Health Law and Policy Update:
August 17, 2012

This week's updates

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ACA Medicaid expansion

As states continue to ponder the question of Medicaid expansion, an Associated Press article in the Denver Post this week highlights the struggles of low-income families who currently lack access to coverage and who would benefit from the expansion created under the Affordable Care Act. The article profiles a Florida family of three making $15,000 per year. While the child is Medicaid eligible, the parents are not and cannot afford private coverage. In other states, like Texas, parents making more than just $5,000 are too high income to qualify for Medicaid.

The Affordable Care Act expands the Medicaid program to cover nearly all individuals under the age of 65 whose incomes are less than 133 percent of poverty ($25,389 for a family of three or $14,856 for an individual). However, the recent Supreme Court Decision in *NFIB v. Sebelius* had the effect of nullifying the enforcement mechanism the federal government could use against states who did not comply with the expansion. The enforcement mechanism allowed the U.S. Department of Health and Human Services to withhold all of a state's federal Medicaid dollars for failure to implement the expansion. In the absence of an enforcement mechanism, several states, including Florida, Texas, Louisiana, South Carolina and Mississippi have announced their intent to not comply with the law's requirement to expand Medicaid eligibility. Colorado is still weighing its options.

In Colorado right now, parents making more than $19,090 make too much for Medicaid. Adults without dependent children can make no more than about $90 per month to be considered eligible. Under the ACA in 2014, however, families of three making $25,389 and individuals making $14,856 could qualify for Medicaid. The federal government would pay 100 percent of the cost for people made newly eligible under the ACA's Medicaid expansion for the first three years and the state would never pay more than 10 percent of the costs for those individuals. Not only does the Medicaid expansion provide a critical health coverage access point for individuals who are generally too low-income to afford private coverage and do not have access to employer coverage, but the expansion also would equalize income eligibility across

the country.

Hospitals with excess readmissions face penalties
As part of a larger effort by the federal government to make improvements to hospital quality, 2,211 hospitals nationwide face penalties due to high rates of patients readmitted to the hospital soon after discharge. The Kaiser Family Foundation reports that in total, hospitals with high readmission rates - when patients are readmitted within 30 days for the same condition - across the country must surrender approximately $280 million in Medicare reimbursements. The report states that readmissions, long attributed to uncoordinated health care delivery, cost the Medicare program alone $17.5 billion dollars annually.

The penalty, authorized under the Patient Protection and Affordable Care Act, will phase in over time. Initially, the maximum penalty is one percent of hospitals' base Medicare reimbursements, increasing to two percent in 2013. Forty-six Colorado hospitals are subject to these penalties, averaging 0.09% of base Medicare reimbursements, which is less than one-tenth of the maximum allowable. Only one Colorado hospital, Keefe Memorial Hospital in Cheyenne Wells, faces the maximum penalty. A list of the individual hospitals affected by these penalties is available here.

Hospitals that predominantly serve low-income individuals, or "safety-net" hospitals, argue that they are unfairly punished by these types of penalties due to the nature of the population they serve. The Kaiser Family Foundation reports that many safety-net hospitals credit high readmission rates to the lack of access to primary care doctors and necessary prescription medications. However, Eric Whitney with Colorado Public Radio recently wrote that Denver Health, Colorado's largest safety-net hospital system, has notably low readmission rates. Whitney reported that Denver Health achieves these low rates in part because it assigns teams of nurses and social workers to schedule follow up appointments with patients.

Hospital Giant, HCA, Reaps Profit but at what cost?
The New York Times reported this week on the extraordinary profitability of the Hospital Corporation of America (HCA) hospital system. HCA currently controls 163 hospitals across the United States, including 15 facilities in Colorado. HCA was acquired by three private equity firms in 2006, and, according to the Times, the value of the firms' holdings has increased nearly three and half times over initial investment. Specific strategies discussed in the article that have increased profitability include: aggressive billing for Medicare services, decreased staffing levels, and ER screenings that turn away individuals with assessed "nonurgent conditions."

These strategies, particularly decreased staffing and policies that limit access to the ER have raised questions about patient safety and quality of care. For example, the number of bedsores in bedridden patients is an issue at HCA hospitals. According to the Times, HCA facilities account for eight of the worst fifteen hospitals for bedsores among the 545 profit-making hospitals in the United States. The Times reports that HCA's tactics have triggered regulatory scrutiny at a number of HCA hospitals.