



## Health Policy Briefing

October 13, 2014

### Federal Government Steps Up Efforts on Ebola; Obamacare Open Season Begins

#### *Ebola Crisis Measures Instituted*

Despite the death from Ebola of one airline traveler from Liberia to Texas, the White House announced that the Administration will not take steps to curtail travel from countries with Ebola outbreaks. Nonetheless, **Senator Chuck Schumer (D-NY)** praised the Border and Customs Service and the Centers for Disease Control and Prevention (CDC) for the steps they said they will take to monitor the temperatures of travelers from Liberia, Guinea and Sierra Leone and make them fill out detailed questionnaires when they enter New York’s JFK International, Washington-Dulles, Newark Liberty, Chicago-O’Hare and the Atlanta international airports. The 3,742 reported deaths from the disease have spurred several Republican members to call for further action, including a travel ban from the affected countries. The seriousness of the situation and the Administration’s release of requested information also led the House Appropriations Defense Subcommittee and the House Armed Services Committee to approve \$750 million of the Administration’s \$1 billion request for a reprogramming of existing appropriations in the Department of Defense (DoD) budget. At least \$750 million of the request has been given final approval given that the Senate Appropriations Committee has approved all \$1 billion of the requested funds and the Senate Armed Services Committee has released its hold on the request.

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## PPACA Health Reform Update

### *“Open Season” on PPACA in More Ways than One*

As the federal and state-run health insurance exchanges prepare to open their portals on November 15th for the enrollment of individuals for 2015, U.S. Department of Health and Human Services (HHS) Secretary Sylvia Mathews Burwell said the Administration is focusing efforts on reducing the number of uninsured and that the “experience will be better” for consumers on HealthCare.gov. In this regard, HHS released a simplified application for new enrollees which reduced the number of computer screens users fill in from 76 to as few as 16. However, individuals will not be given information on the providers and networks that are covered under individual plans. The Centers for Medicare and Medicaid Services (CMS) also gave notice that individuals whose health insurance was canceled for being non-compliant with the law will continue to be eligible to enroll in catastrophic coverage for plan years beginning on or before Oct. 1, 2016. Even if the Administration’s efforts to encourage coverage prove successful, it is estimated that almost 20 million of the nation’s 30-40 million uninsured may qualify for one or more of the exemptions to the individual mandate and decide to remain uncovered. Republicans continue their efforts as well, in this case to undo all or parts of the law. Led by Senator Marco Rubio (R-FL) and thirteen other Senate Republicans, they sent a letter to House Speaker John Boehner (R-OH) asking for the House to deny appropriations for the Patient Protection and Affordable Care Act’s (PPACA) risk corridor program after the Government Accountability Office (GAO) said that the Administration needs a congressional appropriation to use taxpayer dollars to cover insurance company losses in 2015. A decision on this issue and on the level, length and timing of further appropriations for fiscal year (FY) 2015 will have to occur before federal funding provided through the current Continuing Resolution (CR) expires on December 12th. Republicans were given additional fodder to attack the “affordability” of health insurance under Obamacare when the GAO released more information on the cost of premiums in the individual market in January 2013, thus allowing for a “before and after” the law comparison of premium costs.

### *Administration Contests Need for Supreme Court Review of PPACA Challenge*

The Department of Justice filed a brief with the Supreme Court arguing against a review by the court of the lower court decisions as to the validity of the Internal Revenue Service (IRS) regulation allowing PPACA subsidies/tax credits to be made to individuals who enroll in health insurance plans under HealthCare.gov in states that do not set up their own exchanges. The brief said the review was not ripe given that the *Halbig v. Burwell* decision in favor of the plaintiffs has been vacated pending an en banc appeal by the DC Circuit Court and the decision by the U.S. Court of Appeals for the Fourth Circuit in favor of the federal government was correct.

## Medicare/Medicaid/PHSA Corner

### *New Rules for HHA Participation in Medicare/Medicaid*

CMS released a proposed rule which would require home health agencies (HHAs) to meet four new conditions in order for them to participate in the Medicare and Medicaid programs. In general, the conditions focus on the care delivered to patients, reflect an interdisciplinary view of patient care, allow HHAs greater flexibility in meeting quality care standards and eliminate unnecessary procedural requirements. Comments are due by December 8th.

### *Potential Delay in EHR Effective Dates*

CMS said that the agency intends to issue a proposal which would delay the date certain hospitals and physicians have to meet meaningful use standards for electronic health records (EHR). The proposal would reopen the hardship exception application for such entities which have been unable to fully implement the 2014 edition of certified EHR technology due to delays in its availability, as well as to those that couldn’t meet earlier deadlines using certain flexibility options.

**Medicare/Medicaid/PHSA Corner cont.*****Changes to Nursing Home Five-Star Rating System***

**C**MS announced that it is instituting significant changes to the Nursing Home Compare website that, beginning in January, will phase-in a new system that will increase accuracy, improve the timeliness of the data shown and allow for the calculation of quality measures for staff turnover, retention, types of staffing and the levels of different types of staffing. The changes are being made pursuant to the Improving Medicare Post-Acute Care Transformation Act (or IMPACT ACT) that will require providers to submit standardized data by 2019 to allow for the comparison of quality measures across different post-acute care settings.

***Medicare Part B Premium/Deductible  
Unchanged in 2015***

**C**MS gave notice that the Medicare Part B monthly premium (\$104.90) and annual deductible (\$147) will remain the same in 2015 as in 2014. However, for skilled nursing facilities the daily coinsurance for days 21-100 in a benefit period will be \$157.50 in 2015, an increase from \$152.00 in 2014.

***NIH Grants for Analyzing Big Data***

**T**he National Institutes of Health (NIH) announced that \$32 million of a total \$656 million over six years has been granted to four universities to establish twelve centers focusing on different ways to analyze what the agency said is increasingly complex biomedical data sets. The goal is to improve the ability to predict who is at increased risk of developing diseases, such as breast cancer and heart attack, and to speed discoveries to better prevent or treat such conditions. In related news, the Agency for Healthcare Research and Quality (AHRQ) issued a report stating that just 1% of patients account for 22.7% of health care spending and that over one-half of all health costs are incurred by just 5% of all patients.

**Health-Related Hearings**

***House Energy and Commerce Oversight and Investigations Subcommittee: will hold a hearing titled “Examining the U.S. Public Health Response to the Ebola Outbreak;” 12:00 p.m., 2123 Rayburn Bldg.; October 16.***