New Directions in Health Policy: The Affordable Care Act and Medicare Reform*

Presented By:
Colin T. Roskey, Esq.
For HCCA East Central Regional Conference
October 11, 2013

* AND A GOVERNMENT SHUTDOWN AND DEFAULT RISK

Agenda

• Gathering perspective
• Analysis of major trends in health care delivery and financing
• Affordable Care Act overview
• The Medicare Reform debate
• Government Shutdown, ACA Exchanges, and Debt-Ceiling Debate
• Wrap up

Good Time To Gather Perspective

• Supreme Court upholds core of ACA
  – Coverage expansion through mix of private insurance and Medicaid expansion, financed by new fees and taxes and cuts to Medicare provider rates
• Elections validate major first term accomplishment, despite GOP repeal efforts
• Delivery system changes underway: incentives aligned to promote value over volume (bundled payments, shared savings)
• Changes to Medicare contemplated
**Trendwatch**

- The population is aging.
- Growth in health care spending has slowed, but continues to rise.
  - Medicare cost pressures increasing, exposing providers and beneficiaries to new risks
  - Simpson-Bowles, Domenici-Rivlin
    - Bipartisan approaches to reforming Medicare
- Growing movement toward consolidation, collaboration, integrated “accountable” care and patient-centered outcomes
- Adoption of more predictive or precision based tools to enable fraud detection and prevention

**Trendwatch II**

- Big data becoming effective tool for health care providers and innovators
  - Government incentives promote adoption of electronic health records (EHRs)
    - Hospitals and physician offices only
  - Better results for population health
- Continuing push for expanded scope of practice for non-physician providers
  - Physician assistants, nurse practitioners
- Affordable Care Act compliance

**Affordable Care Act**

- Employer mandate delayed one year, no enforcement expected until 2015; individual mandate effective 2014
- States and the federal government running insurance “marketplaces” where
  - Issuers offer “qualified health plans” (QHPs)
  - Individuals shop for QHP coverage that best meets their needs based on “metal levels” but all include “essential health benefits”
    - “Navigators” and “in person assisters” provide guidance
  - Tax credits and subsidies available to assist purchasers
Affordable Care Act II

- States deciding whether to expand Medicaid programs, either through expansion of current programs or “waivers” allowing alternative financing models, including providing premium assistance for use in marketplaces
  - Pennsylvania Governor Tom Corbett became the 10th Republican governor to back the expansion of Medicaid, the joint federal-state health program for the poor, under President Barack Obama’s health care law, proposing a set of reforms that would extend health coverage to more residents of the state. Corbett outlined a plan that includes offering Medicaid to more Pennsylvanians by using private health insurance plans and instituting new requirements for all Medicaid enrollees, such as having them pay monthly premiums and demonstrate they are searching for jobs.
- Enhanced provider and (sometimes) insurer collaboration on quality metrics, disease management and avoidance of readmissions, i.e. “accountable care”
- Onset of new industry taxes/fees, including pharmaceutical, medical technology, health insurance and indoor tanning (not kidding)

The Medicare Reform Debate

- Entitlement reform consensus growing and bipartisan
  - But elections slow progress
  - "Simpson Bowles" did not get a majority vote
- Interest in extending life of trust funds has led to numerous commissions, Congressional hearings and policy analyses
- General view is that program serves beneficiaries well but could be modernized to provide better taxpayer value, and improved quality

The Medicare Reform Debate II

- Major themes of Medicare reform involve some or all of the following:
  - Increase eligibility age
  - Income-relate premiums
  - Combine Parts A and B, single deductible
  - Impose uniform cost sharing
  - Refine “fee for service” and replace with value based purchasing
  - Accelerate delivery system changes
  - Improve performance of post hospital care
The Medicare Reform Debate III

- Summer 2013 has included calls from major committees in Congress to examine Medicare system reforms, including post acute care
  - What are the best options for post hospital patients and their families
  - What role do LTCHs, IRFs, SNFs, and HHAs play in improving health and reducing readmits?
- And draft legislation to fix the flawed physician fee formula (+140-200B/10)

The Medicare Reform Debate IV

- Both parties stay close to their ideological roots, with little crossover opportunity
  - Democrats resist major system change or any new burden on beneficiaries
  - Republicans insist managed care principles, competition and greater patient “skin in the game” will improve long term system performance
- But innovative commercial practices will drive change in Medicare faster than Congress can

