an alternative health plan for low-income individuals that is at least as robust as Medicaid. The RFI can be found [here](#).

On September 12th, the Center for Consumer Information and Insurance Oversight announced that it had rejected the medical-loss ratio (MLR) waiver application for the State of Delaware. The state becomes only the second, behind North Dakota, to receive a total denial. Delaware had asked phased-in MLR adjustment beginning with 65 percent in 2011.

Other HHS and Federal Regulatory Initiatives

On September 7th HHS released a new report to Congress showing that 7.9 million people had their medical information exposed in over 30,750 health care security breaches since breach notification requirements took effect two years ago. The vast majority of the breaches were small-scale incidents. The report can be found [here](#).

On September 7th the Obama administration announced charges against 91 people in eight cities for defrauding Medicare and false billing in the amount of almost \$300 million. HHS' press release can be found [here](#).

On September 8th the Office of the National Coordinator for Health IT launched its new website for both consumers and health care providers. The website can be found [here](#).

On September 8th President Obama delivered a speech before a joint session of Congress on job creation and the nation's economic recovery. During the speech, the President also touched on a couple of points related to health care including conceding that the ACA did not "fix" Medicare and stating that Congress needs to "reform Medicare to strengthen it." More information on the President's speech can be found [here](#).

On September 8th the Department of Veterans Affairs (VA) announced that it was doubling the number of sites in its pilot program for the Virtual Lifetime Electronic Record (VLER), a bilateral exchange project to enable the sharing of health information for veterans. The VA's news release can be found [here](#).

On September 12th Secretary Sebelius and HHS released new proposed rules that expand the rights of patients to access their own health information. Specifically, the rule would amend the Clinical Laboratory Improvement Amendments of 1988 (CLIA) regulations and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to allow patients to gain access from test results directly from clinical labs. HHS' press release, including a link to the rule, can be found [here](#).

Other Congressional and State Initiatives

On September 6th Sen. Michael Bennet (D-CO) sent a letter to FDA Commissioner Margaret Hamburg calling for a uniform prescription drug pedigree in light of reports of shortages of critical drugs around the country. The Senator's press release on his letter can be found [here](#).

On September 6th Energy & Commerce Committee Chairman Fred Upton (R-MI) released a list of items on the Committee's "fall agenda." The full list can be found [here](#).

On September 6th the "Super Committee" announced that Sarah Kuehl, a senior budget analyst for the Democrats on the Senate Budget Committee would serve as deputy staff director. Ms. Kuehl's background is in health care, and her current responsibilities include Medicare, health insurance, and Social Security. Senate Budget Committee Chairman Kent Conrad's (D-ND) statement on the selection can be found [here](#).

On September 7th the Senate Appropriations Committee approved FY 2012 funding for the FDA, increasing the agency's funds by \$50 million, mostly for implementation of the new food safety law. The FDA was the only non-security agency to receive an increase in funding. A summary of the bill can be found [here](#).

On September 7th the Senate HELP Committee considered and approved two health care reauthorization measures. One bill, S. 958, concerns graduate medical education on children's hospitals, and the other bill, S. 1094, reauthorizes funding for autism research. More information can be found [here](#).

On September 8th the Super Committee charged with finding at least \$1.5 trillion in federal savings over the next ten years held its first public hearing. The opening statements of the Committee's co-chairs, Sen. Patty Murray (D-WA) and Rep. Jeb Hensarling (R-TX), can be found [here](#) and [here](#), respectively.

On September 9th the Ways & Means Subcommittee on Health held a hearing on the recent trend of consolidation in the health care industry and the impact of consolidation on the cost of private health insurance, Medicare spending, and beneficiary costs. During the hearing, Subcommittee Chairman Wally Herger (R-CA) indicated that the Subcommittee would continue to study the issue and perhaps craft legislation on the matter. More information on the hearing can be found [here](#).

Other Health Care News

On September 8th the Commonwealth Fund released a new study showing that the number of underinsured adults who skipped medical tests or failed to fill prescriptions due to fears over their cost increased 80 percent between 2003 and 2010. The study also put the total number of adults in the U.S. who are either uninsured or underinsured at 81 million – 44 percent of the population. The study can be found [here](#).

On September 8th *Health Affairs* released a study showing that health care expenses wiped out all income gains over the past decade for American families. More information can be found [here](#).

On September 9th the American Hospital Association released a new study claiming that almost 200,000 jobs would be lost over 10 years if the Super Committee fails to achieve its goals and the 2 percent, across-the-board cuts were enacted to Medicare via the sequestration process. The study can be found [here](#).

Hearings & Mark-ups Scheduled

House of Representatives

The Energy & Commerce Committee is holding a hearing on September 15th entitled “Cutting the Red Tape: Saving Jobs from PPACA’s Harmful Regulations.” More information can be found [here](#).

Senate

The HELP Committee is holding a hearing on September 14th entitled “Securing the Pharmaceutical Supply Chain.” More information can be found [here](#).

The Finance Committee is holding a hearing on September 15th entitled “Tax Reform Options: Promoting Retirement Security.” More information can be found [here](#).

Super Committee

The Super Committee is holding a hearing on September 13th to hear from Congressional Budget Office Director Doug Elmendorf on “The history and drivers of our nation’s debt and its threats.”