Federal Health Care Policy & Politics:

2014 Outlook

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Presentation Summary

- Expectations for remainder of 2014
- 2013 Budget Agreement / FY 2014 Omnibus and their potential impact on 2014 policymaking
- Key 2014 Dates (February – December)
- 2014 Federal Health Care Legislative Health Care Issues
  - Federal Budget / Appropriations
  - Physician Payment Reform
  - Other potential action
  - Entitlement Reform
- Affordable Care Act
- Political Outlook

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Expectations for 2014

- 2013 budget agreement shapes 2014 legislative agenda / deadlines
- Opportunity for legislative activity exists in Q1 -- after that, Congress will retrench in prep for election
- Q1 Activities:
  - FY 2014 Appropriations (omnibus) - **COMPLETED**
  - SGR & Pay-fors (i.e., health-related items) -- either permanent or another patch
  - Other non-health, non-budget related items (e.g., farm bill)
- ACA activity unlikely … right-wing of GOP may try to leverage debt ceiling, but success is unlikely
  - ACA enrollment and shutdown catastrophe alters GOP's "repeal and replace" strategy
- Tax reform is likely dead w/ Sen. Baucus becoming Ambassador to China
  - Election year
  - Baucus gone
  - Camp term-limited

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Expectations for 2014, cont.

- Entitlement reform -probably nothing more than political theatre
  - GOP likely to use debt ceiling as leverage, but likely to get little
  - Look to 2015 …
    - Paul Ryan wants House W&M
    - Ron Wyden or Chuck Schumer at Finance
    - Orrin Hatch at Finance if R's take Senate
      - All have history of being reformers, dealers, big thinkers, and/or all-of-the-above
- Primary health care legislative goal: Long-term Physician Medicare Payment Reform
  - Offsetting the cost of a new physician payment system may negatively impact other areas of the health care system.
  - Physician payment reform will serve as main vehicle for other health care legislation - if physician payment reform fails, so will other health priorities

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Review of 2013 Budget Agreement and its Impact on 2014 and Beyond

- Rare showing of bipartisanship following government shutdown
- Partially replaces sequestration cuts in FY 2014 and FY 2015
  - FY 2014 funding level raised from $967B to $1.012T
    - Security raised from $498B to $520B
    - Non-Security raised from $469B to $492B
  - FY 2015 funding level set at $1.014T
- Delays Medicaid DSH cuts
- Maintains the 2% annual Medicare sequestration cuts on health care providers and extends them for two additional years (through FY 2023)
- Delays cut to Medicare physician payments until April 1
- Extends several expiring health care payment provisions (e.g., therapy cap exception, ambulance add-on payment, low-volume hospital adjustment, Medicare-Dependent Hospital program, etc.)
- Establishes site-neutrality for LTCH payments beginning in FY 2016 (fully phased in by FY 2018)

Key 2014 Dates: February – December

February 3:	President's FY 2015 Budget Proposal Due to Congress *
February 7:	U.S. Debt Limit Reached**
Spring:	FY 2015 Medicare Provider Proposed Rules Released
April 1:	Physician Payment Patch Expires
September 30:	End of Fiscal Year 2014 / Deadline for FY 2015 Spending Bills
November 4:	Mid-Term Congressional Elections

*This deadline will be missed – OMB has not completed its processes and the budget likely will not come out until March or April

**The Treasury Department has the ability to use extraordinary measures to avoid hitting the debt ceiling until probably early-mid March, which provides lawmakers an extra two months or so to maneuver and negotiate. If these measures can somehow keep the government solvent until early April, an influx of tax revenue leading up to tax day could provide enough room to push the actual deadline into July.

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Federal Budget

- FY 2014 Omnibus – **Approved and Signed into Law on 1/17**
  - Bipartisan / Bicameral agreement
    - Passed House 359-67
    - Passed Senate 72-26
  - 1,500 pages – all 12 appropriations bills rolled into one measure
    - $1.012 Trillion in total spending
    - Marks first time since December 2011 that Congress passed all 12 bills
- Labor, Health & Human Services, and Education Appropriations included in Omnibus
  - Typically the most contentious bill because of high profile issues that divide conservatives and progressives
    - Affordable Care Act
    - Title X Family Planning
    - Occupational Safety & Health Administration
    - Federal support for primary and secondary education
    - Corporation for Public Broadcasting
  - Several compromises necessary to complete Labor-HHS-Education and include it in the omnibus

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Federal Budget – Labor-HHS-Education

