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Weekly insights from the Health Research Institute pwc.com/hri

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This week's regulatory and legislative news

- **State, federal exchanges open to high demand amidst technical problems**
- **Some hospitals begin outreach efforts as exchange enrollment goes live**
- **Health systems get a reprieve under "two midnight" rule, but scrutiny remains**
- **Multi state plan program participants announced**
- **Drug safety measure wins bipartisan support in Congress**
- **CBO details federal policies on innovation**
- **HHS releases premiums of all federal exchange plans**

State, federal exchanges open to high demand amidst technical problems

On Tuesday, new insurance exchanges created under the ACA opened to an eager public—although not without hiccups. A number of state exchange websites—including Kentucky, Maryland, and Vermont—tweeted in the first hours about problems due to high website traffic. The White House reported that healthcare.gov, the federal online marketplace, saw 4.7 million unique visitors in the first 24 hours. It also experienced glitches that wouldn't allow users to create accounts, and it was slowed by the high volume, which persisted throughout the week. New York's exchange site had seen more than 44,000 active shoppers as of Thursday afternoon, although website and application processing delays plagued the site's first few days. "Additional servers were added on Tuesday and Wednesday to enhance capacity, and software upgrades to enhance performance have been completed," the New York State Department of Health said in a statement.

HRI impact analysis: The technical challenges experienced by most of the exchange websites were largely expected by both government and industry leaders. They reflect an implementation fraught with tight deadlines, funding challenges, political opposition, and the standard start-up issues associated with any large-scale project. The overwhelming initial interest suggests a strong demand for insurance—or at least a widespread curiosity about the new marketplace. This could be good news for insurers, many of whom are seeking a healthy cross-section of enrollees in the first years to keep spending in check and ensure reasonable annual premium increases.

Some hospitals begin outreach efforts as exchange enrollment goes live

Health systems tapped by the federal government to help people newly eligible for health insurance reported light activity as exchanges went live this week. A spokesman for Genesis Health System, which earned "navigator" status this summer, said late guidance from CMS and delayed funding meant that few of its staffers were fully trained and certified to aid in the enrollment process. Still, the system hosted a press conference when open enrollment began, and it has plans for more than a dozen community events. A spokesman at the University of Mississippi Medical Center, another navigator site, said a few dozen people attended group sessions on exchange enrollment out of about 3,000 current and former patients who were invited to do so. But other health systems reported more activity. In New York, Montefiore Medical Center reported sizeable crowds during an outdoor event to promote the new health coverage.

HRI impact analysis: HRI research conducted this summer found many health systems were not fully focused on exchange outreach and enrollment efforts. For many health systems, the newly insured could help make up recent revenue declines and soften the blow of coming reductions in federal payments. For more tips on how hospitals can better prepare, check out HRI's Closer Look on the topic.

Health systems get a reprieve under "two midnight" rule, but scrutiny remains

Most health systems will get a 90-day reprieve on how they determine whether or not a Medicare patient should be admitted to the hospital while CMS conducts a review of the potentially thorny coding process. In follow-up

guidance released in late September, agency officials said Medicare recovery audit contractors would not review claims that span more than "two midnights" for their appropriateness. Additionally, recovery auditors will not be permitted to review inpatient admissions of one midnight or less from October 1 through the end of the year.

HRI impact analysis: Even so, Medicare contractors will be allowed to review up to 25 medical claims per hospital on a prepayment basis as a way to determine a provider's compliance. If a contractor identifies a billing issue, it will conduct educational sessions with the hospital to bring it up to compliance. But if the coding is deemed accurate, then Medicare will stop further reviews until 2014. CMS, however, warned hospitals that while medical reviews won't be focused on claims that span two midnights, physicians should make inpatient admission decisions in accordance with the provisions in the final rule. The American Hospital Association contends that the CMS guidance raises new questions over how the agency plans to enforce the policy over the next 90 days.

Multi state plan program participants announced

On Monday, a day before exchange open enrollment began, the federal government announced an agreement with the Blue Cross Blue Shield Association to offer more than 150 multi-state plans across 30 states. The Multi-State Plan Program will be overseen by the Office of Personnel Management (OPM), which currently administers federal employee benefits. Under the ACA, the federal government must expand the program to all 50 states and the District of Columbia within the next four years.

