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## HEALTH CARE REFORM UPDATE March 19, 2013

### Leading the News – Budgets and the Continuing Resolution (CR)

On March 12<sup>th</sup> House Budget Committee Chairman Paul Ryan (R-WI) released his budget that calls for major spending cuts over the next 10 years to reduce the deficit. Most notably, the plan calls for the complete repeal of the Affordable Care Act (ACA). The House Republican plan would get about 70% of its spending cuts from health care programs. On March 13<sup>th</sup> the House Budget Committee approved the Ryan plan on a party-line 22 to 17 vote. An article on the Ryan budget can be read [here](#). The full Ryan budget can be viewed [here](#).

On March 13<sup>th</sup> Senate Budget Committee Chairwoman Patty Murray (D-WA) released the Senate Concurrent Resolution on the Budget for Fiscal Year 2014 which calls for \$275 billion in health care savings without reducing benefits. On March 14<sup>th</sup> the Senate Budget Committee passed the Murray budget by a vote of 12-10 with the support of all the Democrats and Independents on the Committee. An article on the Democratic budget can be read [here](#). A press release from Senator Murray's office and the full Senate Budget plan is available [here](#).

On March 13<sup>th</sup> Senate HELP Committee Chairman Tom Harkin (D-IA) offered an amendment to the Mikulski-Shelby bill, or the Senate Continuing Resolution, which is a substitute for the House-passed FY 13 Continuing Resolution to keep the government funded till September 30, 2013. The Harkin Amendment would have increased funding for the Department of Health and Human Services (HHS) in a number of areas. The National Institutes of Health (NIH), the Child Care and Development Block Grant, and Ryan White AIDS Drug Assistance Program would have seen significant increases in funding. On March 14<sup>th</sup> the Senate voted the Harkin Amendment down. The amendment, which needed 60 votes to pass, failed 54-45. A summary and the actual amendment can be viewed [here](#).

On March 13<sup>th</sup> the Senate voted along party lines, 52-45, to reject Senator Ted Cruz's (R-TX) amendment to the Senate CR to defund the ACA. The amendment was co-sponsored by 14 fellow Senate Republicans. Sen. Tom Harkin noted that it was the 34<sup>th</sup> attempt by the GOP to repeal the

ACA, with the vast majority of those coming in the House. An article on the failed amendment can be read [here](#).

### **Implementation of the Affordable Care Act**

On March 11<sup>th</sup> the Florida Senate Select Committee on the Patient Protection and Affordable Care Act voted 7-4 to reject the proposal of Medicaid expansion to cover 1 million more lower-income Floridians. The plan was championed by Governor Rick Scott (R). Republican senators suggested that they would instead entertain private insurance coverage expansion, which would lead to billions of dollars in federal financing. The full article can be read [here](#).

On March 11<sup>th</sup> Senate Minority Leader Mitch McConnell (R-KY) called for the repeal of ACA. He described the law as an expensive effort that has failed to control costs. The press release from Sen. McConnell's office can be read [here](#).

On March 12<sup>th</sup> HHS notified Kansas, Montana, Nebraska, and Ohio that they can work together in a federal-run exchange through the arrangement called "Marketplace Plan Management." Center for Consumer Information and Insurance Oversight (CCIIO) Director Gary Cohen told the states that they have the authority to support certification of exchange health plans. With the plan, the states will control all management activities and exchange plans but HHS will continue to monitor the plans for certification standards. The full article can be read [here](#).

On March 12<sup>th</sup> Maine Governor Paul LePage (R) announced that he is open to working out a deal with the federal government regarding Medicaid expansion. Gov. LePage, who attempted to fight the Centers for Medicare and Medicaid Services (CMS) to reduce Medicaid enrollment last year, emphasized his willingness to talk to HHS as long as the expansion can ensure Maine's return on investment. Gov. LePage made the announcement the same day that Democratic state lawmakers released a plan to pay back the \$484 million debt in Medicaid reimbursement Maine owed its hospitals. Gov. LePage iterated that the debt and Medicaid expansion issues must be kept separate and out of the press. The full article can be read [here](#). A press release from the Governor's office can be read [here](#).

