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Jeremy Rabinovitz, JRabinovitz@mlstrategies.com
Alexander Hecht, AHecht@mlstrategies.com
Joseph P. Hammang, PhD, JPHammang@mlstrategies.com

Follow us on Twitter @MLStrategies

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

HEALTH CARE REFORM UPDATE

April 29, 2013

Implementation of the Affordable Care Act

On April 24th Senator Tom Harkin (D-IA) put a hold on the nomination of Marilyn Tavenner to be Administrator at the Centers for Medicare and Medicaid Services (CMS). A spokeswoman for Senator Harkin highlighted concerns with the Obama Administration's transfer of resources from the Public Health and Prevention Fund to pay for implementation of the ACA. The Senate Finance Committee had advanced Tavenner's nomination on a unanimous voice vote. A report on the Senator's block on Tavenner is available [here](#).

On April 24th the House Energy and Commerce Oversight and Investigation Subcommittee held a hearing on the role of the Center for Consumer Information and Insurance Oversight (CCIIO) in the implementation of the ACA. Republicans on the Subcommittee expressed skepticism that the health insurance exchanges will be operational in several months, while Democratic members focused on issues surrounding the Pre-Existing Condition Insurance Plan (PCIP). An archived webcast and testimony from the hearing can be found [here](#).

On April 24th Republicans on the House Veterans' Affairs Committee questioned whether the Department of Veterans Affairs (VA) will be prepared for an influx of new veterans seeking benefits under the ACA. Undersecretary for Health Robert Petzel said veterans will need to determine if they want services provided by the VA or tax credits through the insurance exchanges. Representative Dan Benishek (R-MI) said the VA could have major problems with an unexpected increase in people looking for benefits. An article on the Republican concerns can be read [here](#).

On April 24th *Politico* reported that Congress is looking for ways to exempt members and aides from the coverage provisions within the ACA. The article suggests that the federal government may not be able to provide a coverage subsidy to staffers who are covered by the exchange. The article can be read [here](#). The *Washington Post's* Ezra Klein reported on April 25th that no such exemption would occur. Klein writes that the federal government will ultimately provide a subsidy to aides, although the ACA does not address premium contributions for large employers. Klein's article can be read [here](#).

On April 24th House Republican leaders halted a vote on providing more funds to the Pre-Existing Condition Insurance Plan (PCIP), a component of the ACA. House Majority Leader Eric Cantor pushed for passage of the “Helping Sick Americans Now Act,” which would have moved money from the ACA’s prevention fund, but Republican opponents said the measure would simply move funds from one part of the ACA to another. An article on the postponed vote is available [here](#).

On April 25th Internal Revenue Service (IRS) Acting Commissioner Steven Miller testified before the House Ways and Means Oversight Subcommittee and discussed the 2,000 additional employees requested by the IRS to implement the ACA. Miller said that most additional employees would provide phone assistance to taxpayers confused about the law. Other employees would support IT related to the ACA. The testimony from Miller is available [here](#).

On April 25th HHS Secretary Sebelius testified before the House Appropriations Labor, Health and Human Services, and Education Subcommittee. Secretary Sebelius said that President Obama has issued requests for leaders from both parties in the House and Senate to submit recommendations for the Independent Payment Advisory Board (IPAB). The secretary’s testimony and an archived webcast of the hearing are available [here](#).

Other HHS and Federal Regulatory Initiatives

On April 23rd CMS indicated it will pay Pioneer Accountable Care Organizations (ACOs) based on performance models beginning in 2013. In February, the Pioneer ACOs wrote that the pay-for-performance model should be delayed until 2014. Rather than using flat percentages for payment, CMS indicated it will use empirically set quality benchmarks that the ACOs requested. The letter from CMS is available [here](#).

On April 24th CMS released a proposed rule that would provide increased rewards for people who provide information to the government about Medicare fraud. Under the proposal, individuals providing specific information leading to the recovery of federal funds would be eligible to receive a reward of 15 percent of the amount recovered, up to \$9.9 million. Under current law, individuals may receive rewards of 10 percent, up to \$1,000, for information. A release from CMS is available [here](#). The rule can be read [here](#).

