

February 23, 2012

Steps Toward Health Reform in 2012

The Patient Protection and Affordable Care Act (PPACA) has been the topic of extensive debate and discussion since its introduction. The PPACA impacts hospitals, providers, and all other health care providers and insurers in a variety of ways. Navigating the numerous changes and requirements can be an onerous task. Understanding the PPACA and when its provisions apply is vital for any health care entity. Various provisions of the PPACA have already become or will soon become effective. Therefore, health care professionals should resolve to prepare accordingly. To aid in this process, the timeline below provides a brief summary of what provisions become effective and when they will be implemented in 2012.

When the clock struck midnight on January 1, 2012, the following provisions of the PPACA became effective.

- Accountable Care Organizations (ACO): The PPACA provides incentives (i.e. cost savings) to providers who band together to organize as an ACO. If the ACO meets quality thresholds, they have the opportunity to share in the cost savings that they helped achieve for the Medicare program.
- Medicare Advantage Plan: Rebates paid to Medicare Advantage plans are reduced, while bonus payments will be rewarded to high quality plans.
- Fraud and Abuse: The PPACA creates new procedures that providers and suppliers that participate in Medicare, Medicaid, and CHIP must use in order to screen, oversee, and report fraudulent or abusive activities.
- Employer Tax Changes: Employers are required to disclose the value of the benefits they provide for each employee's health insurance coverage on that particular employees' annual W-2 form.
- Medicare Home Demonstration Program: High-need Medicare beneficiaries will have access to primary care services, provided by a team of providers, in their home.
- Medicare Payment Changes to Providers: This provision imposes a productivity adjustment for certain providers, which will result in lower rates paid to those providers.
- Pharmaceutical Fees: The pharmaceutical industry faces new annual fees.
- Medicaid Demonstration Projects: Continuing through December 31, 2016, new Medicaid demonstration projects start operating in up to eight states, although the states have not yet been announced. These projects provide bundled payments for episodes of care that include hospitalizations, as well as allowing pediatric providers organized as ACOs to share in cost savings that they help achieve for the Medicare program.

As of March 1, 2012, all ongoing and new Federal health programs are required to collect and report data on race, ethnicity, sex, primary language, disability status, as well as underserved rural and frontier populations, enabling the Secretary of Health and Human Services to identify and reduce any disparities. Also, starting March 23, 2012, group

health plans and issuers must provide applicants, enrollees, and policyholders with a uniform summary explanation of their benefits and coverage.

Fees will be imposed on health insurance policies and self-insured health plans for policy or plan years ending after September 30, 2012. These fees will fund the Patient-Centered Outcomes Research Trust Fund, which supports comparative clinical effectiveness research.

Toward the end of the year, on October 1, 2012, the following additional key provisions of the PPACA become effective:

- Electronic Records and Billing: The PPACA institutes a series of changes that intend to standardize billing, while also requiring health plans to start adopting and implementing rules for the secure, confidential, electronic exchange of health information.
- Value-Based Purchasing Program: Financial incentives are given to hospitals based on quality of care. As part of this program, hospitals must publicly report performance, including measures relating to heart attacks, heart failure, pneumonia, surgical care, health-care associated infections, and patients' perception of care. The PPACA also requires similar programs to be developed for skilled nursing facilities, home health agencies, and ambulatory surgical centers.
- Reduced Payments for Hospital Re-admissions: Medicare payments that would otherwise be made to hospitals will be reduced to account for excess, i.e. preventable, hospital re-admissions.
- Supreme Court Decision: Also, keep your eyes open for a possible Supreme Court decision on the Constitutionality of PPACA this year.
- Next Health Alert: Our next Health Alert will address Compliance Plans matters, in which all providers and other will have an interest.

In order to properly prepare for these changes implemented by the PPACA, please contact your regular Butzel Long attorney or an attorney within Butzel Long's Health Care Industry Practice Group.

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