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HEALTH CARE REFORM UPDATE December 3, 2012

Implementation of the Affordable Care Act

On November 25th New Hampshire Governor-elect Maggie Hassan (D) said that while the state can no longer establish its own health care exchange, she has an interest in examining the possibility of a state-federal partnership. The partnership may be made possible because Democrats gained control of the House in the state legislature. An article on the potential partnership is available [here](#).

On November 26th the Supreme Court remanded Liberty University's case on the contraceptive mandate of the Affordable Care Act (ACA) to the U.S. Fourth Circuit Court of Appeals. Liberty argues that religious considerations prevent the school from providing contraceptive coverage to its employees. The decision from the Supreme Court can be read [here](#). An article on the case is available [here](#).

On November 26th the *New York Times* reported that hospitals are facing increasing pressure to limit readmissions. Under the ACA, hospitals that have too many readmissions receive financial penalties. The readmission penalties are estimated to recoup about \$300 million this year. The goal is to pressure hospitals to pay attention to what happens to their patients after they walk out the door. The article can be viewed [here](#).

On November 26th a report released by the Kaiser Family Foundation (KFF) found the Medicaid expansion and other provisions of the ACA would lead state Medicaid spending to increase by \$76 billion over 2013-2022 (an increase of less than 3 percent), while federal Medicaid spending would increase by \$952 billion (a twenty-six percent increase). If all states expanded Medicaid, eight states would save money and about half would have cost increases of less than five percent. The full report from KFF is available [here](#).

On November 28th Arizona Governor Jan Brewer (R) sent a letter to the Department of Health and Human Services (HHS) stating that Arizona will not operate its own health insurance exchange. Gov. Brewer said she is leaving the exchange up to the federal government because Arizona was not able to make informed decisions on how a state exchange would be structured. The letter can be viewed [here](#).

On November 29th the House Health Policy Committee in the Michigan House of Representatives rejected a state-based exchange by a vote of 5-9. The decision makes it likely that Michigan will move forward with a federal exchange, a disappointment to Governor Rick Snyder (R) who had previously expressed a desire for Michigan to run its own exchange. An article on the vote from the *Detroit Free Press* is available [here](#).

On November 29th Missouri Governor Jay Nixon (D) issued a statement saying he intends to include federal funding in the state's budget for Fiscal Year 2014 that will expand Medicaid in Missouri. The plan will provide health care to an additional 300,000 Missourians. Gov. Nixon's statement and press release can be read [here](#).

On November 30th Oregon Governor John Kitzhaber (D) filed a budget for 2013-15 that provides insurance to an additional 200,000 Oregonians through expansion of the state's Medicaid program. Gov. Kitzhaber's full budget plan is available [here](#).

On November 30th the Centers for Medicare and Medicaid Services (CMS) released a proposed rule that would attempt to reduce barriers for low income people trying to enroll in the exchanges. The rule would allow the government to pay premium tax credits to insurers in advance and offers changes in cost-sharing reductions and the medical loss ratio program. The full proposed rule is available [here](#).

On November 30th the Internal Revenue Service (IRS) released proposed regulations on the Additional Hospital Insurance Tax (AHIT), a provision of the ACA. AHIT is a higher Medicare payroll tax that will be charged to higher-income taxpayers. The proposed regulation is available [here](#).

On November 30th the U.S. Office of Personnel Management (OPM) issued a proposed rule that sets standards for the Multi-State Plan Program (MSPP). The ACA directs OPM to enter into contracts with private health insurance issuers to provide at least two multi-State plans (MSPs) to be offered on Exchanges beginning in 2014. At least one of these issuers must be a non-profit entity. The MSPP's goal is to promote competition in the marketplace and provide affordable and high quality choices for consumers. The proposed rule is available [here](#). A fact sheet on the rule can be read [here](#).

On December 3rd HHS Secretary Kathleen Sebelius announced that Medicare beneficiaries have saved over \$5 billion since implementation of the ACA. More than 5.8 million people on Medicare have benefited from the assistance the law provides with the Medicare prescription drug coverage gap known as the "donut hole." In the first 10 months of 2012 alone, almost 2.8 million individuals have saved an average of \$677 on prescription drugs. A news release from HHS is available [here](#).

Other HHS and Federal Regulatory Initiatives

On November 27th the HHS Office of Inspector General (OIG) announced it anticipates a recovery of \$6.9 billion from audits and investigations in Fiscal Year 2012. Recoveries are expected to include \$6 billion from investigative receivables and over \$900 million in audit receivables. A statement with highlights of OIG accomplishments in the past year is available [here](#).

