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HEALTH CARE REFORM UPDATE

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Implementation of the Affordable Care Act (ACA)

On May 2nd the head of the National Committee for Quality Assurance, Margaret O’Kane, spoke at a panel during the annual policy meeting of the College of American Pathologists in Washington. In her remarks, she said that her organization, which currently accredits everything from health insurance plans to home care programs, is now developing an accreditation program for Accountable Care Organizations (ACOs).

On May 3rd Republicans in Congress introduced legislation to repeal the maintenance-of-effort (MOE) requirements under the ACA entitled, the “State Flexibility Act.” The bill was introduced in the Senate and in the House by Sen. Orrin Hatch (R-UT) and Rep. Phil Gingrey (R-GA). The MOE provisions were first included in the stimulus bill in 2009 and later were expanded in the ACA. The provision threatens states with a loss of federal funds if they tighten the eligibility requirements for their Medicaid programs before the law allows them to change those qualifications in 2014. The Republican’s statement on the introduction of this bill can be found [here](#).

On May 3rd the House of Representatives approved a bill by a 238-183 vote to defund federal funding to states to establish health insurance exchanges under the ACA. One day later, the House voted 235-191 to defund a portion of the ACA providing for school-based health centers. Both measures were passed along party lines, and neither bill is expected to gain traction in the Senate.

On May 3rd the House Energy and Commerce Committee held a hearing on the transparency of the legislative process leading up to the passage of the ACA. The White House did not send anyone to testify at the hearing despite pressure from Committee Members, especially Republicans. More information on the hearing can be found [here](#).

On May 4th 26 states and the National Federation of Independent Business (NFIB) filed a brief with the 11th Circuit Court of Appeals asking the court to uphold a federal judge’s ruling to strike down the entire ACA. In a separate brief filed by the NFIB and two individual plaintiffs, the group insisted that the individual mandate “lacks and foundation in constitutional text or precedent.”

On May 4th the Republican controlled legislature in Colorado voted to approve a bill authorizing the creation of a health insurance exchange. An earlier effort to push similar legislation through failed due to last-minute

opponents connected to the Tea Party. Colorado Gov. John Hickenlooper (D) is expected to sign the legislation.

On May 5th Reps. Charles Boustany (R-LA) and Patrick Tiberi (R-OH) introduced legislation entitled the “American Job Protection Act” to amend the internal revenue code to repeal the employer health insurance mandate. The bill sponsors cited a Congressional Budget Office (CBO) projection that the ACA provision would reduce employment by 800,000 in the next ten years. CBO’s Director Doug Elmendorf explained during his testimony before the House Budget Committee in February that this projection was based on an attempt to quantify how many workers would voluntarily leave work when they no longer would be dependent on an employer for health insurance. The full text of the bill can be found [here](#). The bill’s introduction came two days after the IRS submitted a request for public comments on the mandate. The IRS request can be found [here](#).

On May 6th the White House released state-by-state fact sheets on how the implementation of the ACA is benefitting seniors and strengthening Medicare. The White House blog post can be found [here](#).

On May 6th HHS released new data showing that enrollment in its Pre-Existing Condition Insurance Plan had jumped 50 percent since February. The total number of enrollees now stands at over 18,000. The Department’s management of the plan had come under fire earlier in the year due to low enrollment.

Other HHS and Federal Regulatory Initiatives

On May 3rd the Health Resources and Services Administration announced the availability of \$12 million in grant money to help rural health care providers meet meaningful-use standards. The deadline to apply is May 27th. More information can be found [here](#).

On May 4th the FDA issued the first rules to implement the food safety overhaul passed in December during the lame-duck session of the 111th Congress. FDA’s press release can be found [here](#).

On May 6th the Government Accountability Office released a report entitled, “Weaknesses in Policies and Oversight Governing Medical Supplies and Equipment Pose Risks to Veterans’ Safety.” The report shows that systems within the Department of Veterans Affairs have not done enough to prevent veterans using their services from contracting hospital acquired infections (HAIs) including HIV or AIDS. The full report can be found [here](#).