On March 14<sup>th</sup> House Energy and Commerce Committee Chairman Fred Upton (R-MI), along with five fellow Republican leaders on the Committee, sent a letter to HHS Secretary Sebelius asking for an explanation of why the application to obtain health insurance could stretch as long as 21 pages. They are concerned that the application is too complex and some of the information is not easily available to most Americans. The letter can be viewed [here](#).

On March 14<sup>th</sup> the Idaho House approved legislation for an Idaho state-based insurance exchange. Governor Butch Otter (R) supported the legislation, which calls for \$30 million in federal grants to build an Idaho exchange. Though Gov. Otter voiced his support for the legislation, however, fewer than half of House Republicans voted for the legislation. Although the Idaho Senate has passed a similar bill, this version must still pass that chamber. An article on the vote can be read [here](#).

On March 14<sup>th</sup> the D.C. exchange board unanimously approved recommendations providing a two year transition plan for small businesses in the District's health insurance exchange planned to launch in 2014. The transition would give small businesses who offer insurance two years to enter the market, while new entrants and individuals would have to join the exchange immediately. The plans sold

outside the exchange still must meet ACA requirements. D.C. and Vermont are the only two places planning to consolidate the entire small-group and individual markets in its exchange. A press release from the D.C. Health Benefit Exchange Authority can be read [here](#).

On March 14<sup>th</sup> Texas Governor Rick Perry (R) sent a letter to the Texas congressional delegation urging them to support Rep. Paul Ryan's plan to turn Medicaid into a block grant program. Gov. Perry reiterated his opposition to Medicaid expansion under the ACA. The Texas Hospital Association has called for expansion considering the massive amount of federal funds that would go to the state. However, the Republican dominated legislature seems unlikely to approve any Medicaid expansion. An article on the situation can be read [here](#). The letter is available [here](#).

On March 15<sup>th</sup> Representative Greg Walden (R-OR), Chairman of the National Republican Congressional Committee (NRCC), filed a bill requiring insurers to list the details of how much in insurance premiums is going toward ACA taxes and fees. The legislation would require annual coverage summaries that itemize costs of the provisions and fees of the ACA. The full press release can be read [here](#). The bill can be viewed [here](#).

On March 15<sup>th</sup> a federal judge threw out a Freedom Watch's lawsuit accusing President Obama of violating a federal transparency law as he created the ACA. U.S. District Court Judge Richard Roberts said that the Obama administration lawyers sufficiently explained that the meetings President Obama held in order to get outside advice and support for ACA did not lead to a formal committee that would violate parts of the *Federal Advisory Committee Act*. The transparency lawsuit was thrown out after three years of battles between the Obama administration and conservative opponents of the ACA. The ruling can be read [here](#). The story can be read [here](#).

On March 15<sup>th</sup> a district court judge granted an injunction for the founder of Domino's Pizza, Tom Monaghan, against the ACA's contraceptive coverage mandate. The court granted the injunction to Tom Monaghan's property management company, Domino's Farm Corp., which is not associated with the pizza company. Domino's Farm Corp's law suit is one of the 50 suits against the policy. The injunction was granted on the basis that the mandate violated Monaghan's religious beliefs. An article on the injunction can be read [here](#). The injunction is available [here](#).

### **Other Congressional and State Initiatives**

On March 11<sup>th</sup> the Florida House Subcommittee on Civil Justice passed a bill that would expand Florida's medical malpractice laws, adopt legal standards used in other states, and shield hospitals and doctors from lawsuits under certain conditions. The bill intends to grapple with increasing medical malpractice liability problems. Decreased federal funding from Medicare and Medicaid and the fear of doctor shortages have led to confrontation over the future of medical liability in Florida. The full article can be read [here](#).

