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HEALTH CARE REFORM UPDATE

June 27, 2011

Implementation of the Affordable Care Act (ACA)

On June 19th Rep. Phil Roe (R-TN) wrote an op-ed for POLITICO in which he detailed his plans to abolish the Independent Payment Advisory Board (IPAB). Rep. Roe claims that IPAB will lead to rationing and that Congress does not have sufficient oversight over it. Currently his bill to repeal that provision of the ACA has 120 co-sponsors in the House. The op-ed can be found [here](#).

On June 20th HHS sent its exchange regulation entitled “Requirements to Implement American Health Benefit Exchanges and Other Provisions of the Affordable Care Act” to the Office of Management and Budget (OMB) for its review. The regulation is expected to be released by July 7th.

On June 20th CMS released a report on the expanded preventive service coverage for Medicare beneficiaries under the ACA. The report claimed that 5.5 Million Americans are using the preventive benefits of the new law. The report can be found [here](#).

On June 20th the American Medical Association’s House of Delegates voted to continue supporting the individual mandate under the ACA. The vote was 326-165. More information on the vote can be found [here](#).

On June 21st Former House Majority Leader Dick Gephardt (D-MO) wrote an op-ed in the Huffington Post in which he said Congress should maintain oversight of Medicare on behalf of their constituents rather than cede that authority to the IPAB. He joins other current Democrat representatives who oppose the IPAB. The op-ed can be found [here](#).

On June 22nd CMS Administrator Don Berwick held the first of four on-the-road meetings, speaking to health professionals about the Accountable Care Organization (ACO) program and what it will mean for them. During his trip Administrator Berwick claimed that the ultimate success of the ACO will hinge on the commitment from primary care physicians. His remarks can be found [here](#).

On June 22nd the Obama administration issued an amended version of the interim final rules on the rights of consumers to appeal insurance decisions. The amendment to the interim rule can be found [here](#). On the same day guidance for this interim rule was also issued. The new guidance can be found [here](#).

On June 22nd HHS announced the availability of up to \$500 million in Partnership for Patients funding to help hospitals, health care provider organizations and others improve care and stop millions of preventable injuries and complications. This funding, made available by the ACA, will be awarded by the CMS Innovation Center through this solicitation and other procurements for federal contracts. More information on these awards can be found [here](#).

On June 22nd the Ways & Means Subcommittee on Health held a hearing on the 2011 Medicare Trustees Report. More information on that hearing can be found [here](#).

On June 23rd HHS announced it was making available \$10 million to establish and evaluate comprehensive workplace health promotion programs across the nation to improve the health of American workers and their families. The initiative, which stems from the ACA's Prevention and Public Health Fund, is aimed at improving workplace environments so that they support healthy lifestyles and reduce risk factors for chronic diseases like heart disease, cancer, stroke, and diabetes. More information on this initiative can be found [here](#).

On June 24th the American Public Health Association released a report saying some provisions in the ACA that deal with public health have not received any funds and are under political attack. The report notes that only 11 of 19 provisions assessed in the report have currently received funding. In addition, those that have received money have been funded at substantially lower levels than authorized. More information on the report can be found [here](#).

Other HHS and Federal Regulatory Initiatives

On June 20th the National Library of Medicine launched the MedlinePlus Connect database. This is a free service for health organizations and health information technology providers to link patient portals and electronic health record systems. More information on the database can be found [here](#).

On June 21st the Food and Drug Administration (FDA) issued the final version of new warning labels that will be required on cigarette packs and advertising starting September 2012. This change is the first of its kind in 25 years. More information on the labels can be found [here](#).

On June 21st Secretary Sebelius announced that HHS intends to begin collecting data on the LGBT community and will be adding some question pertaining specifically to LGBT Americans in national health surveys. More information on the Department's recommended actions to improve LGBT health care can be found [here](#).

On June 21st the GAO released a report that said the FDA should take a more proactive approach to medical device recalls rather than using a react and respond method. The report can be found [here](#).

On June 23rd the Supreme Court ruled 6-3 that data miners have the right to purchase, analyze and resell prescription data. This ruling affirms the Second Circuit Court of Appeals and overturns the Vermont law that outlawed these data mining practices. The full text of the Court's majority opinion as written by Justice Scalia can be found [here](#). On that same day the Court ruled 5-4 that FDA labeling rules trump state law in generic drug labeling requirements. The full text of that ruling can be found [here](#).

Other Congressional and State Initiatives

On June 21st Representatives Diana DeGette (D-CO) and Tom Rooney (R-FL) introduced H.R. 2245, *Preserving Access to Life-Saving Medications Act of 2011*, that would require prescription and biologic drug makers to provide six months of advanced notice of any discontinuance or interruption in drug production and immediate notice in the event of an unplanned interruption. More information on proposed legislation can be found [here](#).

On June 21st the Energy & Commerce Subcommittee on Health held a hearing on dually-eligible Medicare and Medicaid beneficiaries and how to improve their health care. More information on the hearing can be found [here](#). One day later, the Energy & Commerce Subcommittee on Oversight & Investigations held a hearing on protecting Medicare through improvements to the secondary payer regime. More information on that hearing can be found [here](#).

On June 22nd Rep. Allyson Schwartz (D-PA) and Greg Walden (R-OR) along with 26 other co-sponsors, introduced bi-partisan legislation to increase access for seniors and disabled citizens to home health services under Medicare. H.R. 2267, the *Home Health Care Planning Improvement Act*, will allow physician assistants (PAs), nurse practitioners (NPs), clinical nurse specialists and certified nurse midwives to order home health services for Medicare beneficiaries. More information on the bill can be found [here](#).

On June 22nd Senators Tom Carper (D-DE) and Tom Coburn (R-OK) introduced S. 1251, the *Medicare and Medicaid Fighting Fraud and Abuse to Save Taxpayer Dollars Act*. Also known as the FAST Act, this bill would enact stronger penalties for Medicare fraud, curb improper payments and establish stronger fraud and waste prevention strategies, curb the theft of physician identities, identify more Medicaid overpayments and improve fraud data sharing. More information about the bill can be found [here](#).

On June 23rd the Senate Finance Committee held a widely-publicized hearing on health care entitlements and how to create a more fiscally sustainable system moving forward. More information on that hearing can be found [here](#).

On June 23rd Reps. Jason Altmire (D-PA) and Pete Olson (R-TX) co-authored a letter with over 60 bipartisan Members of the House to object to a MedPAC proposal that they claim would hinder patient access to critical imaging services such as CT and MRI scans. The MedPAC recommendations came from its June report to Secretary Sebelius claiming that HHS should consolidate payments when multiple imaging procedures are performed on a patient during one visit.

On June 23rd Sens. Bob Casey (D-PA), Tom Harkin (D-IA), and Bernie Sanders (I-VT) introduced S. 2173, a bill that would amend the Fair Labor Standards Act to ensure that workers who provide direct care receive the minimum wage. These direct care workers are often those that provide medical care at home, a service seen as a key to savings in the health care system as a way to lower costly hospital admissions and other services.

On June 24th the State of Indiana filed a brief countering an argument the federal government made in support of Planned Parenthood. The state has been sparring with Planned Parenthood and the Obama administration over funding for the group and the Medicaid program. In its brief, Indiana refuted the Obama administration's claim that Medicaid patients have unlimited rights to choose medical providers. The brief can be found [here](#).

On June 27th Reps. Pete Sessions (R-TX) and Joe Crowley (D-NY) circulated a dear colleague letter asking Members to push back against the proposed rule for the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System. In that rule, CMS outlined lower payment rates to hospitals in 2012. The proposed rule can be found [here](#).