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Four Resolutions We Hope Lawmakers Will Keep This Year

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So this is the new year -- will lawmakers be any different?

Probably not. Legislators seem more likely to lose 10 pounds than deal with several pesky health policy issues in 2012.

The unfinished 'doc fix' is waiting to be addressed -- again.

Republicans have yet to debut their long-promised replacement for the Affordable Care Act; Democrats have shrunk from their controversial Independent Payment Advisory Board.

Here are four resolutions that "Road to Reform" would like to see policymakers follow through on this year.

1. 'Fix' the SGR -- Permanently

It's the most regular -- and regularly delayed -- piece of health policy legislation.

Which means health journalists and wonks must address the story each year.

Grudgingly.

Rather than decide to implement scheduled cuts to Medicare provider payments, as called for by the 15-year-old Sustainable Growth Rate formula, Congress traditionally passes a temporary patch that leaves the issue for future sessions.

As a result, the 2012 **articles** on changing Medicare's SGR aren't so different from the **2002 iterations**, except the size of the defrayed cuts grows each year -- from 5% a decade ago to 27% today.

Odds of following through: Low.

As the ***Washington Post*'s Sarah Kliff notes**, actually allowing the SGR cuts to go through is a "political nonstarter." But no lawmaker has successfully offered a politically viable replacement or long-term patch.

Congress already is **dragging its heels** on how to extend the current two-month patch.

So barring a radical solution -- perhaps surfaced through "a contest" for the best crowd-sourced doc fix, *Politico* editor **Joanne Kenen joked** -- this will be another year with no permanent solution, unless continued economic challenges finally force hard fiscal choices on Medicare.

2. Introduce the GOP 'Replacement' for the Affordable Care Act

The House last January directed four GOP-led committees to **work up replacements** to the ACA.

Twelve months later, we're still waiting.

House Budget Committee Chair Paul Ryan (R-Wis.) admitted as much **in a speech** at Stanford's Hoover Institution last fall. "The party as a whole has yet to coalesce around a complete reform agenda," Ryan said -- suggesting that his own controversial plan would be the answer.

But many Republicans have shifted away from embracing Ryan's plan. A handful of bills that would make fragmentary changes to health reform, such as changing malpractice policy, have been floated for

consideration.

That isn't enough for some health wonks.

"For Republicans, we get what you are against ... what are you for?" Duke University professor Don Taylor told *California Healthline*. "Anyone claiming to want a balanced budget is in the health reform business whether they know it or not. They should resolve to mark a [replacement] bill in the House and have it scored by the CBO."

Odds: Slim

There's little incentive for the GOP to introduce a politically risky health reform proposal, especially ahead of this fall's elections.

By simply attacking the ACA, "they're [already] winning the argument," the Cato Institute's Michael Cannon **told the *Washington Post***. "Why would [Republicans] change the subject?"

3. Follow Through on the Democrats' IPAB

IPAB was promised as one of ACA's most transformative reforms, by taking Medicare payment policy out of the hands of Congress and forcing the kind of payment decisions that legislators have proven unwilling or unable to make. (See: The doc fix.)

But actually enacting the commission has been **politically fraught** from the start, with fears that IPAB would lead to rationing of health services and charges that IPAB would be like "an IRS for Medicare."

There's also the non-trivial matter of finding candidates willing to submit to high-profile -- and possibly brutal -- Senate confirmation hearings.

Odds: Middling.

Like the GOP, Democrats are wary of resurrecting arguments about health reform in the midst of an election season. Given IPAB's common depiction as a health care rationing board, it's a probable political loser.

But IPAB could be a matter for the lame-duck Congress this winter, especially if Washington's deficit-cutting climate persists. And because the ACA calls for IPAB to deliver its first report in July 2014, the commission will need to begin assembling across the next two years to hit its deadlines.

4. Decide What's Worthy of Tax-Exempt Status

For years, not-for-profit hospitals have faced questions over their tax exemptions.

In essence: Do these hospitals provide enough in community services and free care to warrant their tax breaks?

Seeking answers, Sen. Chuck Grassley (R-Iowa) has pushed changes to Internal Revenue Service regulations, requiring hospitals to detail their uncompensated care and community benefit. Drawing on that new data, a robust ***Modern Healthcare* analysis** found that the average hospital spends less than 2% of its expenses on charity care.

Odds: Middling.

Hospital requirements to earn and keep tax-exempt status have been vaguely defined for decades, but the economy and lagging tax rolls might finally force governments to act on making changes.

Even if Congress doesn't move on a broader decision, several Illinois hospitals lost their property tax-exempt status last year, a possible harbinger of similar actions by local boards.

Which Issues -- if Any -- Will Be Resolved in 2012?

"Road to Reform" will hold lawmakers to task across 2012. And if legislators need any help on following through, a recent ***New York Times* article** suggests tricks to boost your willpower to keep New Year's resolutions. (Unfortunately, there's no second story on how to improve political will.)

Meanwhile, here's what else is going on across the nation.

