



*Fundamentals of Health Care Reform and What
You Need to Know About Implementation in 2011*

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Michael H. Park
(202) 239-3300
michael.park@alston.com

Health Care Reform Law

- Patient Protection and Affordable Care Act (P.L. 111- 148) – *signed into law on March 23, 2010*
- Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) – *signed into law on March 30, 2010*

Goals of Health Care Reform

- Increase Coverage
- Improve the Quality of Care
- Begin to Control Health Care Costs

Coverage Expansion

- 32 million more Americans to be covered by 2019
 - Decline of 3 million from employers
 - Decline of 5 million from non-group
- Immediate \$5 billion infusion for state high risk pools
- State run health insurance exchanges required by 2014
- Medicaid expansion to 133% FPL
 - 100% federal share for expansion
 - Includes childless adults

Cost of Reform

- Total Cost: \$940 Billion in first ten years
- Net Impact on Deficit:
 - \$124 Billion in reductions in the deficit first ten years
 - \$1.2 Trillion second ten years
- Impact on Medicare/SS Solvency:
 - Extend Medicare trust fund solvency 12 years (2017 to 2029)
 - Higher payroll taxes (0.9%) on those making over \$200,000
 - Lower hospital payment rates
 - SS improved by taxing highest benefit plans in 2018

Paying for Reform

- Increase in Medicare (HI) payroll tax (0.9% increase)
- Industry fees and taxes
 - Pharmaceuticals (share of \$27 billion/10 yrs)
 - Devices (2.3% tax; raises \$20 billion/10 yrs)
 - Health insurance providers (share of \$60.1 billion/10yrs)
- Reductions in tax benefits for employer plans:
 - No reimbursements for OTC drugs from FSAs
 - \$2,500 limit on salary deduction contributions to FSAs
 - "Cadillac Plan" tax
- 1099 reporting
- Medicare cuts
- Independent Payment Advisory Board (IPAB)

Hospitals

Market Basket (MB) Cuts:

- FY 2010 & 2011: MB – 0.25%
- FY 2012 & 2013: MB – 0.1%
- FY 2014: MB – 0.3%
- FY 2015 & 2016: MB – 0.2%
- FY 2017, 2018 & 2019: MB – 0.75%
- Permanent productivity adjustment to MB starts in FY 2012
- Combined with LTCH, IRF and Psych, MB cuts are -\$112.9B

Disproportionate Share Hospital (DSH):

- Beginning in FY 2015, reductions to Medicare DSH and Medicaid DSH (-\$36.1B)

Hospitals

- Readmissions Policy
 - Starting in FY 2013, reduced Medicare inpatient hospital payments for PPS hospitals with excessive readmissions rates for three conditions (-\$7.1B)
- Hospital Acquired Conditions
 - Starting in FY 2015, PPS hospitals in top quartile for hospital acquired condition rates will have Medicare payments reduced by one percent (-\$1.4B)

Hospitals

Value-Based Purchasing (VBP)

- Establishes a VBP program for inpatient hospital payments beginning FY 2013 based on hospitals' performance on quality measures that are part of the hospital quality reporting program
- One percent of hospital's Medicare payments are at risk in FY 2013 and grows to two percent of Medicare payments in 2017 and beyond
- Proposed rule released January 7, 2011

Geographic Variation

- Requires HHS to provide a plan to Congress by 2011 to comprehensively reform the Medicare hospital wage index, taking into account geographic issues
- Additional Medicare payments for hospitals located in counties in lowest quartile per capita Medicare spending

Hospitals

Physician-owned Hospitals

- Elimination of Stark Law exceptions for physician-owned hospitals
- Creates new exception (grandfathering) of existing physician-owned hospitals with restrictions on growth
- Cut-off date to be grandfathered was 12/31/2010

New IRS Requirements for Nonprofit Hospitals

- Includes community needs assessment, financial assistance policy, hospital charges and billing and collection

IRF/LTCH/PSYCH PPS

- Same MB and productivity cuts as hospitals
 - Note slight difference for LTCH CY 2011: MB – 0.5%
- Market basket cuts to hospital inpatient, hospital outpatient, LTCH, IRF and Psych are -\$112.9B
- LTCH reg relief and moratorium from MMSEA of 2007 extended another two years
- Quality reporting for IRFs, LTCHs and Psych facilities starting in FY/RY 2014

