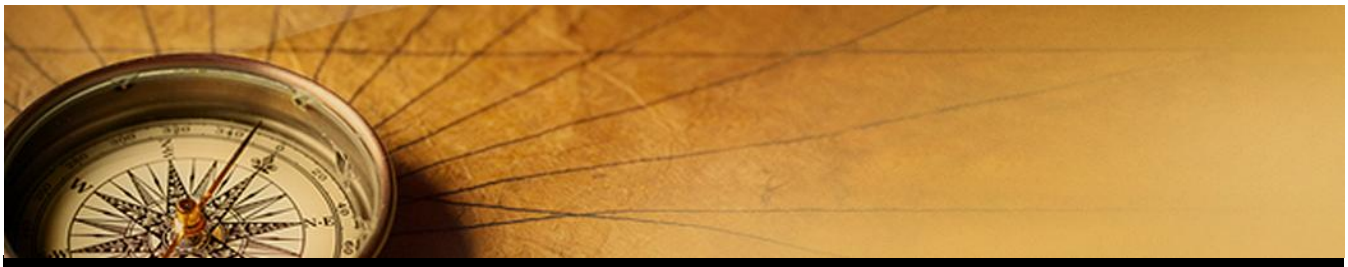

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HEALTH CARE REFORM UPDATE
January 17, 2012

Implementation of the Affordable Care Act (ACA)

On January 9th HHS deemed the medical-loss ratio (MLR) applications of Wisconsin and North Carolina complete, a designation that begins a 30-day review process on behalf of the agency. More information on the MLR applications of those states can be found here.

On January 12th HHS announced it had determined that Trustmark Life Insurance Company has proposed unreasonable health insurance premium increases in five states. HHS made the determination with its new "rate review" authority from the ACA. An HHS news release can be found here.

On January 13th several House and Senate Republican leaders sent a letter to HHS Secretary Kathleen Sebelius criticizing the agency for issuing its Essential Health Benefits Package guidelines as a "bulletin" rather than via the normal rulemaking process, thus sidestepping the requirement to publish a cost benefit analysis. The letter can be found here.

Other HHS and Federal Regulatory Initiatives

On January 9th CMS released its annual report on national health expenditures. The report found that national health care spending rose only 3.9 percent in 2010—making 2009 and 2010 the slowest growth years since the government began collecting data in 1960. Spending on Medicare and Medicaid grew more than private spending. A press release can be found here.

On January 9th the Government Accountability Office (GAO) released to the public a report finding that the new model used to calculate reimbursement for Medicare Advantage plans was substantially more accurate than the previous one. The GAO report can be found here.

On January 10th CMS's Health IT Policy Committee announced at its monthly meeting that CMS issued over $2.5 billion in EHR incentive payments in 2011. The analysis can be found here.

On January 10th the HHS Office of the Inspector General released a report claiming that, due to "irregularities in the sales data provided by [drug] distributors and manufacturers," it was unable to accurately determine the widely available market price (WAMP) of certain drugs and thus unable to accurately calculate the price that Medicare should pay for those drugs. The report can be found here.

On January 11th the Agency for Healthcare Research and Quality (AHRQ) released a report finding that, in 2008, one percent of the population accounted for 20.2 percent of total health care expenditures. This represents a drop from 1994, when the top one percent accounted for 28 percent of expenditures. The report also indicates that the top one percent is not a static group—with only 20% of the top spenders in 2008 also being top spenders in 2009. The report can be found here.

On January 11th AHRQ posted on its website a "decision-maker brief" and a white paper with policy recommendations for successfully implementing a patient-centered medical home. The resources can be found here.

On January 13th the FDA forwarded language to leaders on Capitol Hill to reauthorize user fee agreements between the brand-name, generic, and biosimilar drug industries that are set to expire on October 1, 2012. A press release from the FDA can be found here. The day before, the House Energy & Commerce Subcommittee on Health scheduled hearings on the reauthorization of the user fee acts to be held over the month of February. More information can be found here.

Other Congressional and State Initiatives

On January 10th the CBO released a report finding that raising the Medicare eligibility age from 65 to 67 would result in a five percent decrease in Medicare spending, saving the federal government $148 billion from 2012 to 2016. Seniors in the age group would face higher premiums on the private market than they would through Medicare, and some would likely remain uninsured. The report can be found here.

Other Health Care News

On January 10th the Association for Community Affiliated Plans released a paper outlining a proposal, to improve care for dual eligibles—individuals eligible for both Medicare and Medicaid. The program, called the "Very Integrated Program," would allow states to "choose qualified health plans to provide highly integrated care services for dual eligibles under a framework of beneficiary protections and standards for financial integrity set by the Federal government." The proposal can be found here.

On January 10th Aetna announced that employers that switched from traditional health plans to Aetna's consumer-directed plans saved an average of over $2,000 per member over a five-year period, while members received more preventive care. The press release can be found here.

On January 10th the Employee Benefits Research Institute released a study finding that the ACA provision requiring group health plans make coverage of dependent children available until age 26 has increased the number of adults aged 19-25 who have health insurance. The percentage of uninsured young adults fell from the 33.9 percent in 2010 to 28.8 percent during the first half of 2011, though the authors caution that not all of this decrease is due to the ACA provision. A press release can be found here.

On January 11th the National Hospice and Palliative Care Organization released its annual report, "Facts and Figures: Hospice Care in America," which provides statistics about who is utilizing hospice care, who is providing it, and how it is being paid for. The report finds that the number of patients using hospice remained constant from 2009 to 2010, but the average length of hospice service dropped slightly. The report can be found here.

On January 12th the Robert Wood Johnson Foundation published a report predicting the effects of a Supreme Court ruling striking down the individual mandate. The report finds that, without the mandate, but with the rest of reform intact, individual premiums would increase by 10 to 25 percent, 40 million would remain uninsured (as opposed to 26 million under the mandate), and uncompensated care spending would be much higher. The

report can be found here.

Several briefs were filed with the Supreme Court in the health reform lawsuit last week. On January 10th the twenty-six states in the suit filed a brief arguing that the Medicaid expansion in the ACA is unconstitutionally coercive on the states. The states' brief can be found here. In addition, several amicus briefs were filed by various parties, including a brief from over 500 state legislators from all fifty states arguing that the minimum coverage provision of the act is constitutional. The legislators' brief can be found here. A list of amicus briefs addressing the issue of severability can be found here. A list of briefs addressing the constitutionality of the minimum coverage provision can be found here.

Hearings & Mark-ups Scheduled

There are no hearings in relevant Committees scheduled for this week.