- Total Funding in Omnibus for Labor-HHS-Education:
  - Compromise, but favors Dem desires over GOP
  - Increase over FY 2013, less than Obama/Senate, much greater than House
    - FY 2013 (CR): $149B
    - FY 2014 (Obama Req.): $167B
    - FY 2014 (House bill): $121B
    - FY 2014 (Senate bill): $164B
    - **FY 2014 (Omnibus): $157.7B**
- Major Programs under HHS:
  - Community Health Centers (HRSA) - $1.495B
    - Less than FY 2013 ($1.508B), but $2.2B in ACA supplementary funding in FY 2014 is $700M more than ACA's FY 2013 contribution, so overall increase
    - $350M in FY 2014 set aside for "new starts"
  - Health Professions Training (HRSA)
    - Mostly level-funded, but big increases for geriatric, mental/behavioral, and public health / preventive medicine
    - Rejects proposed elimination of HCOP & AHEC by Obama

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Federal Budget – Labor-HHS-Education

- Labor-HHS-Education Programs, continued:
  - Centers for Disease Control and Prevention (CDC)
    - Increase of $500M brings funding back to FY 2012 (pre-sequestration) level
    - Big increases for Chronic Diseases and Environmental Health, respectively
  - National Institutes of Health (NIH)
    - $1B increase to $29.9B, brings agency funding back to FY 2009 levels after years of cuts – will permit about 375 additional grants over FY 2013
    - All Institutes of Centers (ICs) receive proportional increases, but $80M set aside for Alzheimer's research
  - Substance Abuse and Mental Health Services Administration (SAMHSA)
    - Slight Increase for mental health services
  - Centers for Medicare and Medicaid Services (CMS)
    - Management account level-funded at sequestration level of $3.67B
    - GOP rejects Obama request for $1.5B additional funding to implement ACA
    - No language in the Omnibus prohibiting ACA implementation, but CMS will be hard pressed to execute its responsibilities for ACA, Medicare, Medicaid, CHIP, etc. under this budget

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Federal Budget – Labor-HHS-Education

- Labor-HHS-Education Programs – CMS Policies, continued:
  - Omnibus requires CMS to publish in its FY 2015 budget and on its website the number of Federal employees and contractors in each fiscal year from FY 2011 – FY 2015 who spend at least 50 percent of their time on ACA activities.
  - Omnibus also requires CMS to detail in its FY 2015 budget the uses of all funds to establish the health insurance exchanges under the ACA
  - Report language requires CMS to do the following:
    - Describe in its FY 2015 budget the mechanisms in place to ensure that Medicare Administrative Contractors (MACs) adhere to CMS policies;
    - Provide a list of CAHs that would be re-designated under the CMS proposal to remove CAH status from facilities located < 10 mi from another hospital;
    - Report to Congress on steps taken to implement a systematic process to prevent waste, fraud & abuse + accounting of vulnerabilities ID'd by RACs;
    - Brief Appropriations Committees on criteria used to form FY 2014 HOPPS rule, specifically as it relates to packaged payment policies;
    - Include in its FY 2015 budget a plan with a timeline, goal & measurable objectives to improve the RAC process – also …
      - Work w/ Congress & stakeholders to ID challenges, additional reforms
      - Establish systematic feedback process with OMHA & RACs to prevent appearance that RACs select determinations to increase their fees.

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Long-Term Physician Payment Reform

Fast Facts

- **Goal:** Permanently replace sustainable growth rate (SGR) formula with new payment system.
- **Deadline:** Physicians face a 20 percent reduction in payments if a new system is not in place by April 1.
- **Status:** Three congressional committees have passed three slightly differing proposals that must now be reconciled into one bill and passed by both houses.
- **Biggest Challenge:** Offsetting federal spending elsewhere to pay for the cost of the new payment system.

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Long-Term Physician Payment Reform

Proposals Under Consideration

House Energy and Commerce Committee	House Ways and Means Committee	Senate Finance Committee
Repeals SGR	Repeals SGR	Repeals SGR
2014-2018: 0.5 percent update	2014-2016: 0.5 percent update	2014-2016: zero percent update
Starting in 2019: 0.5 percent update adjusted upward or downward depending upon performance measures. (1/3 will win, 1/3 will break even, 1/3 will lose)	After 2017: performance-based incentive payments	After 2017: performance based incentive payments

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Long-Term Physician Payment Reform

- Cost estimates of repealing the SGR range from $117 - $155 billion over 10 years.

- According to congressional leaders and staff:
  - SGR repeal will be fully paid for by cuts to other federal spending
  - All options are on the table
  - Offsets likely to "fall from the sky" (Rules Committee in House and/or Sen. Reid floor amendment in the Senate) to limit debate and opportunity galvanize opposition

- A combination of payment reductions and reforms to acute and post-acute providers are seen as the most likely source of funding for the new physician payment system, including:

Acute-Care	Post-Acute Care
Site Neutral Payments for E&M Services GME/IME Bad Debt Documentation & Coding	Market Basket Site Neutral Payments between SNFs and Nursing Homes Reinstate 75 percent rule Bundled Payments SNF readmissions penalties

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Long-Term Physician Payment Reform