Skilled Nursing Facilities

- MB reduced by productivity starting in FY 2012 (-\$14.6B)
- Delay of RUG-IV implementation to 10/1/2011 (delay repealed on 12/15/2010)
- SNF VBP implementation plan required by 10/1/2011
- Increased transparency requirements for ownership, management and operations
- Nationwide program for national and state background checks
- Elder Justice Act

Hospice

- MB for hospice providers reduced by 0.3% from FY 2013-2019, but reductions contingent on uninsured rates starting in FY 2014
- Productivity adjustment start in FY 2013 (-\$7.6B)
- Requires HHS to make payment policy changes in FY 2014 to reflect changes in resource intensity throughout episode of care and budget neutral
- Requires face-to-face encounter for recertification
- Quality reporting for hospices in FY 2014

Home Health

- Market Basket
 - CY 2011, 2012 & 2013: MB – 1.0%
 - Permanent productivity adjustment to MB starts in 2015
- Rebasing HH PPS
 - Starting in CY 2014, HH PPS to be rebased to reflect number, mix and level of intensity of services and cost of providing care
 - To be phased in over four years
- Establishment of 10% provider specific outlier cap
- Rural HHAs get 3% add-on payment until 1/1/2016
- Additional requirements before HH services can be ordered such as face-to-face encounter before certification
- HH VBP implementation plan required by 10/1/2011
- HH provisions total -\$39.7B in savings

Physicians

- Sustainable Growth Rate (SGR)
 - No SGR relief in healthcare reform law
 - Short term fixes since enactment and latest fix expires 12/31/2011
- Primary care/general surgery bonuses
- Improvements in geographic disparities in the Physician Fee Schedule

ESRD and Ambulatory Surgery

ESRD

- Transition to ESRD PPS starts in CY 2011 (required in MIPPA of 2008)
- ESRD Quality Incentive Program starts in CY 2012
- Healthcare reform law eliminates 1% MB reduction in CY 2012
- Productivity adjustment for ESRD starts in CY 2012

ASCs

- Productivity adjustment starts in CY 2011
- ASC VBP implementation plan required by 1/1/2011

Imaging

- Imaging
 - CY 2010 Physician Fee Schedule – assumes 90% machine utilization rate for expensive diagnostic imaging equipment
 - Healthcare reform bill changes assumption to 75%
 - Contiguous body part imaging policy changed so that technical component payment for sequential images reduced by 50% instead of 25%
 - “Imaging Sunshine” requires docs that provide MRI, CT or PET as in-office ancillary service to provide patient with list of other suppliers

Labs and Ambulance

Labs

- CY 2009 & 2010: Existing 0.5% reduction to CPI-U update
- CY 2011 – 2015: CPI-U - 1.75%
- CY 2011: Productivity adjustment starts but can't result in negative update

Ambulance

- Productivity adjustment starts in CY 2011
- One-year extension of ambulance add-on payments

DME

- Productivity adjustment to CPI-U update starts in CY 2011
- Extra 2% update in CY 2014 for certain DME eliminated
- Power wheelchair payment policy changes (both rental and lump sum options)
- Fraud, waste and abuse provisions aimed at DME (e.g., screening, enhanced oversight, increased disclosure, face-to-face encounter, additional documentation)

Health Insurers

- Medical loss ratio and rate review regulations released
- First wave of reforms effective 9/23/2010 (prohibition on annual and lifetime limits; rescissions; coverage for dependents through age 26; pre-existing condition exclusions for under age 19; requirements for preventive services; new appeals requirements; rules for grandfathered plans)
- “Cadillac tax” on high cost plans and additional industry fee
- Medicare Advantage (-\$205.9B)
 - Extends SNPs, cost contracts, changes for coding intensity through 2013
 - Imposition of “competitive bidding” program
 - Benchmark changes

Drugs and Devices

Drugs and Devices

- Industry fees/taxes
- Transparency requirements between industry-physician relationships

