HRI as we see it
Weekly insights from the Health Research Institute pwc.com/hri

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Week of 8/05/2013

This week's regulatory and legislative news

- **Web brokers to sell coverage in insurance exchanges**
- **Consumer Reports surgical quality study rates hospitals**
- **Final payment rule seen as a mixed picture for hospitals**
- **Community Health Systems, HMA merger underscores consolidation trend**
- **CMS declares income verification for all in the federal exchanges**
- **Primary care providers see promise in CMS proposed rule**
- **Dawning of the Sunshine Act**
- ***HRI as we see it* will not publish the week of 08/12/13**

Web brokers to sell coverage in insurance exchanges

Starting October 1, 36 federal and state partnership exchanges will have help enrolling consumers from a new source: web brokers. Last week, CMS entered into an agreement with eHealth, a California-based web broker that currently sells health insurance in all 50 states, to enroll applicants in the new marketplaces known as exchanges. eHealth, which reportedly had about 20 million visitors on its website last year, joins several other web brokers in agreements with CMS to sell exchange plans. The company indicated it is pursuing deals with state-run exchanges, though none are finalized.

HRI impact analysis: Web brokers may be better positioned to enroll consumers than the federal exchange in states such as Missouri, where political opposition to the 2010 Affordable Care Act (ACA) has hampered local outreach efforts. Web brokers are not only experienced in the individual health insurance market, but also in online sales and customer service. The inclusion of these new entrants in the exchanges reflects the rise of public-private healthcare partnerships under the ACA. Another company assisting with insurance expansion is defense contractor Northrop Grumman, which will work with two states—Wyoming and Tennessee—to operate their Medicaid eligibility systems.

Consumer Reports surgical quality study rates hospitals

The percentage of seniors who die in the hospital or experience longer-than-expected stays varies widely even among medical centers located in the same region, a new analysis by Consumer Reports found. And teaching hospitals, often seen as hubs of high-quality care, frequently fell short, according to the analysis. The study also found that some urban and rural hospitals can excel despite treating a patient base that is poorer and sicker than most. Consumer Reports studied almost 30 types of scheduled surgeries, which it then combined into an overall hospital rating. The ratings are based on billing claims—not clinical data—submitted by 2,463 hospitals in all 50 states from 2009 through 2011.

HRI impact analysis: Solid, reliable information about patient outcomes has been lacking among the health industries even as consumers have been able to rate products and services in other sectors, such as retail. The Consumer Reports analysis could change that. An HRI survey found that the magazine tops the list of sources for healthcare reviews, with 43% of survey respondents saying they have used the publication for health-related reviews. Hospitals will need to closely monitor these ratings and engage proactively to improve processes and outcomes.

Final payment rule seen as a mixed picture for hospitals

CMS reduced its estimated disproportionate share hospital (DSH) cuts by about half for fiscal 2014, and it expanded the types of services providers can be reimbursed for after a claim has been denied, under a 2,225-page final rule released last week. The ACA requires DSH payments to be reduced based on the idea that the

number of uninsured patients hospitals treat will decrease under the law's coverage provisions. The rule, which directs payments for acute and long-term care hospitals, also solidifies an array of changes to quality reporting programs, admission and medical review criteria, and inpatient billing procedures that were first proposed in April. All told, CMS estimates that inpatient payments for the nation's 3,400 acute care hospitals will increase by about $1.2 billion, and by nearly $72 million for the roughly 440 long-term care facilities paid by Medicare.

HRI impact analysis: CMS made two key changes that directly impact hospitals. First, the agency said it would distribute DSH payments on a per-discharge basis, rather than on a periodic interim basis—a move to improve payment accuracy. The agency also said it would refine how it calculates the three factors that determine a hospital's DSH payment so that hospitals will see a cut of about $546 million instead of the nearly $1 billion first proposed. It also finalizes provisions from a March ruling that allows hospitals to be paid for some inpatient services under Medicare Part B after a claim is denied as not medically necessary. Even so, the American Hospital Associations said it is "extremely disappointed" that CMS did not "fundamentally reform its policy on rebilling." In a written statement released to its members, the AHA said it would press ahead with its 2012 lawsuit filed against HHS for "refusing to meet its financial obligations for hospital services provided to some Medicare patients."

