## FEDERAL HEALTH UPDATE

**Jul 1, 2011**

*Produced by Kate Connelly Theroux in collaboration with the Institute of Federal Health Care (IFHC)*

*To subscribe, please visit http://fedhealthinst.org/subscriber.cfm.*

**Sponsored by**


**Additional sponsorship by**


www.fedhealthinst.org

***Happy Fourth of July!***

### Executive and Congressional News

- **In a legal victory for the Obama administration, a federal appellate court has upheld a lower court finding that Congress has the power to require individuals to purchase healthcare insurance.**

  The United States Court of Appeals for the Sixth Circuit in Cincinnati has affirmed the ruling by the U.S District Court for the Eastern District of Michigan in Detroit that "the minimum coverage provision is a valid exercise of legislative power by Congress under the Commerce Clause."

  The court case stems from a Michigan lawsuit challenging the individual mandate section of the federal Patient Protection and Affordable Care Act. The challenge was filed by four Michigan residents and the Thomas More Law Center, a conservative public-interest law firm based in Ann Arbor.

  The plaintiffs had asked the district court to declare that Congress lacked authority to pass the minimum coverage provision and that the penalty for not purchasing healthcare coverage be declared an unconstitutional tax. The district denied plaintiffs' motion for a preliminary injunction and they appealed.

  The appeal was argued on June 1, 2011. In a 64-page ruling released June 29, the Appeals Court rules that Congress has the authority to require health insurance and with that ruling it declines to address whether the penalty is a permissible tax.

  The ruling is viewed as an important win for the Obama administration, especially since the three-judge panel was comprised of two Republican appointees and one Democratic appointee.

- **Two senators proposed a plan to raise the Medicare retirement age to 67 and require the wealthy to pay more for their care as part of the White House-congressional effort to dramatically reduce federal deficits.**

  The plan, authored by Sens. Joseph Lieberman, I-Conn., and Tom Coburn, R-Okla., would save an estimated $600 billion in the cost of Medicare, the government's health care program for the elderly and some disabled. While the plan is expected to meet strong resistance, some of its elements could be incorporated into a bipartisan deal.

  The senators' proposal would increase the Medicare eligibility age, now 65. It would go up two months each year, beginning with people born in 1949, until it reaches 67 in 2025. The age would then remain 67. If the 2010 federal health care law is repealed or overturned, as Republicans want and courts are considering, the age would remain 65.

  The Lieberman-Coburn plan includes:

  - A single combined annual deductible of $550 for both Part A (hospital) and Part B (generally physician) Medicare plans.
  - An annual out-of-pocket limit of $7,500. Currently there is no limit, which means a catastrophic illness could exhaust a consumer's savings.
  - New requirements that wealthier people pay more out of pocket. Those levels would reach $12,500 for individuals earning $85,000 to $107,000 and married couples making $170,000 to $214,000. At the highest end, couples earning $320,000 or more would pay up to $22,500.
  - New policies for "Medigap" coverage. About one in five beneficiaries gets supplemental coverage to pay deductibles or co-pays. The Lieberman-Coburn plan would bar such policies from paying any of the first $550 of liability, and would limit other coverage.

  Medicare's trust fund is expected to be insolvent in 2024, and its projected annual costs are a major driver of federal spending. The program is expected to serve 48.9 million people this year, and grow to serve about 64 million by 2021.

### Military Health Care News

- **Express Scripts, the contractor managing the TRICARE prescription-drug benefit, released a new mobile app for TRICARE beneficiaries.**

  The new TRICARE *Express Rx* mobile app allows beneficiaries to manage prescriptions and access important health information anywhere they go. The TRICARE mobile-optimized website provides convenient and secure access for beneficiaries from their smartphones to many features designed to help them get the most value from the TRICARE pharmacy benefit.