HRI impact analysis: Multi-state plans could beef up competition in some states with only a handful of participants. As OPM notes, three states—Alaska, New Hampshire, and West Virginia—would only have one type of insurance plan for consumers without the new multi-state offering. The contract with OPM is a major opportunity for Blues plans, which operate in every zip code across the US.

Drug safety measure wins bipartisan support in Congress

House Democrats and Republicans joined together this week to unanimously approve the Drug Quality and Security Act. The legislation is intended to weed out counterfeit medicines by establishing a national "track and trace" system within ten years. Manufacturers, wholesalers, distributors, and pharmacies will be required to maintain a record for every time a drug changes hands as it makes its way through the supply chain. The legislation also strengthens FDA's oversight over compounded drugs, which are typically mixed by pharmacists to meet the needs of specific patients. The bill establishes a new voluntary program for compounders that produce drugs in bulk to register with the FDA and undergo inspections. The enhanced oversight was prompted by a fungal meningitis outbreak tied to tainted steroid injections that killed more than 60 people.

HRI impact analysis: The legislation now moves to the Senate, where it is expected to be approved and then signed by the president. If so, it would preempt a track and trace measure in California that is slated to take effect in 2015, requiring stakeholders to meet similar standards in a shorter timeframe. That would be welcome news to drugmakers and others in the pharmaceutical supply chain racing to comply with California's law. While not all compounding pharmacies support the federal legislation, many are expected to participate in the new registration system due to market pressures. Patients and providers will want drugs that are produced under the watchful eye of the FDA.

CBO details federal policies on innovation

There are a number of ways the federal government might help spur innovation, but it could come at a cost. Douglass Elmendorf, the head of the non-partisan Congressional Budget Office, has released a presentation on federal proposals to increase innovation, including investing more in research and development(R&D), increasing support for education, changing the tax treatment of private investment, increasing the immigration of highly skilled workers, and reforming the nation's patent system. The report notes that although federal spending on R&D has increased in real dollars, it has declined as a share of the nation's GDP.

HRI impact analysis: Increased spending on innovation is unlikely given the current fiscal climate in Washington and federal government shut-down. Over the past fiscal year, the NIH was forced to cut its budget by 5%, or $1.5 billion, because of automatic reductions known as the sequester. As a result, the agency said it had to scale back the number of research grants it award by approximately 700. These cuts are out of step with public opinion, according to HRI findings on consumer attitudes. When asked to rank their top choices to reduce federal health spending, respondents listed investments in R&D as the last place to cut. As public dollars remain scarce, innovators may have to rely on a leaner and more efficient discovery process.

HHS releases premiums of all federal exchange plans

The federal government officially released the premiums of all exchange plans in federal and partnership states on Tuesday. The posted rates cover a range of hypothetical buyers, such as a 27-year-old single individual and a four-person family. The rates are available as a downloadable excel file through the healthcare.gov website. Initial analysis of the premiums showed that Aetna (and its subsidiary Coventry), Humana, WellPoint, and other Blues plans are offering the lowest-cost bronze and silver plans in a number of states.

Upcoming events & deadlines

- **November 18** – Comments due on proposed rule for new prospective payment system for Federally Qualified Health Centers.
- **November 19** – Comments due on proposed rule for Medicare's web portal to allow other people besides the beneficiary to view final bills and service coverage online.
- **November 25 –** Comments due on the proposed rule on the Basic Health Program. The program provides states the option to establish a health benefits coverage program for low-income individuals who would otherwise be eligible to purchase coverage through health insurance exchanges
- **December 15 -** Individuals must enroll in state exchange plans to secure coverage that begins on January 1.

Quote of the week

"[W]e encourage policymakers to consider the dramatic impact that funding cuts to medical research and doctor training will have on the health of the country and the millions of patients who depend on the lifesaving research conducted at, and critical healthcare services provided by, the nation's medical schools and teaching hospitals," Association of American Medical Colleges president and CEO Darrell G. Kirch, M.D., said in a statement about the recent government shutdown.

In the news

The New York Times discusses a federal lawmaker's request to look at employer wellness programs, and specifically how wellness questionnaires are written and analyzed to prevent workplace discrimination.

Factually correct

63% - the percentage of surveyed health insurance executives who noted that technology integration would be a major barrier and operational challenge in implementing new state exchanges.

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