Community Health Systems, HMA merger underscores consolidation trend

The $7.6 billion merger announced last week between Community Health Systems and Health Management Associates will not only create the largest for-profit hospital chain, but also highlights how some hospitals plan to answer for declining admissions and revenue. Wayne Smith, president and chief executive of Community Health Systems, told investors on a July 30 earnings call that financial pressures from lower hospital volumes in smaller and rural markets and a shifting payer mix helped spur the HMA acquisition. "Everybody in this industry's having issues, particularly all of us who operate in non-urban markets," Smith said.

HRI impact analysis: If approved by federal regulators, the deal would create the largest for-profit system in terms of total number of facilities, including 206 hospitals and more than 470 clinics. HRI data shows that hospital merger activity has increased nearly 50% since 2009—even outpacing the M&A trends of the 1990s. Several factors are motivating hospitals to consolidate or partner, including better access to patients and markets. Consolidation can also help offset fixed costs, such as building maintenance, health IT, and more. But some studies show that consolidation can lead to higher prices in concentrated markets.

CMS declares income verification for all in the federal exchanges

On Tuesday, CMS released a FAQ clarifying its policy on income verification in the health insurance exchanges. This comes after a month of criticism on a final rule that suggested that subsidies may be given to some using the honor system, solely based on an applicant's report of their income. The FAQ outlines a multi-step process for confirming individuals' tax credit eligibility, which uses IRS, Social Security, and private data sources.

HRI impact analysis: CMS' verification process relies on a federal data hub, the single point where exchanges are supposed to be able to access data from a variety of government sources. However, a recent OIG report identified the system's potential weaknesses. If that turns out to be the case, insurers may be forced to enroll people without definitive information on subsidy eligibility, putting the companies at risk for financial losses that would need to be reconciled later.

Primary care providers see promise in CMS proposed rule

Last month, CMS issued a proposed rule that would establish a separate payment for patient care management, including telephone conversations with patients, review of lab results, and communications with other healthcare providers, beginning in 2015. Currently, Medicare only reimburses for such services as part of face-to-face visits.

HRI impact analysis: Even with the proposed rule, the agency still faces the challenge of how to pay for the new payments. Some believe that medical homes' proven costs savings and the fact that some private insurers and state Medicaid plans are already reimbursing these services will reassure CMS that there is value in the approach. Ultimately, the agency hopes that paying for care management will increase the uptake of the patient-centered medical home model, in turn improving the quality of care and reducing healthcare costs.

Dawning of the Sunshine Act

The Physician Payments Sunshine Act went into effect August 1. Under the rule, manufacturers of prescription drugs and devices that are covered by government programs must report annually to CMS on payments to doctors and teaching hospitals. To learn more about the Sunshine Act and its potential implications, read HRI's Spotlight.

HRI as we see it will not publish the week of 08/12/13

HRI will not publish a regulatory newsletter for the week of 08/12/13. Publication will resume on Friday, August 23.

Upcoming events & deadlines

- **August 23** – Partnership and federally facilitated exchange plans must submit corrected data to CMS.
- **September 4** – CMS will notify issuers in partnership and federally facilitated exchanges of final qualified health plan certification decisions.
- **September 6** – Comments due on the proposed rule on 2014 payment policies for the Medicare physician fee schedule.
- **September 6 –** Comments due on the proposed rule on the outpatient prospective and ambulatory surgical center payment systems.
- **September 16 –** 3rd Annual Consumer Health IT Summit hosted by the Office of the National Coordinator (ONC) in Washington D.C.
- **October 1 –** Health insurance exchange open enrollment begins.

Quote of the week

"We know that the law is confusing. What we're trying to do is get people in front of resources where they can get answers," said AARP Vice President Nicole Duritz about the group's launch of two websites—HealthLawAnswers.org and HealthLawFacts.org—to help consumers signing up for insurance, both on and off the new marketplace.

In the news

A new study published in *Health Affairs* takes a look at hospitals receiving payments for the "meaningful use" of electronic health records, finding that critical-access, smaller, and publicly-owned or nonprofit hospitals are at particular risk for failing to meet the necessary standards and facing financial penalties beginning in 2015.

Factually correct

24% - the percentage of surveyed consumers who are making use of electronic health records to check test results, order prescription refills, and make appointments, according to a recently released study examining the impact on patients.

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