On November 27th the Food and Drug Administration (FDA) announced it will hold a hearing on December 19th to address the nationwide meningitis outbreak that has been attributed to the New England Compounding Center (NECC). The hearing notice can be read [here](#).

On November 28th a final rule regarding transparency reached the Office of Management and Budget (OMB) and is now under review. The rule requires certain manufacturers of drugs, devices, biologicals, or medical supplies covered under Medicare, Medicaid, or the Children's Health Insurance Plan (CHIP) to provide HHS with information on the payment or transfers provided to physicians or teaching hospitals. The final rule is available [here](#).

On November 28th the FDA announced that it has increased efficiency and reduced the backlog for medical device applications. A report highlights improvements since a Plan of Action was issued in 2011 to modernize and improve the FDA's premarket review of medical devices. The full report is available [here](#).

On November 29th HHS released the Federal Medical Assistance Percentages (FMAP) for Fiscal Year 2014. The calculated FMAP indicates the amount that the federal government will match for state Medicaid, Children's Health Insurance Program expenditures (CHIP), Temporary Assistance for Needy Families (TANF), and other programs. The percentages for FY 2014 are available [here](#).

On November 29th CMS announced a \$532 fee for institutional providers to enroll in federal health programs for 2013. The CMS announcement is available [here](#).

On November 29th FDA Commissioner Margaret Hamburg said she signed statements of cooperation with Australia, Brazil, and Canada to create a single audit program for medical devices. The agreement will make it easier for the United States to rely on the safety inspections on medical devices that come from other countries. A blog post from Commissioner Hamburg on the agreement is available [here](#).

On November 29th U.S. Secretary of State Hillary Clinton announced a plan to achieve an AIDS-free generation. The new plan places a focus on at-risk populations and strives to prevent children from being born with HIV. Secretary Clinton says teenagers and young adults should also have a lower risk of acquiring HIV under the new plan. An article on the initiative is available [here](#). The blueprint from the State Department can be viewed [here](#).

On November 30th the Centers for Disease Control (CDC) released a report finding that more than half of the young people aged 13 to 24 in the United States infected with HIV do not know they have the infection. The youth who are unaware of their infections are responsible for more than a quarter of the new infections each year. The full report is available [here](#).

Other Congressional and State Initiatives

On November 25th Alabama Department of Public Health Director Don Williamson said the state faces a \$30 million shortfall in its Medicaid program. The shortfall comes after voters approved a \$437 million patch in the state budget. Williamson said the shortfall is a result of changes in the federal formula for matching funds and new requirements for Medicaid to assist the federal Medicare program. An article on the shortfall can be read [here](#).

On November 27th Arizona asked the 9th District Court of Appeals to overturn a decision by U.S. District Court Judge Neil Wake that did not allow the state to restrict funding for non-abortion services to Planned Parenthood of Arizona. Judge Wake indicated that a restriction of funding to Planned Parenthood violates Medicaid protections that allow patients to choose their care provider. An article on the decision and appeal can be read [here](#).

On November 29th the Government Accountability Office (GAO) released a report that indicated \$43 billion in Medicaid spending in 2009 could not be traced directly to any beneficiaries. Gaps in two expenditure reports highlight the \$43 billion discrepancy. CMS intends to fix its data collection methods in 2014 with the introduction of Medicaid expansion. Highlights from the GAO report are available [here](#).

On November 29th Representative Tim Murphy (R-PA), co-chair of the Republican Doctors Caucus, was appointed to a new role as chairman of the House Energy and Commerce Subcommittee on Oversight and Investigations. Rep. Murphy will replace outgoing Rep. Cliff Stearns (R-FL). An article on the appointment is available [here](#).

On November 29th a report from the HHS Office of Inspector General (OIG) indicated that CMS has not put forth strong prepayment safeguards to effectively oversee the Medicare electronic health record (EHR) incentive program. OIG says CMS is at risk of making payments to hospitals and professionals who do not meet the necessary requirements. The OIG report can be read [here](#). An article from the *New York Times* is available [here](#).

On November 29th the Congressional Budget Office (CBO) released a report indicating there is a link between increased prescription drug use and decreased spending in other areas of Medicare. The CBO says it will take into account this newly identified relationship when it makes future estimates on the impact of changes to the Medicare prescription drug plan. The full report is available [here](#).

