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In Year Two of the Health Care Overhaul, the Wonks Will Really Go to Work

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Federal regulators face dual challenges as they begin the second year of implementing the health care overhaul next week. They must continue the methodical work of preparing for change while defending the law against opponents in Congress, the states and the courts.

The next regulatory steps will be largely invisible to the public, in contrast to the law's inaugural year -- which ends March 23 -- when high-profile benefits and consumer protections attracted widespread publicity and scrutiny.

Department of Health and Human Services (HHS) officials will create a Medicare initiative to encourage hospitals and physicians to coordinate more closely on patient care in the coming year. Regulators will start deciding which medical services health plans must cover as of 2014. Negotiations between federal and state officials will escalate as states prepare to launch the health insurance markets that will expand coverage. And researchers will get federal money to find the most effective way to treat diseases.

"There's a shift beginning now that moves from the implementation of early deliverables to getting ready for 2014, when big changes take effect," said Larry Levitt, vice president of the nonpartisan Kaiser Family Foundation. "Much of that will happen behind the scenes. But it's hard to imagine that this issue will disappear from the news."

Indeed, debate over the law may increase because upcoming steps to implement it are likely to stir opposition anew.

House and Senate Republicans will intensify efforts to repeal or block funding for such implementation. At the same time, state officials will argue that federal control over insurance is inappropriate and that the law's eligibility expansion of Medicaid, the state-federal program for the poor, is too costly. Federal courts will rule on more than 20 challenges to the law's constitutionality, which the Supreme Court is likely to settle.

What's Next

The way HHS officials structure the core benefit package arguably will have a more direct impact on consumers than anything else they do in the coming year of implementation.

The law requires insurers to cover treatments in general categories, such as outpatient and inpatient care, emergency services, pediatric dental visits, wellness care, rehabilitation therapy and mental health benefits. But HHS officials now must translate that into specifics that patients can count on from insurers.

"The lobbying has begun," said Ian D. Spatz, senior adviser to Manatt Health Solutions and the principal in the Rock Creek Policy Group. "Along with the individual mandate, it is the unresolved question of health care reform."

Spatz predicted that because the issue of benefits is politically sensitive, the administration may delay final decisions until after the 2012 elections.

"The balance there is to make sure there is enough in there that's important without saddling the plans with too much cost burden," said Dan Mendelson, a former Clinton administration official and CEO of consulting firm Avalere Health.

The administration will soon issue a proposed rule for a voluntary program outlining the way hospitals, physicians and other providers must coordinate care for Medicare patients. Participants may be able to keep part of any savings realized by their ability to offer higher-quality care and prevent medical conditions from getting worse. Each one of these "accountable care organizations" (ACOs) will serve at least 5,000 Medicare patients.

The administration will select grant recipients to conduct comparative effectiveness research -- the study of different types of treatment for the same conditions -- in an effort to educate those who pay for, deliver and get care about what works best. The law directed that a new institute oversee such research.

And in the coming year, HHS officials will work out details for a long-term care program that some policy experts, including Secretary Kathleen Sebelius, say must be made more fiscally sustainable. Administration officials hope to set eligibility and enrollment processes by Jan. 1, 2012, and finalize the program by October 2012.

Because the next implementation steps are not as high-profile, policy experts do not foresee big shifts in the American public's partisan divide over the law. Polls show that public opinion has remained static in the first year. Republicans generally oppose the law, while Democrats are far more supportive.

"For crying out loud, they're sending checks to seniors and it's not working," said Michael Cannon of the Cato Institute, referring to money that Medicare officials sent to beneficiaries in 2010 to reimburse them for prescription drug costs. "How is an ACO going to succeed in changing opinions when cash failed?"

Robert Blendon, professor of health policy and political analysis in the Harvard University School of Public Health, said of public opinion: "With all the millions of dollars in advertising and Sunday morning talk shows, the armies on either side haven't moved their borders a lot, and that's not likely to change before the next election. The next set [of developments] are structural changes that mean a lot for experts but are very difficult for the public to get excited about."

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