IMPLEMENTING HEALTH REFORM

New Covered Preventive Care Services

One goal of the Affordable Care Act was to boost the use of preventive services by all Americans. The law attempts to do this by making those services – health screenings, vaccinations, well-baby visits, and dozens more – free to as many people as possible as soon as possible.

Now, new private health plans must offer the services without patient cost sharing. Although that provision covers only a fraction of the population – existing plans were exempted – as of Jan. 1, all Medicare beneficiaries are offered new services at no cost.

Dr. Meena Seshamani, the deputy director of the Office of Health Reform at theHealth and Human Services department, explains how her agency is implementing this provision of the ACA and how HHS hopes it will affect the behavior of patients and physicians.

Clinical Neurology News: What preventive services will doctors be offering Medicare beneficiaries copayment-free this year?

Dr. Seshamani: Medicare beneficiaries with [fee-for-service] Medicare will receive free preventive care services and a free annual wellness visit, or physical. The complete list of preventive services is available in the Medicare & You Handbook, and it includes abdominal aortic aneurysm screening, bone mass measurement, certain colorectal cancer screening tests, immunizations for influenza and hepatitis B, and mammograms. Most Medicare Advantage plans also are offering theses services without cost sharing, so beneficiaries should check with their plan.

CNN: This change went into effect for private insurance plans created after health reform was enacted but not plans existing before then. Will long-existing plans, presumably covering most younger patients, ever have to fully cover preventive services under the law?

Dr. Seshamani: The ACA requires new insurance plans to cover an array of preventive services – those I mentioned above plus additional services including well-baby and well-child visits and routine immunizations – without charging a copay, coinsurance, or deductible. These rules do not apply to grandfathered plans, that is, plans that existed on March 23, 2010, and have not made significant changes since then. If a plan loses its "grandfather status" by making changes that reduce benefits or increase costs to consumers, it will need to comply with the new rules.

CNN: How were these services chosen?

Dr. Seshamani: The ACA specifies that Medicare beneficiaries will not have to pay cost-sharing for Medicare-covered services that are recommended with a grade of A or B by the U.S. Preventive Services Task Force. The law also requires private plans to cover without cost-sharing all services that are recommended with a grade of A or B by the task force; routine immunizations recommended by the Advisory Committee on Immunization Practices; services for infants, children, and adolescents recommended by the Health Resources and Services Administration, including the Bright Futures guidelines for regular pediatric checkups and guidelines on newborn screening; and additional preventive services for women, which are in development.

Before the ACA, Americans used preventive services at about half of the recommended rate.

DR. SESHAMANI

CNN: How will this change affect primary care physicians? What about specialists?

Dr. Seshamani: Some of the recommended services, like flu shots, are routinely delivered by primary care physicians, while others, like colonoscopies, are more commonly delivered by specialists. All physicians have a role to play in making sure their patients get the preventive care they need to stay healthy.

CNN: What fraction of the preventive services have patients been getting in the past, and what do you expect after these changes?

Dr. Seshamani: Before the ACA, Americans used preventive services at about half of the recommended rate. By eliminating copayments for new plans and for Medicare beneficiaries, the law will make preventive care more accessible for many Americans.

CNN: Won't these changes increase public and private health care costs, while health reform was supposed to control costs?

Dr. Seshamani: Chronic diseases, such as cancer, heart disease, and diabetes make up 75% of U.S. health spending. These diseases are often preventable, and by improving access to preventive care, more Americans will get the care they need to stay healthy. This can not only improve the health of Americans, but also prevent the need for costly care later. ■

The complete list of preventive services that Medicare and some private plans must offer at no charge to patients is at http://www.HealthCare.gov/center/regulations/prevention.html.

Congress Clarifies 'Creditor' Definition for Red Flags Rule

BY MARY ELLEN SCHNEIDER

Congress passed legislation clarifying its definition of a "creditor" under the Red Flags rule, a move that could help bolster the case that physicians should not have to abide by the new identity theft safeguards.

The Federal Trade Commission was set to begin enforcing the Red Flags rule on Jan. 1. The rule was written to implement provisions of the Fair and Accurate Credit Transactions Act, which calls on creditors and financial institutions to address the risk of identity theft.

The rule requires creditors to develop formal identity theft–prevention programs that would allow an organization to identify, detect, and respond to any suspicious practices ("red flags") that could indicate identity theft. However, physician groups have long asserted that they are not creditors, and should be exempt from the requirements, which they consider overly burdensome.

Under the new legislation (S. 3987), which was passed by the House on Dec. 7 and by the Senate on Nov. 30, Congress clarifies that a creditor is not someone who simply "advances funds on behalf of a person for expenses" related to a service. The American Medical Association and other physician groups are hopeful that the clarification will be enough to convince officials at the Federal Trade Commission to exempt physicians from the Red Flags rule.

"The AMA is pleased that this legislation supports AMA's long-standing argument to the FTC that physicians are not creditors. This bill will help eliminate the current confusion about the rule's application to physicians," AMA President Cecil B. Wilson said in a statement. "We hope that the FTC will now withdraw its assertion that the red flags rule applies to physicians."

The Red Flags rule became effective on Jan. 1, 2008, with an original enforcement deadline of Nov. 1, 2008. However, the FTC has delayed enforcement of the rule five times, first to give organizations more time to become familiar with the requirements, and later at the request of members of Congress.

In May 2010, the AMA joined the American Osteopathic Association and the Medical Society of the District of Columbia in a federal lawsuit that seeks to prevent the FTC from applying the Red Flags rule to physicians. ■

Virginia Judge Strikes Down Health Insurance Mandate

BY MARY ELLEN SCHNEIDER

The federal government cannot require individuals to purchase health insurance under the recently passed Affordable Care Act, according to a Dec. 13 ruling by a U.S. District Court judge in Richmond, Va.

In his decision, Judge Henry E. Hudson wrote that it is outside the constitutional powers of Congress to regulate whether a person purchases a product. As a result, his decision effectively severs section 1501 – the Minimum Essential Coverage provision – from the Affordable Care Act but leaves the remainder of the health reform law intact.

In their defense of the law, lawyers for the federal government noted that the success of other portions of the law depends on the ability to insure all Americans.

The case, *Commonwealth of Virginia v. Kathleen Sebelius*, was brought by Virginia Attorney General Ken Cuccinelli. Mr. Cuccinelli was asking the court to grant an injunction against the implementation of the entire health reform law if the individual mandate was deemed to be unconstitutional.

The U.S. Department of Justice is expected appeal the decision, which could end up in the Supreme Court. However, if Judge Hudson's ruling stands, the removal of the individual mandate could create serious problems for the overall implementation of the Affordable Care Act.

In their defense of the law, lawyers for the federal government noted that the success of other portions of the law, such as the provision barring insurers from discriminating against people based on preexisting medical conditions, depends on the ability to insure all Americans.

This is the first time that opponents of the law have been successful in challenging a portion of the Affordable Care Act. Other challenges to the law in Michigan and Virginia have been dismissed. ■