  The features include:

  - **Start TRICARE Pharmacy Home Delivery** – allows beneficiaries to save time and money by transferring available maintenance medications to TRICARE Pharmacy Home Delivery
  - **Order Home Delivery Refills** – allows beneficiaries to schedule prescription refills from TRICARE Pharmacy Home Delivery
  - **Check Home Delivery Order Status** – allows beneficiaries to check to see if their TRICARE Pharmacy Home Delivery order has shipped and the ship date
  - **Find a Pharmacy** – locate a nearby retail pharmacy and map it using the GPS technology built into smartphones
  - **Drug Information** – access a vast database to look up important drug information, common uses and possible side effects

  The new TRICARE *Express Rx* mobile app is available for both iPhone® and Android™ devices, and can be downloaded for free by visiting iTunes App Store or the Android Marketplace. Those with a Blackberry®, Windows® or other device with web browsing capabilities can access these same features by visiting the Express Scripts mobile-optimized site at http://m.esrx.com.

  To ensure the security and data protection of beneficiaries, a beneficiary must first be registered through the Express-Scripts.com/TRICARE member portal before being able to log-in to the TRICARE *Express Rx* mobile app or mobile-optimized site. A beneficiary can easily register for an account by visiting www.express-scripts.com/TRICARE. Once registered, beneficiaries can access the TRICARE *Express Rx* app and mobile-optimized website.

- **Clinical Research Management, (ClinicalRM) announced it has been awarded a five-year, $97 million research support contract by the United States Army Medical Research Acquisition Activity (USAMRAA).**

  The contract, titled Support for Military Medical Research for the Soldier (SMMRS), is to be performed at the Walter Reed Army Institute of Research (WRAIR) and will support WRAIR's goal of improving both national and international efforts to develop drugs, vaccines and associated products to address diseases of strategic interest to the military and to develop products to enhance warfighter resilience, and reduce and mitigate the impact of brain injury and combat stress.

  The SMMRS contract start date is July 1, 2011.

- **The Assistant Secretary of Defense for Health Affairs, Jonathan Woodson, delivered leadership advice to military doctors-in-training at Uniformed Services University of the Health Sciences on June 21, 2011.**

  Woodson, who assumed his post on Jan. 10, is no stranger to the tactical side of military operations. A brigadier general in the Army Reserve, he served as assistant surgeon general for reserve affairs, force structure and mobilization in the Office of the Surgeon General, and as deputy commander of the Army Reserve Medical Command.

  Woodson asked students about their career aspirations and encouraged them to seek balance in their lives. As they prepared to tackle the rappelling tower – the wall of the university's administration building – he urged them to consider all their opportunities.

  "You have to be willing to take on challenges outside your comfort zone," he said.

  "You are going to be trained to be great physicians, but you are also going to be trained to be great leaders," he said.

  "Leaders are, primarily, individuals who create a vision for people to follow [and] motivate people to go after that common vision. They solve problems," he said. "So I am looking for them to be superb physicians and leaders. The world is a dark and dangerous place without good leaders, but there is always a bright future when you have good leadership."

  That leadership is vital as the military continually strives to improve the quality of care it provides on the battlefield, as well as in clinical settings, he said.

  "After 10 years of war, we can be very proud of the fact that we have brought a lot of skill and professionalism to the battlefield that has resulted in the lowest died-of-wound rate, the lowest disease and non-battle injury rate [and] the highest survival rates," he said.

## Veterans Health Care News

- **The Department of Veterans Affairs promoted and offered HIV testing to veterans on June 27 – National HIV Testing Day.**

  June 5, 1981, was the first case of acquired immunodeficiency syndrome (AIDS), as reported by the Centers for Disease Control and Prevention (CDC). "VA has been part of the fight against HIV/AIDS since the beginning, taking care of some of the first patients that year," said Dr. Robert Petzel, VA's Under Secretary for Health. "VA has continued to provide compassionate, excellent care ever since, providing the latest, best treatments as they are made available."

  The importance of early detection of HIV cannot be overstated. Federal experts recommend that HIV testing be part of routine medical care. Routine voluntary HIV testing is now official VA policy. Throughout the VA health care system, VA facilities are working toward making sure veterans are tested for HIV at least once in their lives and those at risk are tested at least every year.

