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HEALTH CARE REFORM UPDATE

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Implementation of the Affordable Care Act (ACA)

On May 13th the Obama administration posted on the Department of Health and Human Services' (HHS) website notice that it granted 221 new temporary waivers in April to organizations for health care reform's annual benefit limit requirements. The administration says that these waivers are a needed measure to stabilize insurance markets before the exchanges are operational in 2014. The list of organizations that have received waivers can be found [here](#).

On May 16th the Patient Centered Outcomes Research Institute (PCORI) met to hear from its Methodology Committee to determine how the group would oversee comparative effectiveness research (CER). PCORI was created within the ACA and is comprised of researchers, ethicists, patient advocates, device-makers and drugmakers, as well as the directors of AHRQ and NIH to tackle a hot-button issue that many critics equate to government rationing. More information on PCORI can be found [here](#).

On May 17th CMS announced some changes to the emerging program to establish accountable care organizations (ACOs) under the ACA. The first, called the Pioneer program, is designed to provide an accelerated approval process for groups already providing highly-coordinated care within their networks. The second was a request for comment, due June 17th, on a payment initiative that would pre-pay a portion of anticipated shared savings to help groups seeking to become ACOs raise the necessary capital to support the needed infrastructure and services. Finally, CMS also announced a three-day accelerated development program for executives of new and newly emerging ACOs. The application for the Pioneer program can be found [here](#). The same day, the Central Maine Medical Center (CMMC) submitted its letter to CMS to become one of the first ACOs under the new ACO Pioneer program. The CMMC has two critical care hospitals and one tertiary hospital and has been working on integrated care for years.

On May 17th Maine Insurance Commissioner Mila Kofman resigned from her position reportedly due to continuing disagreements with Governor Paul LePage (R) over the ACA and other health care related issues. Her resignation comes as Maine's Senate passed a controversial bill that repeals a provision that requires insurance companies to cover a primary care doctor within a 30-minute drive of the policy holder. Gov. LePage was elected in November with strong support from the Tea Party on a platform opposing health care reform law, but Maine has continued to engage in certain aspects of its implementation, including being the first state to receive a waiver from the law's medical-loss ratio (MLR) requirements.

On May 17th Indiana insurance Commissioner Stephen Robertson announced that he had sent a letter to Secretary Sebelius requesting a waiver from the ACA's MLR provision for individual insurers through 2014. The state also asked HHS to lower the requirement to 65 percent and let the individual insurers gradually

work up to 80 percent by 2014 to ensure the least amount of disruption to the insurance market if it would not grant the full waiver. Ten states currently have applications for waivers pending with HHS.

On May 17th Senator John Barrasso (R-WY) released a top 10 list of issues with the president's Independent Payment Advisory Board. The list was distributed by the Republican Conference during policy lunches that day. The list can be found [here](#).

On May 18th the Department of Justice (DOJ) filed a reply brief in the 11th Circuit Court of Appeals where the administration is appealing a ruling by Judge Roger Vinson's that the ACA is unconstitutional. Many observers noted that the DOJ's filing was far more aggressive than past defenses of the ACA.

On May 18th Oklahoma Gov. Mary Fallin (R) signed a law making her state a part of a health care compact of states wishing to opt out of the federal health care overhaul. So far 14 states have introduced bills with similar approaches, but all of these bills would require congressional approval – an unlikely event with a Democratic majority in the Senate and President Obama prepared to veto. The final bill can be found [here](#).

On May 18th a bipartisan group of 50 Senators led by Sens. Maria Cantwell (D-WA) and Susan Collins (R-ME) sent a letter to CMS criticizing the way the agency interpreted the portion of the ACA regarding face-to-face assessments of Medicare beneficiaries for home health care services. The letter says CMS has exceeded the scope of the ACA in manner that is overly burdensome. A copy of the letter can be found [here](#).

On May 19th a number of high profile conservative groups including *Let Freedom Ring* and Grover Norquist's *Americans for Tax Reform* wrote a letter urging state governors and insurance commissioners to seek exemptions and waivers from new ACA requirements including the annual benefit limit and the MLR regulations.

