



Tom Koutsoumpas, TKoutsoumpas@mlstrategies.com
Jeremy Rabinovitz, JRabinovitz@mlstrategies.com
Alexander Hecht, AHecht@mlstrategies.com
Kevin M. Kappel, KMKappel@mlstrategies.com

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

HEALTH CARE REFORM UPDATE **September 20, 2011**

Implementation of the Affordable Care Act (ACA)

On September 12th during remarks before a conference sponsored by America's Health Insurance Plans (AHIP), the industry organization representing the health insurers, CMS Administrator Don Berwick said that he thought that the "pioneer" Accountable Care Organizations (ACOs) will be launched by the end of 2011.

On September 13th a Pennsylvania district court judge ruled in favor of a York, PA couple who filed a lawsuit against the ACA deeming that the individual mandate is unconstitutional. In his ruling, Judge Christopher Conner went a bit further than in other rulings on the issue and tied the guaranteed issue and pre-existing conditions provisions to the mandate and struck them down as well.

On September 15th the Senate Republican Policy Committee released a report including emails obtained by Republican investigators showing that experts had warned Democrats during the health care reform debate that the long-term care program known as the CLASS Act was likely unsustainable. The report can be found [here](#).

On September 15th HHS released new data showing that the average Medicare Advantage premiums will drop 4 percent in 2012 than in 2011 while maintaining benefits and while enrollment increases. In the release, HHS Secretary Kathleen Sebelius attributed the drop in premiums to the ACA. More information can be found [here](#).

On September 15th HHS announced new awards totaling \$10 million to assist 129 organizations around the country in their efforts to become community health centers. The funds were made available by the ACA to support the development of new health centers. The HHS press release can be found [here](#).

On September 15th the Center for Medicare and Medicaid Innovation (CMMI), created by the ACA, announced that it was extending the letter of intent and application deadlines for one of the models recently unveiled under the Bundled Payments Initiative.

Other HHS and Federal Regulatory Initiatives

On September 12th the Health Resources and Services Administration (HRSA) and the Office of the National Coordinator for Health IT (ONCHIT) announced awards of \$8.5 million to 85 community health centers located in 15 of the 17 Beacon Communities across the U.S. The awards are intended to support the adoption of health information technology systems. HHS' release on the awards can be found [here](#).

On September 12th HHS Secretary Kathleen Sebelius announced that \$3 million will be made available in October for a new program to encourage states with enhanced Medicaid money for ensuring that home and community-based services are easier to get.

In a letter to Super Committee Members on September 12th, Federal Trade Commission (FTC) Chairman Jon Leibowitz asked the Committee to stop branded pharmaceutical manufacturers from providing financial incentives to generic drug manufacturers to keep generics off the market, a practice known as “pay-for-delay.” In his letter, Leibowitz cites a Congressional Budget Office (CBO) estimate claiming that halting the practice would save the federal government \$2.7 billion over 10 years. In addition, an FTC report from January 2010 claims that pay-for-delay costs consumers an estimated \$3.5 billion per year, and the industry entered into 31 such agreements the previous year. The FTC report can be found [here](#).

On September 12th the FDA announced that the agency is realigning offices that review new drug applications for all drug and biologic applications for cancer-related therapies. The agency’s announcement can be found [here](#).

On September 13th the U.S. Census released new data showing that the number of the uninsured in the country increased by 900,000 in 2010 to 49.9 million for an uninsurance rate of 16.3 percent. The increase was not statistically significant over the figure in 2009.

On September 14th HHS released new regulations that expand the Recovery Audit Contractor (RAC) program to the Medicaid program. The RAC program has been successful in tracking down false payments in the Medicare program and will become effective January 1, 2012. The HHS press release can be found [here](#).

On September 19th President Obama released his \$3 trillion deficit reduction plan. The President’s proposal includes \$248 billion in Medicare cuts and \$72 billion in cuts to Medicaid and other health-related programs. While the plan does not raise the Medicare eligibility age, it does raise Medicare premiums and increase deductibles for certain beneficiaries. The plan contains cuts to hospitals, skilled nursing facilities, and home health services. The President has also proposed drug rebates for “dual eligibles” and strengthens IPAB. More information on the President’s plan can be found [here](#).

Other Congressional and State Initiatives

On September 12th the CBO released its estimated impact on Medicare if the Super Committee is unable to reach a deal and the 2% across-the-board cuts are implemented. According to the CBO, the 2 percent cuts would add up to \$123 billion between 2013 and 2021. A copy of the CBO announcement can be found [here](#).

On September 13th the Super Committee met to hear from the director of the CBO Doug Elmendorf who urged a balanced approach of cuts in spending and revenue increases. Elmendorf also said that the Super Committee must submit its proposals by early November if it intends to receive the CBO cost estimates before the Thanksgiving deadline. In addition, that same day, the Super Committee launched a website to stream hearings live, provide news on the actions of the Super Committee, and provide various resources. That website can be found [here](#).

On September 14th Vermont Governor Peter Shumlin (D) named the first five members who will serve on the Green Mountain Care Board, the entity responsible for setting up the first single-payer health care system in the country. More information can be found [here](#).

On September 14th the House Appropriations Committee released its latest continuing resolution (CR) to keep the government funded through November 18th. This latest CR would fund most of the entire government at 1.4 percent below FY 2011 levels. More information can be found [here](#).

On September 15th MedPAC, the congressionally mandated Medicare payment commission, released new recommendations on replacing the current SGR system of reimbursing physicians under Medicare. Their recommendations, which would focus on pushing doctors away from the fee-for-service system and encourage more doctors to go into primary care, can be found [here](#).

Other Health Care News

On September 12th the Altarum Institute's Center for Sustainable Health Spending released a report showing that health care spending accounted for 18.2 percent of the nation's GDP in June 2011, up 5.1 percent compared with July 2010. The report can be found [here](#).

On September 12th Deloitte released a new issue brief entitled "The Public View of Health Care Reform." In the brief, Deloitte finds that skepticism over the ACA remains much higher among seniors and the "Baby Boomer" cohort than among younger people. The brief can be found [here](#).

On September 14th Families USA, the American Cancer Society Cancer Action Network, the American Diabetes Association, and the American Lung Association released four Medicaid reports on California, Illinois, New York, and Texas outlining the number of low-income people who rely on the program for treatment of costly and deadly chronic illnesses as a way to fight back against the cuts. The press release can be found [here](#).

Hearings & Mark-ups Scheduled

The Senate

The Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies will be holding a mark up on September 20th of draft legislation that would make fiscal 2012 appropriations for programs under its jurisdiction.

The Finance Committee will be holding a hearing on September 21st entitled "Dually-Eligible Beneficiaries: Improving Care While Lowering Costs." More information can be found [here](#).

The House of Representatives

The Energy and Commerce Subcommittee on Health will be holding a hearing on September 23rd entitled "Examining the Increase in Drug Shortages." More information can be found [here](#).

The Oversight and Government Reform Subcommittee on Health Care, District of Columbia, Census and the National Archives will be holding a hearing on September 21st entitled "Examining Abuses of Medicaid Eligibility Rules." More information can be found [here](#).

The Ways and Means Subcommittee on Health will be holding a hearing on September 21st discussing certain expiring Medicare provider payment provisions. More information can be found [here](#).