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6TH CIRCUIT COURT OF APPEALS UPHOLDS INDIVIDUAL MANDATE

On June 29, the Sixth Circuit Court of Appeals found the "Minimum Essential Coverage Provision," or the individual mandate, in Section 1501 of the Affordable Care Act (ACA), to be constitutional. The ruling was 2-1 upholding the mandate, and is the first vote from an appeals court on the constitutionality of the law.

The court ruled that the mandate regulates economic activity with a substantial effect on interstate commerce, and agreed with the federal government that allowing people to remain uninsured would allow for "free riders" to take advantage of the system. In writing for the court, Judge Jeffrey Sutton, a 2003 appointee of then-President George W. Bush, found the ACA requirement that everyone purchase health insurance to be "a valid exercise of Congress's authority under the Commerce Clause."

The Sixth Circuit's decision is the first appellate ruling on constitutionality of the Affordable Care Act's individual mandate. Currently, rulings are expected from appellate courts in the Fourth Circuit Court of Appeals in both *Virginia v. Sebelius* and *Liberty University v. Geithner*, and from the Eleventh Circuit in *Florida v. HHS*.

The opinion can be found [here](#).

FROM THE ADMINISTRATION

Federal Emergency Management Agency

Planning for Disaster-Related Risk and Functional Needs of People with Disabilities

The Federal Emergency Management Agency (FEMA) Office of Disability Integration and Coordination announced new courses: *Planning for Disaster-Related Risk and Functional Needs of People with Disabilities*, offered by the University of Kansas Research and Training Center. These courses will be on the TRAIN Internet educational system. *Planning for Disaster-Related Risk and Functional Needs of People with Disabilities: Train-The-Trainer* (course #1026720) is a 75 minute course intended for trainers. *Planning for Disaster-Related Risk and Functional Needs of People with Disabilities* (course #1026403) is a one-hour course intended for anyone not planning to ever teach. These courses identify functional needs and seven risk factors associated with disasters and the health and safety of people with disabilities and how to prepare accordingly.

Planning for Disaster-Related Risk and Functional Needs of People with Disabilities: Train-The-Trainer can be found [here](#).

Planning for Disaster-Related Risk and Functional Needs of People with Disabilities can be found [here](#).

Centers for Medicare and Medicaid Services

Affordable Care Act Delivers Cheaper Prescription Drugs to Nearly 500,000 People

June 28, 2011

The Centers for Medicare and Medicaid Services (CMS) announced on Tuesday that data show that the Affordable Care Act has already saved \$260 million for people with Medicare Part D facing a gap in prescription drug coverage, known as the “donut hole”. Through the Affordable Care Act, these Medicare beneficiaries received an automatic 50 percent discount on brand name prescription drugs. Data released by CMS show that 478,272 Medicare beneficiaries have benefitted from this discount in 2011, saving an average of \$545 per beneficiary.

The number of beneficiaries has also grown throughout the months; in May alone, the total number of beneficiaries rose by over 76 percent. CMS expects as many as 4 million additional beneficiaries will fall into this coverage gap and benefit from these discounts this year. Nearly 14 percent of the benefits provided have been for cancer drugs, more than eight percent for

high blood pressure and cholesterol medications, and seven percent for diabetes-related medication.

For more information on the benefits of the Affordable Care Act for seniors and people with disabilities, visit www.HealthCare.gov or www.Medicare.gov.

The full CMS press release can be found [here](#).

Medicare Expands Treatment Options for Patients with Advanced Prostate Cancer

June 30, 2011

On Thursday, Centers for Medicare and Medicaid Services announced the Food and Drug Administration approval of a new treatment for metastatic prostate cancer for Medicaid beneficiaries. Autologous cellular immunotherapy, known clinically as sipuleucel-T, is marketed in the United States as Provenge, for treating some forms of prostate cancer in seriously ill patients.

Provenge activates a patient's own immune system to defend him against prostate cancer. The treatment consists of a multi-day regimen in which the patient's white blood cells are collected and exposed to proteins that direct the white blood cells to fight prostate cancer cells. After the patient's cells are treated, the patient receives his own cells back into his body in order to stimulate his immune system to fight the prostate cancer. This regimen is repeated over several weeks for a total of three treatments.

Prostate cancer is the most common non-skin cancer in men in the United States. In 2009, an estimated 192,280 new cases of prostate cancer were diagnosed and an estimated 27,360 men died of prostate cancer. Prostate cancer is most common in older men; most men are diagnosed after age 65.