On March 12<sup>th</sup> the New York State Psychiatric Association (NYSPA) filed a class-action lawsuit under the *Mental Health Parity and Addiction Equity Act of 2008*. The lawsuit alleges that UnitedHealth Group has violated the law by denying mental health services and violating the ACA's appeal requirements. The class-action suit represents the continuous battle between mental health advocates, President Obama's Administration, and health insurers over the final rules of the mental health parity law. The full article can be read [here](#). The lawsuit can be read [here](#).

On March 12<sup>th</sup> the Obama Administration announced that the President has made his last picks to the Commission on Long-Term Care. The commission was created after the January fiscal cliff deal. The now full 15-member commission has six months to plan for a system that provides quality long-term care services to those who need it. President Obama chose Henry Claypool, executive VP of the American Association of People with Disabilities, Julian Harris, the Massachusetts Medicaid director, and Carol Raphael, vice chairwoman of the AARP board of directors, Diana Shaw Clark, Appointee for Member, United States Holocaust Memorial Council, and Greg A. Rosenbaum, Appointee for Member, United States Holocaust Memorial Council as his last members. The press release from the White House is available [here](#).

On March 14<sup>th</sup> Senate Finance Committee Ranking Member Orrin Hatch (R-UT) urged President Obama to work with Congress to find bipartisan solutions to reform the nation's entitlement programs to put the nation on a sound fiscal course. In a letter to the President, Sen. Hatch outlined five bipartisan structural reforms to the Medicare and Medicaid programs that he put forward earlier this year. A press release from Sen. Hatch's office can be found [here](#). A summary of Sen. Hatch's reforms to Medicare and Medicaid can be viewed [here](#). The actual letter is available [here](#).

On March 15<sup>th</sup> Representatives Bill Cassidy (R-LA) and John Barrow (D-GA) along with a bipartisan group of 93 House members urged CMS to reconsider recent cuts in Medicare Advantage (MA) payments. In the letter, the Congressmen criticized CMS' proposal of new risk adjustments. The letter also questions CMS' assumption that the 2014 Sustainable Growth Rate (SGR) cuts will go into effect. The cuts, according to the letter, will leave many seniors with fewer benefits and higher costs. A press release from Rep. Barrow's office can be viewed [here](#). The letter is available [here](#).

On March 15<sup>th</sup> Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch joined their House colleagues in voicing their concerns in a letter to CMS about the agency's proposed rules for MA payment rates. The letter questions CMS for not giving insurers enough notice on the changes to the star rating calculation. The Senators also criticize CMS for assuming that cuts to SGR would not be blocked. The letter calls for CMS to delay changes until it considers all effects of the cuts and changes. The letter can be read [here](#).

On March 15<sup>th</sup> the North Dakota Senate approved a bill that would ban most abortions after a heartbeat is detected. The heartbeat usually occurs six weeks into pregnancy. The controversial bill, which if signed into law would be the earliest abortion ban in the nation, now goes to Governor Jack Dalrymple (R). The bill goes to the Governor along with another piece of legislation that prohibits sex-selective abortions or abortions because of a diagnosed genetic abnormality. An article on both bills can be found [here](#).

### **Other HHS and Federal Regulatory Initiatives**

On March 13<sup>th</sup> CMS released an administrative ruling and a proposed rule that will allow hospitals to be reimbursed for some claims after auditors determine that inpatient care should have been provided in an outpatient manner. The rule comes after the American Hospital Association and four hospitals sued CMS last fall in an attempt to recover claims on that basis. The CMS rule emphasizes the need to address similar issues revealed by the Medicare Appeals Council and administrative law judges. The

agency ruling, in effect March 13<sup>th</sup>, will continue until the final proposed rule is completed. The administrative ruling can be read [here](#). The proposed rule can be read [here](#).