  VA health care facilities reaffirmed this message on National HIV Testing Day. Some facilities offered HIV testing on a walk-in basis or via routine care in primary care clinics. Other facilities offered HIV testing as part of health fairs, some provided seminars for VA staff, and others handed out information about HIV to patients.

  VA is the largest single provider of HIV care in the country, taking care of approximately 24,000 veterans with HIV a year. VA has the latest and best treatments available for HIV, enabling VA patients with HIV to live healthier, longer lives. VA's goal is to diagnose HIV infection as soon as possible, in order to get patients into excellent care.

  For extensive information about VA and HIV for patients and health care providers visit www.hiv.va.gov.

- **The Department of Veterans Affairs (VA) has expanded its performance and productivity website by making additional data available to the public.**

  VA announced last year its ASPIRE for Quality initiative, aimed at making data and outcome information available to the public in such areas as acute care, ICU, outpatient, safety and annual process measures, and how each medical center measures up to quality goals.

  The expanded ASPIRE for Productivity website provides information on how VBA and its regional offices are doing in relation to Department goals. The site specifically depicts how each of the regional offices measures up to productivity and other claim processing goals.

  The new ASPIRE performance and productivity data can be accessed on the VA website at http://www.vba.va.gov/reports/.

## Health Care News

- **HHS Secretary Kathleen Sebelius announced new draft standards for collecting and reporting data on race, ethnicity, sex, primary language and disability status, and plans to begin collecting health data on lesbian, gay, bisexual and transgender (LGBT) populations.**

  Both efforts aim to help researchers, policy makers, health providers and advocates to identify and address health disparities afflicting these communities.

  Under the plan announced, HHS will integrate questions on sexual orientation into national data collection efforts by 2013 and begin a process to collect information on gender identity. This plan includes the testing of questions on sexual orientation to potentially be incorporated into the National Health Interview Survey. The department also intends to convene a series of research roundtables with national experts to determine the best way to help the department collect data specific to gender identity.

  The proposed standards for collection and reporting of data on race, ethnicity, sex, primary language and disability status in population health surveys are intended to help federal agencies refine their population health surveys in ways that will help researchers better understand health disparities and zero in on effective strategies for eliminating them.

  For more information on improving data collection to reduce health disparities please visit http://www.healthcare.gov/news/factsheets/disparities06292011a.html.

  For more information on improving data collection within the LGBT community, please visit http://www.healthcare.gov/news/factsheets/lgbt06292011a.html.

- **The Centers for Medicare and Medicaid Services (CMS) announced that nearly 500,000 people with Medicare Part D who reached the gap in coverage know as the "donut hole" have received an automatic 50 percent discount on their covered brand name prescription drugs.**

CMS posted data that show 478,272 Medicare beneficiaries have benefitted from the 50 percent discount, available as a result of the Affordable Care Act, in the first five months of 2011. These beneficiaries saved a total of $260,534,102, or an average savings of $545 per beneficiary.

The number of seniors benefiting from this discount continues to grow. In the month of May alone, the total number of beneficiaries who received the discount rose by over 76 percent, while the dollar amount of savings rose by over 56 percent. Based on data from past years, CMS expects that as many as 4 million additional beneficiaries will fall into the coverage gap later this year and benefit from these discounts.

Most of these discounts are helping Americans with serious medical conditions. Nearly 14 percent of the benefits provided to date – more than $36 million – are for cancer drugs, more than 8 percent, or $21 million, for drugs to help control high blood pressure and cholesterol, and more than 7 percent – about $20 million – are for drugs provided to diabetic patients.

A November 2010 analysis by the U.S. Department of Health and Human Services estimated that Medicare improvements in the Affordable Care Act would provide average savings for those enrolled in traditional Medicare totaling more than $3,500 over the next 10 years, with even higher average savings of as much as $12,300 for those with higher drug costs.

For more information on how the prescription drug discount and other provisions of the Affordable Care Act benefits seniors and people with disabilities, visit www.HealthCare.gov.