For more information on approved uses of Provenge, click [here](#).

The final coverage decision is available [here](#).

Annual Re-determination of Medicare Part D Low-Income Subsidy Deemed Status: "Re-deeming"

In July of each year, Centers for Medicare & Medicaid Services (CMS) begins the process of determining if beneficiaries with Medicare Part D low-income subsidy (LIS) in the current calendar year will automatically qualify for LIS in the next calendar year – this process is known as "re-deeming." CMS has published an Informational Bulletin on this process and included details and

dates about future correspondence to states and beneficiaries regarding re-deeming – click [here](#) to access this Information Bulletin.

Individuals reported as full-benefit dual eligible beneficiaries, partial dual eligible beneficiaries, or SSI recipients for any month between July and December of the current year will have their LIS deemed status extended to December 31 of the next calendar year. If a beneficiary was previously deemed eligible for LIS based on State data, but does not appear as subsidy-eligible in July or subsequent State MMA files, s/he will not be re-deemed for the next calendar year. Deemed status will end on December 31 of the current calendar year.

Department of Agriculture

USDA Housing Assistance

The U.S. Department of Agriculture (USDA) has several programs that can help people living in rural areas buy, renovate, or repair a home. There are also programs that can help elderly, low-income rural residents and people with disabilities who live in multi-family housing units make their rent payments. Qualified applicants pay no more than 30 percent of their income for housing.

More information can be found [here](#).

Additional housing resources can be found [here](#).

Department of Health and Human Services

Affordable Care Act Cuts Health Care Red Tape, Saves \$12 Billion

June 30, 2011

On Thursday, the U.S. Department of Health and Human Services (HHS) began implementation of the Affordable Care Act provision that cuts red tape in the health care system and will save an estimated \$12 billion over the next ten years. The provision includes the use of electronic standards to eliminate inefficient manual processes and reduce costs. Business processes will be improved through standardized and improved electronic health care transactions. Besides saving the patient and insurance company money, this will allow physicians offices to redirect time now spent on administrative tasks to improving patient care.

A May 2010 study found that physicians spend nearly 12 percent of every dollar they receive on complex administrative procedures. Simplifying these systems could save four hours of professional time per physician and five hours of support staff time every week. This time could be better spent on patient care.

The interim final rule issued on Thursday, part of Section 1104 of the Affordable Care Act, requires compliance by health plans, health care clearinghouses, and certain health care providers by January 1, 2013. New operating rules will make it easier for providers to determine whether a patient is eligible for coverage and the status of a health claim submitted to a health insurer. These rules will provide greater uniformity of information and transmission formats, so information can be shared through one uniform system.

The IFC with comment period may be viewed at the Federal Register [here](#). The rule is scheduled for publication on July 8, 2011. Comments will be accepted through COB on September 6, 2011.

FROM CONGRESS

Debt Limit Negotiations Continue

Amid criticism that he has been too far removed from the debt limit negotiations, on Wednesday morning, President Obama held his first news conference in several months, in part calling on Republicans to include new revenues in a final package to raise the debt ceiling, while hinting that both chambers should remain in Washington over the Fourth of July holiday in order to work toward an agreement on increasing the debt limit and trimming the deficit. In response, Senate Democratic leaders cancelled the upper chamber's July Fourth recess, and Senate Majority Leader Harry Reid's (D-Nev.) decision to do so may put pressure on House Republican leaders to cancel a break they have scheduled to begin July 18. The House is currently in recess until July 6.

As the negotiations continue, Democrats persist in efforts to convince Republicans to include new revenue as part of a deficit reduction package, along with spending cuts and changes to entitlement programs. GOP leaders, meanwhile, remain firm in refusing to consider the inclusion of any revenue increases that could be construed as a tax increase. Given the ongoing party-line stalemate, it is increasingly likely that Congress will have to consider a short-term debt limit increase that buys both parties more time to reconcile major differences. House leaders, however, are concerned that they would be unable to secure enough votes to pass multiple debt limit increases, and continue to press for a larger, more comprehensive package that would allow the Treasury to continue borrowing through the 2012 election season.

In the coming weeks, much of the work to reach an agreement is expected to occur behind the scenes, as congressional leaders and Obama administration officials try to strike a deal by the August 2 deadline. Obama met with Senate Majority Leader Reid and Senate Minority Leader Mitch McConnell (R-Ky.) separately earlier this week, and Reid is expected to meet with

President Obama next week. The White House has yet to reach out to House Speaker John Boehner (R-Ohio) to schedule additional meetings, signaling that current debt limit negotiations will continue to take place between the President and Senate Democratic leaders, rather than with House Republican leaders.