On March 14<sup>th</sup> the Food and Drug Administrations' (FDA) Drug Review Chief Janet Woodcock announced that Greg Geba, the Director of FDA's Office of Generic Drugs, will step down effective immediately. Geba opposed the transfer of the generic drug office's Chemistry, Manufacturing and Controls function into the new Office of Pharmaceutical Quality. His resignation represents another in a string of high level departures from the FDA. Drug review Chief Janet Woodcock will take over his job at the agency for now. An article on the resignation can be read [here](#).

On May 15<sup>th</sup> the Medicare Payment Advisory Commission (MedPAC) released its annual report of payment recommendations to Congress. The report considers the context of Medicare in terms of budget spending and national GDP. The recommendations include cutting payments to skilled nursing facilities (SNFs) and home health agencies (HHAs), rethinking hospice payment, and freezing payments for ambulatory surgical centers (ASCs), long term care hospitals, and others. The full report can be read [here](#). The story can be read [here](#).

### **Other Health Care News**

On March 11<sup>th</sup> Accenture released a survey of over 3,700 doctors around the world on their views on electronic health records (EHRs). While a great majority of U.S. doctors supported patient updates of EHRs, most did not support updates beyond demographics, medical histories, and allergies and medications. Only a quarter of doctors supported a patient's ability to update symptoms, side effects, and new medications. The key point from the survey is the increasing openness of doctors to patient altered records. An article on the survey can be found [here](#). The actual survey is available [here](#).

On March 11<sup>th</sup> the Robert Wood Johnson Foundation released a blog about a recent study which found that obese drivers are up to 78% more likely to be killed in car crashes than those who are not obese. The study found that people with a Body Mass Index (BMI) over 30 faced a significantly higher risk of death in a car accident even with the seat belt and airbag deployed. An article on the findings of the study can be read [here](#).

On March 12<sup>th</sup> the American Coalition for Healthcare Claims Integrity called on Congress not to pass legislation that would hurt programs that have targeted health care fraud and waste. The Coalition emphasized the over \$10.7 billion recovered in improper Medicare and Medicaid payments since 2009. The press release can be read [here](#).

On March 14<sup>th</sup> Altarum's Health Sector Economic Indicators released a report that showed that health prices grew only 1.5% in the past year, the lowest growth in 15 years. January 2013 health prices showed an only 1.5% jump from January 2012, the smallest growth since December 1997. Altarum also revealed that the current 12-month moving average of 2% is the lowest since November of 1998. The full report can be read [here](#).

On March 14<sup>th</sup> a New York appellate court announced it would hear the city's challenge to the invalidation of large sugary drink ban championed by Mayor Michael Bloomberg. The mid-level appeals court will take the case in early June, but the court battles seem destined to drag on for much longer. The ban was invalidated on Monday and the eventual court decision on the invalidation may

continue past Mayor Bloomberg's departure from office at the end of this year. The full article can be read [here](#).

### **Hearings and Mark-Ups Scheduled**

#### *House of Representatives*

On March 18<sup>th</sup> the House Energy & Commerce's Health Subcommittee held a hearing titled "Saving Seniors and Our Most Vulnerable Citizens from an Entitlement Crisis." More information can be found [here](#).

On March 19<sup>th</sup> the House Energy & Commerce's Subcommittee on Communications and Technology will hold a hearing titled the "Health Information Technologies: Harnessing Wireless Innovation." More information can be found [here](#).

On March 20<sup>th</sup> the House Energy & Commerce's Subcommittee on Health will conduct a hearing titled "Health Information Technologies: How Innovation Benefits Patients." More details can be found [here](#).

On March 21<sup>st</sup> the House Energy & Commerce's Subcommittee on Oversight and Investigations will hold a hearing titled "Health Information Technologies: Administration Perspectives on Innovation and Regulation." More information can be found [here](#).

#### *Senate*

On March 20<sup>th</sup> the Senate Finance Committee will hold a hearing titled "Updating Medicare and Medicaid Delivery System." More information can be found [here](#).

On March 20<sup>th</sup> the Senate Veterans' Affairs Committee will hold a hearing titled "Mental Health Care for Veterans: Ensuring Timely Access to High-Quality Care." More information can be found [here](#).