



ML Strategies Update

Jeremy Rabinovitz, JRabinovitz@mlstrategies.com
Joseph P. Hammang, PhD, JPHammang@mlstrategies.com
Alexander Hecht, AHecht@mlstrategies.com
Andrew Shin, AJShin@mlstrategies.com
Abby Matousek, AMatousek@mlstrategies.com
Sam Rothbloom, SRothbloom@mlstrategies.com

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

FOLLOW US ON TWITTER: [@MLStrategies](https://twitter.com/MLStrategies)

SEPTEMBER 8, 2014

Health Care Update

- **HealthCare.gov Hacking Breach:** Last week, the Centers for Medicare and Medicaid Services (CMS) announced that hackers had breached HealthCare.gov in July. While malware was apparently uploaded to the website, an investigation found no signs that consumers' personal data was compromised as part of the breach.

In a statement, the Department of Health and Human Services (HHS) said that its review "indicates that the server did not contain consumer personal information; data was not transmitted outside the agency, and the website was not specifically targeted." And further, that the agency has "taken measures to strengthen security." Several Republican members of Congress were vocal in their concern about the breach. For example, Senator Orrin Hatch (R-UT), Ranking Member on the Senate Finance Committee, said that despite "numerous warnings from myself and other lawmakers that security breaches were possible, HealthCare.gov underwent virtually no independent security testing." Democrats also [weighed in](#)—including Senator Tom Carper (D-DE), Chairman of the Senate Homeland Security and Governmental Affairs Committee, who called the breach, "deeply troubling."

Announcement of the breach came the same week as the White House appointment of Megan Smith, formerly Vice President of Google[x], to serve as the head U.S. Technology Officer, and Alex Macgillivray, formerly general counsel for Twitter, to serve as her deputy. The appointments may show a new focus on strengthening internet policy and government data security.

ML Strategies has expertise in the health care, technology, and data spaces. More information on ML Strategies' experience in health care can be found [here](#) and our capabilities in the technology space are [here](#).

Implementation of the Affordable Care Act

HHS Rule on 2nd Enrollment Period for ACA: With the second open enrollment season of the Affordable Care Act (ACA) two months away, HHS released a final [rule](#) on eligibility and re-enrollment criteria. The rule outlines options for annual eligibility redeterminations and lists re-enrollment notice requirements for qualified health plans offered through the exchange. The rule permits states to tailor their exchange's set-up to their needs in order to streamline registration for consumers.

CMS Reveals Plan for Reenrollment: CMS [finalized](#) the blueprint of a re-enrollment program that will automatically renew health care plans for people who obtained coverage through HealthCare.gov and who will not renew their plans by November 15th. If this policy goes into effect, then 5 million Americans who registered for 2014 coverage will have a month after the second enrollment season begins to update their information on Healthcare.gov and to elect to either keep their plan or pick a new one. Otherwise, the exchanges will make those choices for them.

CMS Actuary Predicts Spending, Uninsured Levels: According to a [report](#) released by the CMS Office of the Actuary, the number of uninsured Americans is expected to fall from 45 million in 2012 to 23 million by 2023 as a result of the ACA. In addition, the Actuary estimates that health spending for 2013 is projected to remain slow at 3.6 percent while average annual growth of 6.0 percent per year is projected for 2015 through 2023.

White House Announces U.S. Digital Service: The White House [announced](#) a new U.S. Digital Service team as part of an effort to avoid the issues that plagued the rollout of HealthCare.gov. The U.S. Digital Service "will be a small team made up of our country's brightest digital talent that will work with agencies to remove barriers to exceptional service delivery and help remake the digital experience that people and businesses have with their government."

Tavener Speaks on ACA Goals: Speaking at a meeting of the [National Institute for Health Care Management Foundation](#), CMS Administrator Marilyn Tavener said that the agency is planning to build "more options for consumers, educating them about those options, and helping both first-time and newly insured consumers learn about the benefits, the eligibility requirements and their financial protections."

Appeals Court Rehearing ACA Case: The U.S. Court of Appeals for the District of Columbia Circuit [announced](#) that it would rehear *Halbig v. Burwell*. In July, a court rules that subsidies under the ACA are only available in state run exchanges, not federal.

Other Federal Regulatory Initiatives

HHS Announces New Staff: HHS Secretary Sylvia Burwell [announced](#) that Kevin Thurm will be Senior Counselor at HHS. Thurm, previously with Citigroup, "will work closely with the Department's senior staff on a wide range of cross-cutting strategic initiatives, key policy challenges, and engagement with external partners." In addition, Burwell [announced](#) that HHS Chief of Staff Andrea Palm will be promoted to a Senior Counselor, "in order to further strengthen the HHS management team and help the agency fulfill its mission to better serve the American people."