To view the news conference, [click here](#).

Senate Democrats to Unveil Fiscal 2012 Budget Resolution

When the Senate returns next week, Senate Budget Chairman Kent Conrad (D-N.D.) is expected to unveil Senate Democrats' fiscal 2012 budget resolution, which will likely seek to trim more than \$4 trillion from the deficit over the next ten years through a combination of revenue increases and spending cuts. Although Conrad plans to unveil Senate Democrats' blueprint for deficit reduction next week, he is expected to delay a committee markup of the budget resolution, in expectation that the plan will need to be modified to incorporate any bipartisan deficit reduction agreement.

Previously, Conrad announced that he would delay introducing a budget resolution amid the ongoing bipartisan, bicameral deficit reduction talks led by Vice President Biden. The collapse of those negotiations last week, coupled with the lack of enough consensus among the 'Gang of Six' Senators to produce a long-term spending plan, Conrad decided to move forward with introducing the Senate Democrats' fiscal 2012 budget resolution.

Lieberman-Coburn Medicare Savings Plan

On June 28, Senators Joseph Lieberman (I-CT) and Tom Coburn (R-Okla.) released a proposal that would save more than \$600 billion in Medicare over 10 years by adapting recommendations made by the National Commission on Fiscal Responsibility and Reform, created by President Obama.

The legislation would shift additional costs to Medicare beneficiaries, with wealthier older adults paying 100 percent of the premium costs for doctors' visits. The Lieberman-Coburn plan would also limit the out-of-pocket costs for beneficiaries in the event of catastrophic medical bills, while gradually increasing the age of eligibility from 65 to 67 for future beneficiaries. The measure is not expected to garner significant support, but pieces of it could become part of the discussion about how to reduce health entitlement spending.

Links to more information on the proposals from Lieberman's and Coburn's offices are below.

- Summary of the Lieberman-Coburn proposal [here](#).

- Coinsurance chart outlining the unified annual deductible and catastrophic limit [here](#).
- A summary of savings in the Lieberman-Coburn proposal [here](#).
- Chart displaying total Medicare financing [here](#).

FROM OTHER ORGANIZATIONS

The Robert Wood Johnson Foundation

Comparing Health Care Quality: A National Directory

The Robert Wood Johnson Foundation announced the release of a new website, *Comparing Health Care Quality: A National Directory*. This website includes a state-by-state directory of physicians and hospitals, considering the quality and cost of care. The directory includes publically available, free reports with information about the process of delivering care, actual outcomes for patients, and what patients said in surveys about their experience with physicians or hospitals, and/or cost.

The directory can be found on the Robert Wood Johnson Foundation website, [here](#).

National Center on Senior Transportation and the National Rural Transit Assistance Program

Crossing Great Divides, A Guide to Elder Mobility Resources and Solutions in Indian Country

On Monday, June 27, the National Center on Senior Transportation and the National Rural Transit Assistance Program (NRTAP) announced the release of a new resource guide, *Crossing Great Divides, A Guide to Elder Mobility Resources and Solutions in Indian Country*.

The resource guide highlights the importance of transportation for American Indian elders and identifies innovative approaches and resources for improving transportation services for elders living on reservations or other Indian lands throughout the United States. While the document was prepared primarily for Older Americans Act, Title VI Aging Services Programs, Tribal Transit Programs and Tribal governments, it is a useful resource for State Departments of Transportation, human services, health programs and others that work to address the mobility needs of American Indians, Alaska Natives and Native Hawaiians.

The report may be accessed by clicking on this [link](#).

FROM NASUAD**NASUAD Congratulates Newly Appointed Members**

Sam Haws has been appointed administrator of the Idaho Commission on Aging.



UPCOMING EVENTS FROM OUR PARTNERS

The NASMHPD Annual 2011 Commissioners Meeting is being held Sunday, July 17 – Tuesday, July 19, 2011, at the Westin Alexandria, 400 Courthouse Square, Alexandria, Virginia 22314.

National Association of State Head Injury Administrators State of the States in Head Injury Meeting, October 3-6, 2011, Kansas City, MO.

National Association of Medicaid Directors Fall Conference, November 7-9, 2011, Washington, DC

Archived Friday Updates are available on NASUAD's website here.