Medicare Realities

- In constrained budget environment demands for even more system efficiencies may be impossible to meet
  - 2 percent sequestration
  - ACA and other funding cuts associated with deficit reduction, debt ceiling, government funding
- But public policy will ultimately demand a higher performing system, leading to introduction of further managed care tools, industry consolidation, or both
**Government Shutdown**

- Many US Government agencies were shutdown on October 1st.
  - Approximately 800,000 furloughed workers, whom the House approved legislation to provide retroactive pay for.
- Shutdown occurred because Democrats and Republicans could not agree on a Continuing Resolution, a type of appropriations legislation used by the United States Congress to fund Government agencies in the absence of a budget.
  - Republicans would not pass a CR unless it was tied to a plan to defund the Affordable Care Act (Obamacare)
  - Democrats in the Senate, led by Harry Reid, as well as Barack Obama refused to give in to Republican desires.

**Government Shutdown**

- A number of House sponsored bills tying a clean CR to defunding Obamacare were sent over to the Senate, which proceeded to reject each and every one.
  - The Congress exchanged paper until Monday night 9/30, when time expired. The Senate rejected a House proposal, prompting the House to approve another spending plan that would remove the Obamacare individual mandate. The Senate rejected that, too, setting the stage for a shutdown.
  - Other ACA hotspots: device tax, IPAB, subsidies for Congressional staff

**Shutdown Exposure**

- Payments from contractors to providers should continue, and beneficiaries should see no service interruptions
- Some non-mandatory functions, like grants and demonstration projects, may face delays
- Calendar year final payment rules (PFS, HHS, ESRD, HOPD, ASC) could be delayed further into the fall
ACA Exchanges

- Despite Government Shutdown, the Exchanges opened on October 1st.
  - Nearly nine million unique visitors as of Friday night, October 4th.
  - So far, many tens of thousands of people had started the application process but the number of those who were able to create accounts and shop for coverage is likely in the low thousands.
  - This is because the website is troubled by coding problems and flaws in the architecture of the system, according to insurance industry advisers, technical experts and people close to the development of the marketplace.
  - Federal officials said Sunday the online marketplace needed design changes, as well as more server capacity to improve efficiency on the federally run exchange that serves 36 states.

ACA Exchanges

- 27 Federal Exchanges, 16 States and DC are State Run, 7 Partnerships

Debt Ceiling

- GOP efforts to tie entitlement reform and/or Affordable Care Act concessions to debt ceiling increase are expected, likely prolonging the shutdown
  - The fundamental question in the debt ceiling debate is whether the $16.7 trillion borrowing limit should be raised — with no strings attached — in order to avert the prospects of the first-ever U.S. default post Oct. 17.
  - White House and Senate Democrats maintain a “no negotiation” posture
**Debt Ceiling**

- No clear resolution in sight
- Most likely scenario is series of small fix bills to buy more time, but even that can be complicated as rhetoric has heightened.
- Speaker Boehner explained that he is not willing to accept raising the debt limit without Democratic concessions, from ABC News’s “This Week:”
  - “We are NOT going to pass a clean debt-limit increase. ... I told the president: There’s no way we’re going to pass one. [Starting to shout:] THE VOTES ARE NOT IN THE HOUSE TO PASS A CLEAN DEBT LIMIT. And the president is RISKING DEFAULT by not having a conversation with us.”

**Where We Are**

- The Government is in week 2 of being shutdown, with no resolution in sight.
- ACA exchanges are up and running, but experiencing technological glitches that are preventing people from enrolling.
- The debate to raise the debt-ceiling is being used as a bargaining chip by Republicans to force Affordable Care Act concessions and more generally limit Government expenditures.

**Wrap Up**

- The US Federal Government has a number of issues that need to be worked out, including many tied to either the ACA or federal health care programs or both
  - Most immediately, Congress must find a way to strike an agreement so that the Government re-opens, and to ensure that the US can continue to borrow past October 17
  - Need to fix the glitches on Exchange websites so that the over 9 million people who have visited them can begin to sign up without problems.
- States will continue to decide, up until January 1 and beyond, whether they want to expand Medicaid programs
- The Medicare SGR still needs to be fixed – and paid for.