- Post acute market basket highly likely:
  - "Fair" in that it hits all four provider types equally (LTCH, IRF, SNF, HH)
  - CBO scored one proposal at over $40B over 10 years, higher by magnitudes than the other options on the table
  - Acutes were hit in ACA and BCA
  - MedPAC says post acute margins are high
- House W&M discussion draft called for 1.1% annual market basket reduction for all post-acutes over 10 years (LTCH, IRF, SNF, HH)
  - Cuts would be in addition to …
    - ACA-mandated MB cuts (LTCH, IRF)
    - ACA-mandated productivity adjustment (LTCH, IRF, SNF … HH in 2015)
    - Sequestration (LTCH, IRF, SNF, HH -- through FY 2023)
    - Proposed performance-based penalties (e.g., site neutrality, readmissions, bundled payments)
  - Impact could be significant
- Site neutral for IRF likely would apply to certain diagnoses (e.g., knee replacement, hip replacement, hip fracture, etc.)
- Bundled payment likely would be based on BPCI program at CMMI
- SNF readmissions - W&M proposed FY 2018 implementation and up to 3% penalty

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Other Potential Health Care Legislative Action

- Repeal or delay new Medicare "Two-Midnight" admission policy
- Further delay of Medicare and Medicaid DSH payment cuts
- Reform Recovery Audit Contractor (RAC) program
- Repeal cap on outpatient therapy services
- Wage Index Reforms
- Expand patient access to medication therapy management

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Other Potential Health Care Legislative Action

Congress will consider extending and funding the following existing federal health programs and policies:

- Floor on Geographic Adjustment (GPCI) for Physician Fee Schedule
- Ambulance Transitional Increase & Annual Reimbursement Update
- Therapy Cap Exceptions Process
- Special Needs Plans
- Medicare Reasonable Cost Contracts
- National Quality Forum (NQF)
- Qualifying Individual (QI) Program
- Transitional Medical Assistance (TMA)
- Medicare Inpatient Hospital Payment Adjustment for Low Volume Hospitals
- Medicare Dependent Hospital (MDH) program
- Medicaid and CHIP Express Lane Eligibility
- Children's Performance Bonus Payments
- Child Health Quality Measures
- Outreach and Assistance for Low Income Programs
- Family to Family Health Information Centers
- Abstinence Education
- Personal Responsibility Education Program
- Health Workforce Demonstration Program
- The Maternal, Infant, and Early Childhood Home Visiting Programs
- Special Diabetes Program

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Entitlement Reform

Predictions

- GOP will use leverage for raising the debt limit to push Dems on large-scale deficit reduction.
- Looking for nearly a trillion dollars in entitlement cuts with no tax increases.
- White House can push back February debt limit deadline until Spring or Summer when lawmakers will be ready to go home and start campaigning.
- The later the vote on the debt limit, the better the odds are for a quiet extension and no entitlement reform.

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Affordable Care Act

Key Implementation Activities

- Individual mandate takes effect
  - Must have qualified health insurance:
    - Employer-provided
    - Exchange
    - Government (Medicare, Medicaid, CHIP, Tricare, Veterans, etc.)
  - Qualified individuals can receive federal support if purchasing on an Exchange:
    - Premiums and cost-sharing help
    - Up to 400% of FPL
  - Penalty for non-compliance
    - Phased in
    - 2014 - $95 or 1% of income
- Exchanges go live
  - Roll-out has been bumpy / botched depending on POV
  - Individuals are able to shop and purchase insurance (Bronze, Silver, Gold, Platinum)
  - SHOP for small businesses has been deferred, delayed, ignored

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Affordable Care Act

Key Implementation Activities cont.

- All new plans sold ...
  - Must include Ten Essential Health Benefits
  - Cannot underwrite
  - Cannot rate more than 3:1 by age
- Employer mandate delayed until 2015
- Medicaid Expansion
  - SCOTUS made it voluntary -- only about ½ of states have expanded
  - Up to 133% of FPL
- Pharmaceutical companies subject to a new tax.
- Medical Device Tax
- Insurance company tax based on their market share.
- Continued growth of ACO marketplace
  - As of today, 220 participants in MSSP and 23 in Pioneer
  - More will be announced imminently

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Political & Ideological Battle

- GOP assault leading up to elections
  - Healthcare.gov: technical glitches / security of personally identifiable information
  - Disclosure of enrollment data
  - Loss of coverage from non-ACA compliant plans
  - Restrictive physician and hospital networks

Political Outlook

- **Major Issues:** Health Care
  Economy
- **Senate**
  - Dems now have five-seat majority (55-45), includes two independents that caucus with Dems
  - GOP needs six seats to gain control
  - 35 Senators up for election (21 Dems / 14 GOP)
    - 15 races considered competitive (13 Dems / 2 GOP)
- **House**
  - Republicans have 234-201 majority - Dems need 17 seats to gain control
  - Only 16 highly competitive races (11 Dem / 4 GOP)
  - Seat swing likely to be fairly small

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