- **A new tool to simplify the reporting by physicians and practices of clinical quality measures for meaningful use is now available.**

  Although popHealth was just a concept a year ago, the Office of the National Coordinator for Health IT (ONC) has conducted real-world testing and is highlighting it as providers begin to demonstrate meaningful use.

  popHealth is an open source reference implementation software service that automates the reporting of quality measures in stage one of meaningful use of electronic health records, said Thomas Tsang, MD, ONC's medical director of meaningful use and quality.

  The software also streamlines the automated generation of summary quality measure reports on the provider's patient population to support meaningful use calculations. It can report aggregate statistics, but also gives the provider the ability to drill down into individual patient records.

  Providers can use the popHealth software service or vendors can use the reference implementation model to incorporate the feature in their health IT products

  popHealth is being piloted by two different practitioners: a Staten Island, N.Y., solo practitioner using it with eClinical Works' HER and one in North Carolina using athenahealth. A third practitioner starts using the software in Chicago next week.

  The tool uses standard clinical data from the extensible mark-up language (XML) continuity of care formats required in the current meaningful use certification program. Those two standards are Health Level 7's Continuity of Care C32 Document (CCD) and the ASTM International's Continuity of Care Record (CCR).

- **Scientists have found a 20 percent reduction in deaths from lung cancer among current or former heavy smokers who were screened with low-dose helical computed tomography (CT) versus those screened by chest X-ray.**

  The primary research results from the National Lung Screening Trial (NLST) were published online in the *New England Journal of Medicine*.

  Sponsored by the National Cancer Institute (NCI), part of the National Institutes of Health, the NLST is a nearly decade-long study that establishes low-dose helical CT as the first validated screening test which can reduce mortality due to lung cancer.

  The NLST was a randomized national trial involving 53,454 current and former heavy smokers ages 55 to 74. Participants were required to have a smoking history of at least 30 pack-years and were either current or former smokers without signs, symptoms or history of lung cancer. Pack-years are calculated by multiplying the average number of packs of cigarettes smoked per day by the number of years a person has smoked.

  Participants in the NLST were randomly assigned to receive three annual screens with either low-dose helical CT (often referred to as spiral CT) or standard chest X-ray. Helical CT uses X-rays to obtain a multiple-image scan of the entire chest, while a standard chest X-ray produces a single image of the whole chest in which anatomic structures overlie one another.

  Over the three rounds of screening exams, 39.1 percent of the low-dose helical CT screens were positive and 16.0 percent of the chest X-rays were positive. In both arms of the trial, the majority of positive screens led to additional tests. When a positive screening result was found, 96.4 percent of the low-dose helical CT tests and 94.5 percent of the chest X-ray exams were false positive. The vast majority of false positive results was probably due to the detection of normal lymph nodes or inflamed tissues. False positive results not due to lung cancer were typically confirmed by follow-up CT scans that showed no change in the finding over time.

  The published results provide insight into the type of lung cancers found by screening and the stages at which they were diagnosed. Additional studies based on the complete NLST data set are ongoing and will include reports on cost-effectiveness of low-dose helical CT as well as the ability to use the data to develop models that may help indicate whether other groups of smokers, such as light smokers or younger smokers, would benefit from screening with low-dose helical CT. Other modeling studies are expected to examine the optimal frequency and duration of screening.

  The NLST was conducted by the American College of Radiology Imaging Network, a medical imaging research network focused on the conduct of multi-center imaging clinical trials, and the Lung Screening Study group, which was initially established by the NCI to examine the feasibility of the NLST.

  For more information on lung cancer and screening, please go to http://www.cancer.gov/cancertopics/types/lung.

