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2011 Health Care Reform Update

The Department of Health and Human Services (HHS) is moving forward with its 2011 health care reform regulatory agenda (including issues such as exchanges and “essential” health benefits), but the environment in which the health care reform issues are being discussed and implemented is extremely complex. This will be a key year for all 3 branches of government (and state governments) in determining the ultimate scope and impact of health care reform.

In addition to HHS’ work on exchanges and “essential” health benefits, regulators will also be working on firming up parts of the 2010 provisions, including data collection on “mini-med” plans to determine application of medical loss ratio requirements. Other policies that either took effect January 1 or are set to take effect this year include:

- Prohibiting the use of flexible savings accounts and health savings accounts for over-the-counter drugs without a doctor's prescription.
- Eliminating or reducing Medicare beneficiaries' cost-sharing for preventive services.
- Cuts in Medicare Advantage payments.

The legislature will be busy as well. The new Republican majority in the House plans to hold a vote this week (January 12) on a bill to repeal health care reform, but that vote will be symbolic due to the Democrat majority in the Senate. However, Republicans could weaken the ACA through smaller efforts, such as repealing the 1099 tax provision and otherwise reducing funding.

In the judiciary, the next major court battle over health care reform (and specifically, the individual mandate) will most likely take place in Florida, where a federal court heard oral arguments last month. The suit was brought by 20 state attorneys general and joined by the National Federation of Independent Business. The Florida case comes on the heels of a recent decision by a federal court in Virginia to strike down parts of the health care reform law.