On November 29th Representative Bill Cassidy (R-LA) introduced *H.R. 6611; the Patient Access to Drugs in Shortage Act* to address the shortage of many life-saving drugs in the United States. Rep. Cassidy stated that the artificially low Medicare reimbursement rate for generic sterile injectable drugs discourages their production. The bill amends the reimbursement rates to accurately reflect the value of these drugs. A press release from Rep. Cassidy is available [here](#). An overview of the bill can be viewed [here](#).

On November 30th Wyoming Governor Matt Mead (R) asked the state legislature for \$100,000 to study the possibility of a state-run or partnership exchange. Gov. Mead wants to explore the best options for the state's future, and he requested that the legislature readdress a prohibition on the application for state funds. The budget from Gov. Mead is available [here](#).

On November 30th the House GOP Doctors Caucus announced that Representative Phil Roe (R-TN) will fill the co-chairmanship seat vacated by co-founder Representative Tim Murphy (R-PA). Rep. Murphy is set to be the new chairman of the House Energy and Commerce Oversight and Investigations Subcommittee. A press release on the shift in leadership in the Doctors Caucus can be read [here](#).

Other Health Care News

On November 19th Becker's Hospital Review released its list of the 50 most powerful people in healthcare. The list includes leaders in government and the private sector. The full list can be viewed [here](#).

On November 26th the Oliver Wyman consulting group released a report on accountable care organizations (ACOs) which says that ACOs show an increasing potential to offer positive change for American health care. The report notes that 25 to 31 million Americans already receive their health care through an ACO. The full report is available [here](#).

On November 26th a study from Georgetown University's Health Policy Institute found that tobacco cessation programs, covered under the ACA, are not being paid for by insurers. The study from Georgetown can be read [here](#).

On November 26th the American Academy of Pediatrics (AAP) released a policy statement saying that teens are more likely to use emergency contraceptives if they have been prescribed in advance. The statement notes that emergency contraceptives are an important tool to help prevent teen pregnancy. The policy statement from the AAP can be read [here](#).

On November 27th a study in the *Archives of Internal Medicine* suggested that cutting consultation payments for specialists ended up costing more money for Medicare. The plan was to create a budget neutral approach in which primary care doctors would get more money, but the money spent per beneficiary increased by an average of \$10.20. The full report is available [here](#).

On November 28th the Kaiser Family Foundation (KFF) released findings that minority youth are significantly more likely to view HIV/AIDS as a threat to personal health. Black youth say they are three times more likely than white youth to be concerned about HIV/AIDS, and Latino youth indicate they are twice as likely to be personally concerned about HIV/AIDS as a Caucasian youth. A summary of survey findings is available [here](#).

On November 28th the Jackson Women's Health Organization filed for a second preliminary injunction with the U.S. District Court of the Southern District of Mississippi. The partial injunction provided in July to Mississippi's only abortion clinic is about to run out. The request from the clinic is available [here](#).

On November 28th an ABC-Washington Post poll noted that just 30% of Americans support raising the Medicare eligibility age from 65 to 67, a proposal made by Speaker John Boehner (R-OH) in his "fiscal cliff" offer, including to avoid other spending cuts or tax increases. An article on the poll is available [here](#).

On November 28th the National Hospice and Palliative Care Organization (NHPCO) issued a report that 44.6% of U.S. deaths in 2011 occurred under hospice care, an increase from the 41.9% of deaths under hospice care in 2010. While some attention has been placed on long-term hospice stays, the report notes that more than half of hospice patients received care for less than two weeks. The full NHPCO report is available [here](#).

On November 29th a report from the Employee Benefit Research Institute (EBRI) found that an increasing number of employees in the United States are covered through employer self-insurance plans, in which employers pay health care claims directly to providers instead of working with an insurance company. In 2011, 58.5% of employees who had health coverage were in a self-insurance plan, compared to just 40.9% in a self-insurance plan in 1998. The full EBRI report can be read [here](#).

On November 29th America's Health Insurance Plans (AHIP) filed an amicus brief with the U.S. Sixth Circuit Court of Appeals supporting the decision of the Federal Trade Commission (FTC) to block ProMedica Health System's purchase of St. Luke's Hospital. AHIP said increasing health care consolidation is leading to higher costs for consumers. A press release from AHIP is available [here](#).

On November 30th the American Hospital Association (AHA) issued a report on the importance of emergency room care and access to 24/7 medical assistance. The AHA report says that while many Americans rely on emergency services, emergency departments throughout the country are at or already over capacity. The AHA report is available [here](#).

Hearings and Mark-Ups Scheduled

House of Representatives

On December 4th the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs will hold a hearing entitled, "Wading through Warehouses of Paper: The Challenges of Transitioning Veterans Records to Paperless Technology." More information can be found [here](#).