### Reserve/Guard

- As of June 21, 2011, the total number of Guard and Reserve currently on active duty has **decreased** by 360 to 94,594. The totals for each service are Army National Guard and Army 72,231; Navy Reserve, 5,147; Air National Guard and Air Force Reserve, 10,232; Marine Corps Reserve, 6,199, and the Coast Guard Reserve, 785. www.defenselink.mil

### Reports/Policies

- **The GAP published *"Defense Centers of Excellence: Limited Budget and Performance Information on the Center for Psychological Health and Traumatic Brain Injury,"* (GAO-11-611) on June 30, 2011.** In this report, GAO recommends that the Secretary of Defense direct the Director of TMA work with the Director of DCOE to develop and use additional narrative in budget justifications, to regularly collect and review data on funding and obligations, and expand its review and analysis process. http://www.gao.gov/new.items/d11611.pdf

- **The GAO published *"Medicare: Issues for Manufacturer-Level Competitive Bidding for Durable Medical Equipment,"* (GAO-11-337R) on June 29, 2011.** http://www.gao.gov/new.items/d11337r.pdf

- **The GAO published *"Patient Protection and Affordable Care Act: IRS Should Expand Its Strategic Approach to Implementation,"* (GAO-11-719) on June 29, 2011.** The report describes IRS's PPACA responsibilities and effective dates; and assesses the extent to which IRS, in planning PPACA implementation, is following leading practices in four areas--developing an overall management structure (including goals and performance measures), estimating and tracking costs, assuring compliance with the new law while minimizing burden, and managing risk. http://www.gao.gov/new.items/d11719.pdf

- **The Institute of Medicine (IOM) published *"Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education, and Research,"* on June 29, 2011**. In this report IOM offers a blueprint for action in transforming prevention, care, education, and research, with the goal of providing relief for people with pain in America. **http://www.iom.edu/Reports/2011/Relieving-Pain-in-America-A-Blueprint-for-Transforming-Prevention-Care-Education-Research.aspx**

- **The GAO published *"Influenza Pandemic: Lessons from the H1N1 Pandemic Should Be Incorporated into Future Planning,"* (GAO-11-632) on June 27, 2011.** This report examines how HHS used the funding; the key issues raised by the federal response, and the actions taken to identify and incorporate lessons learned. http://www.gao.gov/new.items/d11632.pdf

- **The GAO published *"Influenza Vaccine: Federal Investments in Alternative Technologies and Challenges to Development and Licensure,"* (GAO-11-435) on June 27, 2011.** This report examines federal funding from fiscal year 2005 through March 2011 for alternative technologies and the status of manufacturers' efforts; challenges to development and licensure identified by stakeholders and how HHS is addressing those challenges. http://www.gao.gov/new.items/d11435.pdf

- **The Institute of Medicine (IOM) published *"Early Childhood Obesity Prevention Policies,"* on June 23, 2011.** The IOM reviewed factors related to overweight and obesity from birth to age five, with a focus on nutrition, physical activity, and sedentary behavior. In this report, the IOM recommends actions that healthcare professionals, caregivers, and policymakers can take to prevent obesity in children five and younger. **http://www.iom.edu/Reports/2011/Early-Childhood-Obesity-Prevention-Policies.aspx**

### Legislation

- **H.R.2363** (introduced June 24, 2011): To establish performance-based quality measures, to establish limitations on recovery in health care lawsuits based on compliance with best practice guidelines, and to provide grants to States for administrative health care tribunals was referred to the House Committee on Energy and Commerce.
  Sponsor: Representative Tom Price [GA-6].
- **H.R.2364** (introduced June 24, 2011): To amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to permit leave to care for a domestic partner, parent-in-law, adult child, sibling, grandchild, or grandparent who has a serious health condition, and for other purposes was referred to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, and Oversight and Government Reform.
  Sponsor: Representative Carolyn B. Maloney [NY-14].
- **H.R.2376** (introduced June 24, 2011): To amend the Public Health Service Act to provide for human stem cell research, including human embryonic stem cell research, and for other purposes was referred to the House Committee on Energy and Commerce.
  Sponsor: Representative Diana DeGette [CO-1]
- **H.R.2405** (introduced June 28, 2011): To reauthorize certain provisions of the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act relating to public health preparedness and countermeasure development, and for other purposes was referred to the House Committee on Energy and Commerce.
  Sponsor: Representative Mike J. Rogers [MI-8].
- **S.1273** (introduced June 23, 2011): A bill to amend the Fair Labor Standards Act with regard to certain exemptions under that Act for direct care workers and to improve the systems for the collection and reporting of data relating to the direct care workforce, and for other purposes was referred to the Committee on Health, Education, Labor, and Pensions.
  Sponsor: Senator Robert P. Casey, Jr. [PA]
- **S.1283** (introduced June 28, 2011): The *Family and Medical Leave Inclusion Act* was referred to the Committee on Health, Education, Labor, and Pensions.
  Sponsor: Senator Richard Durbin [IL]