SAMHSA Reports on Scope of Substance Abuse: In a [report](#) released on the 25th anniversary of National Recovery Month, the Substance Abuse and Mental Health Services Administration (SAMHSA) provided updated data on the scope and nature of substance abuse and mental illness. In general, the report shows that 24.6 million Americans aged 12 or older were current (past month) illicit drug users.

New Rule from CMS on EHR Timeline: CMS issued a [rule](#) to permit 2011-certified EHRs, or a combination of 2011- and 2014-certified EHR technology, for the 2014 EHR reporting period. The rule also extends Stage 2 through 2016 for certain providers and sets the start of the Stage 3 timeline in 2017 for providers who began the program in 2011 or 2012.

HHS Gives Grants to Combat Infant Mortality, Pregnancy Complications: Secretary Burwell [awarded](#) 87 organizations across the country \$65 million to lower infant mortality rates and help mothers battle health problems caused by pregnancy. The grants are from Healthy Start, a program within HHS that aids vulnerable mothers and infants in communities plagued by high rates of infant mortality.

Burwell Lauds CVS for Becoming Tobacco-Free: Secretary Burwell [praised](#) CVS Health for stopping the sale of tobacco products at all its stores. CVS officially became tobacco-free on Wednesday, beating its expected date of October 1st.

FAQ on Medicare Benefit Coordination: CMS [released](#) information and FAQ responses for Medicaid beneficiaries who obtain additional coverage through a third party.

ONC Survey on EHR Quality: The Office of the National Coordinator for Health IT (ONC) released a report on the impact on health quality and patient safety of the expanded use of EHRs. The survey found that 70 percent of physicians believed their EHR system helped support their diagnosis while 40 percent of physicians felt EHR systems lead to less effective communication with patients.

Other Congressional and State Initiatives

Democrats Prod FTC on Food Marketing: Five Democrats, led by Senator Tom Harkin (D-IA) and Representative Rosa DeLauro (D-CT), wrote to the Federal Trade Commission (FTC) requesting the agency conduct a follow up report on marketing expenditures directed to children.

Sen. Sanders on CHC Funding: Senator Bernie Sanders (I-VT) warned that Congress needs to renew support for community health centers. Sanders, Chairman of the Senate Health, Education, Labor, and Pensions Subcommittee on Primary Care, has introduced legislation to authorize \$25 billion over five years in new funding for health centers.

Telehealth Bill Gets Nurses' Endorsement: The National Council of State Boards of Nursing (NCSBN) announced its support for the Medicare Telehealth Parity Act (H.R. 5380). The bill, introduced by Representative Mike Thompson (D-CA) would provide for a phased-in expansion of telehealth coverage under the Medicare program. The group still supports adoption of its interstate compact for nurse licensing above a national model.

21st Century Cures Roundtable in PA: At a roundtable hosted by Health Subcommittee Chairman Joe Pitts (R-PA) to share ideas and support for the Committee's 21st Century Cures Initiative, NIH Director Dr. Francis Collins said he expects "something good to come out of this."

Other Health Care News

FSMB Releases Final Licensure Compact: The Federation of State Medical Boards (FSMB) released the [final version](#) of its model legislation to craft an interstate medical licensure compact. The measure provides a process for expedited licensing for physicians hoping to practice in multiple states.

Health Care "Uberization:" A [blog post](#) by the American College of Physicians compares the growing number of telehealth services to the Uber rideshare app—in that they "bring consultations by physicians to patients via their smart phones, on demand, wherever and whenever they request them."

Obesity Rates Steady Across County: Every state failed to reduce adult obesity rates in 2013, according to an annual obesity progress [report](#) released by Trust for America's Health and the Robert Wood Johnson Foundation. Despite this finding, in only six states -- Arkansas, Delaware, Idaho, New Jersey, Tennessee and Wyoming -- did obesity rates increase. The authors of the report conclude that obesity rates have stagnated after doubling over the last twenty years.

Upcoming Congressional Hearings and Markups

Senate

No relevant hearings.

House

On Tuesday, September 9th, the House Energy and Commerce Subcommittee on Health will hold a [hearing](#) titled, "21st Century Cures: Examining the Regulation of Laboratory Developed Tests."

On Wednesday, September 10th, the House Energy and Commerce Subcommittee on Health will hold a 21st Century Cures [Roundtable](#) about opportunities to accelerate the discovery, development, and delivery of new cures and treatments.

On Wednesday, September 10th, the House Ways and Means Subcommittee on Health will hold a [hearing](#) to hear testimony on the Administration's implementation and oversight of the Affordable Care Act.

On Thursday, September 11th, the House Energy and Commerce Subcommittee on Health will hold a [hearing](#) to review legislation to improve the training of health providers to better identify victims of human trafficking.

* * *

Boston · Washington www.mlstrategies.com