Administration Actions

- Last week, **CMS released a list** of the final recipients of one- to three-year waivers that exempt certain health plans from coverage-level mandates in the federal health reform law. The waivers went to 1,231 health plans and employers that cover 3.9 million individuals (Baker, "**Healthwatch**," *The Hill*, 1/6). Under the waivers, the minimum annual dollar limit on essential benefits that the recipient must provide is $750,000 in 2011, $1.25 million in 2012 and $2 million in 2013. Beginning in 2014, the health reform law prohibits dollar limits on essential benefits (Daly, ***Modern Healthcare***, 1/8).
- Last week, **HHS released an interim final rule** detailing standards for the electronic transfer of funds in the health care industry. The rule, which was mandated by the federal health reform law, comes after HHS **issued an interim final rule** in July 2011 outlining transaction standards for checking patients' health plan eligibility and claims status (McKinney, ***Modern Healthcare***, 1/5). The new rule outlines the standards for the format and content of the data that a health insurer sends to its bank when it seeks to pay a claim to a health care provider electronically (Manos, ***Healthcare IT News***, 1/5).
- Last week, **HHS issued a final notice** in the *Federal Register* with an initial set of 26 quality measures for adults eligible for Medicaid. The federal health reform law required HHS to develop a standardized quality reporting format by Jan. 1, 2013, and publish any changes to the measures annually. **CMS** worked with the **Agency for Healthcare Research and Quality** at HHS to develop the measures, which cover areas such as prevention, care coordination and chronic disease management (McKinney, ***Modern Healthcare***, 1/3).
- Last week, **HHS** denied requests from **Kansas** and **Oklahoma** for waivers to medical-loss ratio rules under the federal health reform law (Baker, "**Healthwatch**," *The Hill*, 1/4). Under the rule, private insurers must spend at least 80% in the individual market or 85% in the group market of their premium dollars on direct medical costs (Zigmond, ***Modern Healthcare***, 1/4). Kansas had requested an adjustment of the MLR standard to allow insurers to spend 73% of premium dollars on claims in 2012 and 76% in 2013. Oklahoma had asked for an adjustment at rates of 70% in 2012 and 75% in 2013 ("Healthwatch," *The Hill*, 1/4).
- Last week, **HHS** granted **Texas** a 30-day extension to phase in the medical-loss ratio regulations under the federal health reform law. Under the rule, private insurers must spend at least 80% in the individual market or 85% in the group market of their premium dollars on direct medical costs. The **Texas Department of Insurance** last year requested an adjustment of the MLR standard to 71% in 2011, 74% in 2012 and 77% in 2013 (Norman, *CQ HealthBeat*, 1/3).

Effect on Employers

- Several large private health insurers have begun forming health insurance exchanges to compete with the public exchanges created under the federal health reform law. The companies believe they can offer better-priced coverage than the plans that will be in the public exchanges. Like other small businesses, physician offices could be persuaded by private plans to join their exchanges. The private exchanges could offer coverage in two ways: one would offer a variety of health plans from one company, while the other would include a choice of plans from several companies (Berry, ***American Medical News***, 1/4).

In the States

- Last week, **Wisconsin Gov. Scott Walker (R)** said states should temporarily stop implementation of the federal health reform law until the **U.S. Supreme Court** rules on its constitutionality. In December, Walker said he would halt all work on his state's health insurance exchange and would not use any federal health reform funds the state has received until the high court reviews the case in March. "I think for any state to move forward on that without knowing what the impact will be ... is a poor decision," Walker said (Norman, *CQ HealthBeat*, 1/5).

On the Hill

- Last week, the **Democratic Congressional Campaign Committee** **criticized House Republicans** for spending much of 2011 undermining the federal health reform law and other health care-related issues. DCCC argued that Republicans have not focused on job creation, citing 21 floor votes on various health care measures. DCCC also criticized Republicans for "nearly shutting down the government so they could defund **Planned Parenthood** [and] ending Medicare so they could protect tax breaks for Big Oil" (Baker, "**Healthwatch**," *The Hill*, 1/5).

Rolling Out Reform

- Several provisions in the federal health reform law could remain in place even if the **U.S. Supreme Court** strikes down the law's individual mandate. The high court will review lawsuit filed by 26 states and the **National Federation of Independent Business** in March. Many of the provisions that still could stand have yet to be implemented. **CMS** this year is set to launch the value-based purchasing program, issue regulations to streamline billing and contract with qualifying accountable care organizations. CMS also is expected to release final regulations governing the creation of state health insurance exchanges (Reichard, *CQ HealthBeat*, 1/3).

Spotlight on ACOs

- Last week, the **American Hospital Association** **issued a letter** protesting a "little-noticed announcement" that **CMS** plans to tighten its rules regarding accountable care organizations that are being established under the federal health reform law. In the announcement, CMS said it plans to narrow legal definitions on fraud and abuse waivers. AHA urged CMS to refrain from making changes to the rules after a public comment period, stating, "ACOs should not be at risk for changes to the rules through obscure or little noticed issuances" (Carlson, ***Modern Healthcare***, 1/3).