Drugs

- Fills Part D “donut hole”
- Implements means testing for Part D premiums beginning in 2011
- Creates federal upper limit under Medicaid for generic drugs at 175% of AMP
- Medicaid drug rebates

Looking at 2011

- Health care reform implementation continues
- Deficit reduction
- SGR reform
- Health IT activities
- Plans to repeal or dismantle health care reform

Looking at 2011

- Health Care Reform Implementation Continues
 - Traditional Medicare
 - Continued Medicare provider payment cuts
 - MB/CPI update reductions and productivity adjustments
 - ACO proposed rule
 - Hospital VBP proposed rule
 - PQRI bonuses
 - Primary care and general surgery bonuses
 - Home health provider-specific annual outlier cap
 - Annual Wellness Visits and eliminates cost sharing for preventive services

Looking at 2011

- Health Care Reform Implementation Continues
 - Medicare Advantage
 - Holding 2011 benchmark at 2010 levels
 - Prohibition on charging cost sharing that is higher than FFS for certain services
 - Annual Coordinated Election Period and 45-day Annual Disenrollment Period
 - Drug Benefit
 - Continue to close donut hole with 50% discount for brand name drugs and 7% reduction in cost sharing for generic drugs
 - Funding for IPAB commences, but no recommendations until 2014
 - Bulk of Center for Medicare and Medicaid Innovation funding available
 - Program integrity provisions to move CMS away from “pay and chase”

Looking at 2011

- Health Care Reform Implementation Continues
 - CLASS Act guidance to be released
 - Benefits to be paid out after five-year vesting period
 - First year that Pharma Fee to be paid
 - Treasury issued initial guidance
 - Medical Loss Ratio requirements in effect
 - 80% for large group plans
 - 85% for small group and individual plans
 - Rate Review in proposed rule stage
 - Work underway on definition of "essential benefits"
 - IOM working on process for HHS

Looking at 2011

- Deficit Reduction
 - Deficit Commission failed to obtain supermajority of 14 votes for recommendations to be forwarded to Congress
- BUT policies may find their way into President's budget due in February, or Congressional budget due soon thereafter:
 - Increased cost-sharing for Medicare seniors and increase eligibility age
 - Limit growth of Medicare spending, add hospitals to IPAB
 - SGR reform
 - Block grant Medicaid, or similar efforts to reduce federal mandates
 - Accelerate the home health payment reductions in ACA
 - Reducing Medicare bad debt and graduate medical education payments
 - Extending Medicaid drug rebates to dual eligibles
 - Expanding Medicare fraud and abuse efforts
 - Medical malpractice reforms

Looking at 2011

- SGR reform
 - Most recent patch expires end of 2011
- Health IT
 - Implementation of Stage 1 of the MU EHR incentive program
 - HIPAA final rules to be released
 - Development of Stage 2 and 3 MU criteria and standards
 - Progress on EHR adoption among providers
 - Health IT certification
 - Health information exchange efforts

Looking at 2011

- HCR Repeal Efforts
 - House expected to pass H.R. 2 to repeal ACA: debate on whether ACA reduces or increases deficit (CBO scores increasing deficit \$230 billion over 10 yrs)
 - NOT expected to survive Senate BUT certain Presidential veto if it does (no GOP votes for veto-override)
 - Repeal amendments anticipated during Senate consideration of other bills
- Plans to Dismantle Specific ACA Provisions
 - Reduce or eliminate individual mandate and/or employer pay or play requirement
 - Scale back essential benefits
 - Repeal 1099 reporting
 - Repeal IPAB
 - Repeal Industry “fees” on health insurers, pharmaceuticals, medical devices

Looking at 2011

- **Blocking implementation**
 - Use of appropriations process
 - Use of Congressional Review Act
 - Blocking nominations
- **Increased Oversight**
 - House Republicans plan to hold frequent oversight hearings on implementation
- **Lawsuits**
 - VA district court decision holding individual mandate to be unconstitutional
 - FL case pending
 - Supreme Court consideration anticipated

Questions?

Michael H. Park, J.D., M.P.H.

Alston & Bird, LLP

950 F St., NW

Washington, DC 20004

(202) 239-3300

michael.park@alston.com