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HEALTH CARE UPDATE

March 3, 2014

- **SGR Patch vs. Repeal Showdown Nearing Decision-Point:** Last week lawmakers took another important step towards potentially solving one of the most vexing issues facing health care stakeholders: the Medicare physician cost control formula known as the Sustainable Growth Rate (SGR). Fresh off a new [CBO score](#) of \$138 billion over the next 10 years, the House GOP Doctors Caucus finally [endorsed](#) legislation ([H.R. 4015](#)) to permanently replace the SGR. The CBO score did not include so-called Medicare extenders, which most analysts believe could total approximately \$30 billion in extra cost. All eyes are now on the House GOP leadership to advance the legislation forward and also on newly installed Senate Finance Committee Chairman, Ron Wyden (D-OR) as the impending deadline of March 31st nears. If no path forward for payment of the bill emerges by the end of March, Congress would have to pass a temporary patch to delay an automatic 24% across-the-board cut to physician pay.
- **Medicare Part D Conflict Ramps Up:** After [multiple letters were sent](#) to the Centers for Medicare and Medicaid Services (CMS) asking for the withdrawal of proposed changes to the Medicare Part D program, the House Energy and Commerce Committee [held a hearing](#) in which CMS Principal Deputy Administrator Jonathan Blum defended the proposed changes. He faced sharp criticism from Committee members, many of whom questioned CMS' decision to eliminate several drugs' protected status. Several members also criticized the changes for increasing spending—citing a [recent report](#) that found the proposed changes could increase spending by \$1.6 billion in 2015. Committee members were divided, however, on CMS' proposed changes to preferred pharmacy networks. CMS appears to be reinforcing these proposed changes through its [2015 Medicare Advantage call letter](#), which suggests that CMS may use existing authorities and the 2015 negotiations to encourage plans to add pharmacies to their preferred networks. For more information on the proposed rule, you can access an [archive of our webinar here](#).

Implementation of the Affordable Care Act

ACA Enrollment Reaches 4 Million: CMS Administrator Marilyn Tavenner [wrote](#) in a blog post that approximately 4 million people have signed up for private health insurance plans through federal and state-based marketplaces since October 1.

CMS Provides Subsidies Outside Exchanges: CMS [announced](#) that it will allow consumers who were unable to purchase health insurance through their state exchange due to technical problems and bought private insurance outside of the state exchanges can still receive federal tax credits.

Small Business Premiums May Rise: CMS [released](#) a report which found that as a result of the ACA 11 million small business employees will see their premiums rise, 6 million will see their premiums fall, and that the impact on premiums for employees in large employer health plans will be negligible.

Senators Highlight Benefits of ACA: Senators Chris Murphy (D-CT), Chuck Schumer (D-NY), Debbie Stabenow (D-MI), Barbara Boxer (D-CA), and Sheldon Whitehouse (D-RI) [launched](#) an effort to highlight the benefits of the ACA in Congress to combat Republican repeal efforts.

HHS Touts Healthcare.gov Improvement: In a blog post, the Department of Health and Human Services (HHS) [provided](#) a detailed list of improvements made to Healthcare.gov and assured that the website is prepared for a surge of activity in March.

Senate Republicans Question MA, Part D Changes: Senate Republican leaders [wrote a letter](#) to HHS Secretary Kathleen Sebelius, asking her to suspend actions that would make changes to the Medicare Advantage and Medicare Part D programs.

IRS Releases Health Care Tax Tips: The Internal Revenue Service (IRS) [released](#) a series of tax tips to help Americans understand how their health insurance choices and the ACA will affect their taxes.

Workweek Bill Will Increase Deficit: The Congressional Budget Office (CBO) [released](#) analysis of the Save American Workers Act, a bill which redefines the definition of full-time employment from 30 hours a week to 40 hours, found that it would increase the deficit by \$73.7 billion by 2024.

Other Federal Regulatory Initiatives

FDA Issues Proposed Nutrition Labels Rule: The Food and Drug Administration (FDA) [issued](#) two proposed rules to update the Nutrition Facts label. The changes would require different information to be displayed to reflect a greater understanding of nutrition science, update serving size requirements, and a new design.

GAO Questions VA and DOD on EHR Collaboration: The Government Accountability Office (GAO) [released](#) a report which called on the Departments of Defense and Veterans Affairs to prove that their decision to pursue separate electronic health records (EHR) systems is efficient and cost-effective, to develop interoperability plans, and to improve collaboration.

CMS Seeks Input on Competitive Bidding: CMS [announced](#) it will seek public comment until March 28 as it moves towards implementing the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program.

CMS May Penalize Florida for Illegal Medicaid Limits: CMS may [financially penalize](#) Florida for illegally limiting the number of times a Medicaid beneficiary may visit an emergency department, contrary to the approved Medicaid state plan.

CMS Releases DSH Allotments: CMS has [released](#) the preliminary federal share Disproportionate Share Hospital (DSH) allotments for FY 2014.

Other Congressional and State Initiatives

Senate HELP Approves Surgeon General: The Senate Health, Education, Labor, and Pensions (HELP) Committee [approved](#) the nomination of Dr. Vivek Murthy to serve as U.S. Surgeon General. His nomination now heads to the Senate floor for full consideration.

Energy and Commerce Advances Bills: The House Energy and Commerce Subcommittee on Health [advanced](#) H.R. 1281, H.R. 3548, H.R. 4080 and H.R. 1528, which address issues related to newborn babies, trauma patients, and veterinarians.

Democrats Request Hearing on Health Research: Energy and Commerce Committee Ranking Member Henry Waxman (D-CA) and Health Subcommittee Ranking Member Frank Pallone (D-NJ) [sent a letter](#) to Chairmen Fred Upton (R-MI) asking him to hold a hearing on the progress of health research on women and minority groups.

IT Acquisition Reform Passes House: The House [passed](#) the Federal Information Technology Acquisition Reform Act, which creates a pilot program to address the IT acquisition process and give greater authority to agency chief information officers.

Oversight Slams FDA Whistleblower Protections: The House Oversight and Government Reform Committee and the House Judiciary Committee [released](#) a joint report criticizing the FDA's highly invasive program to monitor employees, stating that it violated employee's whistleblower rights.

Hearings and Mark-Ups Scheduled

Senate

On March 5, the Senate Special Aging Committee will hold a [hearing](#) titled "Income Security and the Elderly: Securing Gains made in the War on Poverty."

House

On March 4, the Health Subcommittee of House Energy and Commerce Committee will hold a [hearing](#) titled "Keeping the Promise: How Better Managing Medicare Can Protect Seniors."

On March 6, the Contracting and Workforce Subcommittee of House Small Business Committee will hold a [hearing](#) on the health care law and its impact on the self-employed.