### Hill Hearings

- There are no hearings scheduled.

### Meetings / Conferences

- ISID-Neglected Tropical Diseases Meeting (ISID-NTD) will be held on **July 8-10, 2011**, in Boston, Mass. http://ntd.isid.org/
- The 9th annual BioDefense Vaccines & Therapeutics Conference will be held on **July 20-22, 2011**, in Washington D.C. http://www.infocastinc.com/index.php/conference/biodef11
- National Veterans Small Business Conference and Exposition will be held on **August 15-18, 2011**, in New Orleans.
- CFHA's 13th Annual Conference: Accelerating Adoption of Collaborative Care: Reaching the Tipping Point will be held on **Oct. 27-29, 2011**, in Philadelphia, Pa. http://www.cfha.net//pages/Conference/
- The 15th International Congress on Infectious Diseases (ICID) will be held on **June 13-16, 2012**, in Bangkok, Thailand. http://www.isid.org/15th_ICID/
- 2011 Congress on Reducing Hospital Readmissions will be held on **Aug. 11-12, 2011**, in Las Vegas, Nev. http://www.globalmediadynamics.com/upcoming-events/hospital-readmissions/register-for-congress
- The 13th annual World Vaccine Congress will be held **Oct. 10-13, 2011**, in Lyon, France.
  http://www.terrapinn.com/2011/world-vaccine-congress-lyon/index.stm
- American Medical Informatics Association (AMIA) 2011 Annual Symposium will be held on **Oct. 22-26, 2011**, in Washington, DC.
  https://www.amia.org/amia2011
- CFHA's 13th Annual Conference: Accelerating Adoption of Collaborative Care: Reaching the Tipping Point on **Oct. 27-29, 2011**, in Philadelphia, Pa.
  http://www.cfha.net//pages/Conference/
- The American Public Health Association Annual Meeting & Exposition will be held on **Oct. 29-Nov. 2, 2011**, in Washington D.C.
  http://www.apha.org/meetings/
- The CDC's 2011 Symposium on Identification, Screening and Surveillance of HCV Infections in the Era of Improved Therapy for Hepatitis C will be held on **Dec. 1-2, 2011**, in Atlanta Ga. http://www.cdc.gov/hepatitis/hcvsymposium2011/.
- 17th Annual Maternal and Child Health Epidemiology Conference will be held on **Dec. 14-16, 2011**, in New Orleans, La. http://www.cdc.gov/reproductivehealth/MCHEpi/Conference/AboutConference.htm
- mHealth Summit will held on **Dec. 5-7, 2011, in** Washington, D.C. http://www.mhealthsummit.org/
- The International Conference on Emerging Infectious Diseases 2012 (ICEID) will be held on **March 11-14, 2012**, in Atlanta, Ga. http://www.cdc.gov/eid/content/16/11/e1.htm.

*If you need further information on any of the items in the Federal Health Update, please contact Kate Connelly Theroux at (703) 447-3257 or by e-mail at katetheroux@fedhealthinst.org. To subscribe, please visit http://fedhealthinst.org/subscriber.cfm. To unsubscribe, please send an email to newsletter@fedhealthinst.org with UNSUBSCRIBE as the subject.*

Back issues availiable at Federal Health Update Archives.


5185 MacArthur Blvd. NW, Suite 103-656, Washington, DC 20016
(202)271-5814 postmaster@fedhealthinst.org