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Health Policy Briefing

August 18, 2014

Anxiety over Ebola Virus Increases in U.S.; CMS Restores Open Payments System Website

Ebola Virus Outbreak Elicits New Federal and State Actions

Although Dr. Anthony Fauci, the Director of the National Institute of Allergy and Infectious Diseases (NIAID), has publicly announced that the risk of the spread of the Ebola virus outbreak to the United States is "extremely small", he also said that Nigerian students returning to U.S. colleges will be screened for Ebola both when then they leave that country and when they arrive in the U.S. Also North Carolina public health officials announced that they will impose a 21-day mandatory quarantine for U.S. missionaries, staff and their families returning from countries affected by the Ebola virus. The NIAID director also said that the National Institutes of Health (NIH) plans to enter into a phase I clinical trial of an Ebola intervention in the fall. He cautioned, however, that a premature deployment of unproven interventions could cause inadvertent harm and that it is unlikely that any miracle cure will end the current epidemic. Nonetheless, Canada's Public Health Agency reported that it will donate 800-1,000 doses of an experimental Ebola vaccine to counter the widening outbreak of the disease in West Africa.

VA Expands Primary Care Network Post VA Reform Legislation

Newly installed Secretary of the Department of Veterans Affairs (VA), Robert McDonald, said that the Patient-Centered Community Care program instituted in January, under which the VA will develop a network of private providers specializing in mental health and emergency care, will be expanded to include primary care.

Inside

PPACA Health Reform Update

PPACA Activities Remain Active During Congressional Recess

In a twist on Senator Ron Johnson's (R-WI) court challenge of the Office of Personnel Management (OPM) decision to extend federal employer contributions to Members and employees electing health coverage via the Patient Protection and Affordable Care Act (PPACA)-related health insurance exchanges, House Democrat Representatives Dan Maffei (D-NY), John Barrow (D-GA) and Ron Barber (D-AZ) have offered legislation titled the "Members Play By the Same Rules Act of 2014" that would overturn the OPM decision for Members, but not for their staff. In connection with the criticism that about one million individuals who elected health coverage under PPACA health insurance exchanges did not properly document their eligibility, the Centers for Medicare and Medicaid Services (CMS) announced that about 660,000 of them have since documented their citizenship or legal residency. However, the agency said that more than 300,000 individuals will have only until September 5 to provide the necessary documentation or they will be barred from coverage. CMS also reported that about 7.2 million individuals qualified and were newly enrolled under Medicaid since last October 1st. CMS also clarified the circumstances under which individuals age 65 or older can access health coverage under the PPACA exchanges to meet the law's individual mandate. The agency released a Frequently Asked Questions (FAQ) which states that seniors who did not pay Medicare taxes while they worked can elect coverage under the exchanges and avoid paying premiums for Medicare Part A and B. However, if they later elect Medicare coverage they will still be subject to the late enrollment penalties. In another action, CMS announced that about $5.3 million remains unspent under the PPACA's Consumer Assistance Program (CAP) and that about 12 awards will be made to previous grantees. Amid complaints from enrollees and some hospitals and physicians about the narrowing of participating provider networks under health plans offered under the PPACA, the National Association of Insurance Commissioners (NAIC) released new "Managed Care Plan Network Adequacy Model" rules which states can adopt or modify in establishing their standard in measuring the adequacy of provider networks.

Courts Look Favorably on PPACA Challenges

Following an order by the U.S. Supreme Court, the U.S. Court of Appeals for the District of Columbia Circuit issued instructions remanding a case to the U.S. District Court for the District of Columbia which will result in a preliminary injunction putting a temporary halt to any enforcement by the Administration of the PPACA's contraceptive coverage provisions against the plaintiffs--Fresh Unlimited Inc., Freshway Foods and Freshway Logistics Inc. The closely held companies argued that the rules violated their religious exercise in violation of the Religious Freedom Restoration Act (RFRA). In a similar action, the U.S. District Court for the Western District of Louisiana granted summary judgment for Louisiana College stating that the PPACA's mandate for the provision of cost-free health insurance coverage for contraceptive drugs, devices and services cannot be enforced against the school. In another case, a judge in the Federal Court for the Southern District of Indiana ruled that the state of Indiana can proceed with its suit against the IRS's regulations which allow individuals to receive federal premium tax credits even when they obtain coverage under HealthCare.gov rather than under an exchange established by the individual's state.

Medicare/Medicaid/PHSA Corner

CMS Re-opens Opens Payment System

CMS announced the reopening of the physician/hospital Open Payments System process with the following statement:

"CMS has re-opened the Open Payments system after taking it offline to resolve a data integrity issue. Physicians and teaching hospitals may now resume registration, review and, as needed, dispute activities, and will have until September 8, 2014 to complete this process. This date accounts for all the days the system was offline to provide physicians and teaching hospitals with 45 days total to review and dispute their payment data. After the close of the 45-day period, industry will have an additional 15 days to resolve remaining disputes directly with the physician and teaching hospital and re-report any data that is changed.

The original timeframe was as follows:

- Review and dispute (45 days): 7/14/2014 - 8/27/2014
- Correction period (15 days): 8/28/2014 - 9/11/2014
- Public website launch: 9/30/2014

The revised timeframe is as follows:

- Review and dispute (45 days): 7/14/2014-8/2/2014 (20 days), 8/15/2014-9/8/2014 (25 days)
- Correction period (15 days): 9/9/14 – 9/23/14
- Public website launch: 9/30/2014

CMS took swift action to close the system and fully investigate issues which indicated possible data matching errors within the Open Payments system. Applicable manufacturers and group purchasing organizations (GPOs) submitted intermingled data, such as the wrong state license number or national provider identifier (NPI), for physicians with the same last and first names. This erroneously linked physician data in the Open Payments system. After careful review, CMS implemented a system modification that included more enhanced algorithms and validation checks to resolve the issues, and verified that the physician identifiers used by the applicable manufacturer or GPO are accurate, and that all payment records are attributed to a single physician. Incorrect payment transactions have been removed from the current review and dispute process and this data will not be published this year.

Data accuracy is critical to the success of this transparency program, and CMS is committed to ensuring the integrity of data made available to the public.

Physicians and teaching hospitals can now register in Open Payments to review their payments. http://www.cms.gov/Regulations-and-Guidance/Legislation/National-Physician-Payment-Transparency-Program/Physicians.html".

Medicare Coverage Decision for TMVR

CMS issued a National Coverage Decision under which transcatheter mitral valve repair (TMVR) will be reimbursed under Medicare with evidence development and subject to being performed by an interventional cardiologist and/or a cardiothoracic surgeon.

CMS/FDA Approve Colon Cancer Screening Test

After the Food and Drug Administration (FDA) Molecular and Clinical Genetics Panel's favorable vote, in a joint coverage decision the FDA and CMS approved a stool-based DNA screening test used to detect abnormalities that may indicate colon cancer (the Cologuard test is manufactured by Exact Sciences Corp. of Madison, Wisconsin). To be covered under Medicare Part B, the individuals must be between 50-85 years old, be asymptomatic and at average risk of developing colorectal cancer.