On May 19th HHS released a final rule that requires health insurers to publicly disclose any rate increase of at least 10 percent. The regulation is largely the same as the proposed rule issued in December 2010. The HHS description of this rule can be found [here](#) and the final rule can be found [here](#).

On May 19th Senate HELP Committee Ranking Member Mike Enzi (R-WY) sent a letter to Secretary Sebelius claiming that the Department failed to formally submit its rule on MLR regulations to the Senate for review. A copy of Sen. Enzi's letter can be found [here](#). In what appears to be an oversight by the Minority on the Committee, HHS responded forcefully and produced dated copies proving receipt of the rule in both the Senate and the House.

On May 20th HHS issued a proposed rule on the expansion of the Section 340B drug discount program to clarify which drugs would qualify. The proposed rule can be found [here](#).

Other HHS and Federal Regulatory Initiatives

On May 18th Secretary Sebelius spoke before the World Health Organization assembly in Geneva. In her speech, the Secretary assured the body that the U.S. will continue to preserve samples of smallpox in accordance with government concerns that the disease may be used in germ warfare.

On May 18th CMS sent a letter to states outlining how states can receive a 90 percent match in federal funds when they join or lead in building a secure health information exchange that will help providers become user of health IT.

On May 19th HHS published in the *Federal Register* a request for approval from OMB to conduct surveys and interviews to assist in the development and modification of communication messages around privacy. A copy of the request can be found [here](#).

On May 20th CMS released its own report to the recent Medicare Trustee's report of an alternative scenario for Medicare spending. That report claims that many of the payment reductions outlined in the ACA are

unworkable and will most likely be overridden by Congress. This would make the recent report by the Medicare trustees too optimistic on the solvency of the fund. The full report can be found [here](#).

Other Congressional and State Initiatives

On May 16th Republican House Budget Chairman Paul Ryan (R-WI) penned an op-ed in which he defended his budget blueprint and his efforts to overhaul Medicare. Under his plan the Chairman claims people will be able to pick plans with more efficient providers as opposed to the Obama plan which he asserts rations Medicare spending under the Independent Payment Advisory Board (IPAB). The op-ed can be found [here](#). The same day, Chairman Ryan gave a speech with similar arguments before the Economic Club of Washington.

On May 17th Senator Tom Coburn (R-OK), one of three Republicans that was a part of bipartisan Senate budget talks, dropped out of the group so-called the "Gang of Six." Sen. Coburn was the only doctor on in the group, and his departure will make it much harder for this group to reach an agreement.

On May 18th the Tennessee state Senate passed SB326 by a vote of 22-9 for the creation of a "Health Care Compact." The legislation would give the state much more authority over federal health care programs- including Medicare and Medicaid – in the state. The bill could not be considered by state House until next year, but Congress would ultimately have to approve the idea before it could be implemented. The Senate bill can be found [here](#).

On May 18th the House Energy & Commerce Health Subcommittee set a date for a hearing on May 25th on buying health insurance across state lines. The hearing announcement can be found [here](#).

On May 18th the president of the U.S. Conference of Catholic Bishops sent House Budget Committee Chairman Paul Ryan a letter commending him on his work on the budget. The letter can be found [here](#).

On May 19th Secretary Sebelius joined Democratic senators for a policy lunch to help them refine their message on the Ryan FY2012 Budget proposal. At a press conference following the meeting, the Secretary insisted that the plan would end Medicare as we know it by turning it into a private voucher system.

On May 20th Sens. Richard Burr (R-NC), Tom Coburn (R-OK), and Saxby Chambliss (R-GA) introduced S. 1031, the Medicaid Improvement and State Empowerment Act, a bill that they claim will address the ability of states to be flexible in the structure of these programs within their state by converting Medicaid into state-controlled block grants. The text of the bill can be found [here](#).

On May 20th The Joint Economic Committee released a new study that says seniors out-of-pocket costs would more than double under Paul Ryan's plan. The study can be found [here](#).