On April 24th the Food and Drug Administration indicated that it will test a device that could be used to identify counterfeit drugs. The device will first be used in Ghana to examine malaria medicines. The CD-3 device uses light wavelengths to compare authentic packaging with counterfeit drug packages. More information on the device is available [here](#).

On April 26th CMS released its Inpatient Prospective Payment System (IPPS), which would raise the payments to hospitals by 0.8 percent for services elderly and disabled patients receive after admittance. The proposed increase, which is effective October 1st, would increase government spending for hospital care by \$53 million next year. The proposed rule can be read [here](#).

Other Congressional and State Initiatives

On April 18th the National Association of Medicaid Directors (NAMDM) sent a letter to the Senate HELP Committee with recommendations on how to improve the care received by individuals with

mental health issues. NAMD argues for a prospective payment system (PPS) and writes that Congress must examine the issues for individuals who are currently on Medicaid and will transfer to Qualified Health Plans (QHPs) under the ACA. The letter is available [here](#).

On April 19th the Senate Health, Education, Workforce, and Pensions Committee released a discussion draft of a bill to establish a national tracking system within the pharmaceutical distribution supply chain. The draft proposes a database for wholesale distributors and strengthened licensing requirements. The discussion draft can be viewed [here](#).

On April 23rd Senator Chuck Grassley (R-IA) issued a statement on the timeline of a decision by CMS to increase Medicaid Advantage rates. Senator Grassley says CMS first knew that it would raise rates when it decided to assume a fix to the sustainable growth rate (SGR) on March 15th. Health care insurance stocks rose sharply just a half hour before CMS publicly released information on MA rates on April 1st. The statement from Senator Grassley is available [here](#).

On April 25th, the House Energy and Commerce Subcommittee on Health held a hearing to discuss a discussion draft proposed by Representatives Bob Latta (R-OH) and Jim Matheson (D-UT) to create national standards for protecting the prescription drug supply chain. Speaking at the Subcommittee hearing, Chairman of the full Committee, Representative Fred Upton (R-MI), pledged to schedule a markup of the legislation in May with the goal of having legislation on the President's desk by August. The discussion draft can be found [here](#). An archived webcast and additional information can be viewed [here](#).

On April 25th Representative Louise Slaughter (D-NY) sent a letter to Greenberg Traurig that requests the lobbying firm to provide information on all of the organization's relationships with political intelligence firms. Information relayed by Greenberg Traurig to the political intelligence firm Height Analytics resulted in a dramatic spike in the stocks of health insurance companies near the end of trading on April 1st. The letter from Rep. Slaughter can be read [here](#).

On April 26th the Senate HELP Committee released a draft bill to provide the Food and Drug Administration (FDA) with increased regulatory power over compounding pharmacies. The draft, released by Chairman Tom Harkin (D-IA) and Ranking Member Lamar Alexander (R-TN), mandates that large compounding pharmacies register with the FDA, pay an annual fee, and label their products as compounded drugs. The draft is available [here](#).

Other Health Care News

On April 22nd the Kaiser Family Foundation (KFF) released a report analyzing the slowdown in health care spending. The report notes that health spending grew 3.9% each year from 2009 to 2011. In 2012, health care spending increased by 4.3%. The report suggests that most of the slowdown is due to economic factors. The report is available [here](#).

On April 23rd the Patient-Centered Outcomes Research Institute (PCORI) announced plans to provide \$68 million for the development and support of a National Patient-Centered Clinical Research Network. The network will support PCORI's goal to improve clinical effectiveness research (CER). The announcement from PCORI is available [here](#).

On April 24th the American Heart Association (AHA) released a report on the cost of heart failure to U.S. taxpayers. The report suggests that the costs of heart failure will increase from \$31 billion in 2012 to \$70 billion by 2030, when the average taxpayer will pay about \$250 annually to cover heart failure care. The report from the AHA can be found [here](#).

On April 25th 100 cancer experts wrote an article in the journal *Blood* that suggests drug costs for chronic myeloid leukemia are too expensive. The article suggests that a principle of fair value should apply to cancer drugs that are necessary to save lives. Several cancer drugs cost more than \$100,000 per year. The report can be read [here](#).

Hearings and Mark-Ups Scheduled

The House of Representatives and Senate are scheduled to return from a recess on May 6th.