On May 6th the members of the Program Advisory and Oversight Committee for the Durable Medical Equipment (DME) competitive bidding program wrote a letter to CMS Deputy Administrator Jonathan Blum asking for quarterly updates about the percentage of beneficiaries who receive DME, how many patients called about the program, the percentage of dropped calls, answered calls and how long it took to get a customer service representative on the phone. The group says that this information is critical their ability to fulfill their duty and to demonstrate that there are no ill-health effects of the program.

On May 6th Secretary Sebelius announced more flexible Medicaid enrollment procedures for Southern states that experienced a high number of casualties and heavy property damage as a result of recent tornadoes. In her letter to governors, the Secretary offered options for immediately providing access to Medicaid by temporarily increasing Medicaid income eligibility limits and removing resource tests. The HHS press release can be found [here](#).

Other Congressional and State Initiatives

On May 2nd 100 protesters from the disability rights group ADAPT gathered in the Cannon House Office Building to rally against Rep. Paul Ryan’s (R-WI) Medicaid plan, claiming that the block grant proposal might force them out of home-based care and to move into nursing homes instead.

On May 3rd the House voted 251-175 to approve a variety of anti-abortion measures despite threats of a veto from President Obama. All Republicans voted in favor along with 16 Democrats. The legislation is expected to die in the Senate.

On May 3rd the Eldercare Workforce Alliance issued a new report that illustrates a growing shortage of workers needed to care for older Americans. The report estimates that an additional 3.5 million workers will be needed by 2030 to maintain the essential size of the force. The report can be found [here](#).

On May 3rd Rep. Tom Price (R-GA), House Republican Policy Chair introduced H.R. 1700, the “Medicare Patient Empowerment Act.” The bill would establish a new Medicare payment option whereby patients and physicians would be free to contract for medical care without penalty. This means that if Medicare pays a certain amount for a service and the physician charges more, the patient would be responsible for the balance. The full text of the bill can be found [here](#).

On May 4th Rep. Mazie Hirono (D-HI) introduced legislation to create grants for schools to develop asthma management plans. In a ‘Dear Colleague’ letter, Rep. Hirono noted that asthma costs \$20 billion every year and called on cost-conscious legislators to support the legislation. The full text of the bill can be found [here](#).

On May 4th Sen. Tom Carper (D-DE), Chairman of the Senate Subcommittee on Federal Financial Management, released a report highlighting almost \$240 million in overpayments by CMS to health care providers that were recouped in six months through the Recovery Audit Contractor (RAC) Program. The Senator’s press release can be found [here](#).

On May 5th the Energy & Commerce Subcommittee on Health held a hearing on “The Need to Move Beyond the SGR.” The hearing comes as the Committee begins to consider overhauling the system of reimbursing physicians under Medicare. More information on the hearing can be found [here](#).

On May 5th Sen. Sherrod Brown (D-OH) released a letter that he had sent to President Obama and House Majority Leader Eric Cantor (R-VA) in opposition to the Ryan plan for Medicare. 48 other Democratic Senators and Bernie Sanders (I-VT) co-signed the letter. A copy of the Senator’s press release can be found [here](#).

On May 5th the Senate HELP Committee held a hearing on patient safety and health quality. During the hearing, Ranking Member Mike Enzi (R-WY) questioned the projected savings of the administration’s recent “Partnership for Patients” initiative. More information on the hearing can be found [here](#).

On May 5th the House Education & Workforce Committee held a hearing on HHS’ budget and priorities. During the hearing, Secretary Sebelius told the Committee that seniors will die sooner until the changes proposed to Medicare by Rep. Paul Ryan (R-WI). More information on the hearing can be found [here](#).

On May 6th ProPublica and USA Today released a report that shows specialists being pitched by groups that are directly funded by firms that make drugs and medical devices to use those products. The relationships are catching the eye of those in Congress who are concerned about the influence these companies may exert. The full report can be found [here](#).