



CONGRESSIONAL DISTRIBUTION
MEMORANDUM

November 1, 2011

From:

Subject: Deadlines for the HHS Secretary and Other Federal Entities in the Patient Protection and Affordable Care Act: Addendum to CRS Congressional Distribution Memorandum Dated April 5, 2011

This memorandum is an addendum to an earlier CRS memorandum summarizing certain statutorily imposed deadlines in the Patient Protection and Affordable Care Act (PPACA; P.L. 111-148) and the actions taken through April 1, 2011, to meet those deadlines.¹ That product focused on PPACA provisions requiring the Secretary of Health and Human Services (HHS) or another federal entity to take a specific action by a specific date within the first year of the law's enactment (i.e., through March 23, 2011).

In developing the earlier memo, CRS had to make a number of decisions as to whether a specific provision qualified for inclusion. To make those determinations, CRS relied on a close reading of the statutory text, acceptable principles of statutory interpretation, and subject matter expertise regarding typical implementing agency practice in the issue areas covered by PPACA. Accordingly, several categories of provisions were excluded from the earlier memorandum. Readers should consult that product for more details on our methodology.

This memorandum, which employs the same methodology for determining whether a provision should be included for analysis, includes two tables. **Table 1** provides updated information on a number of deadlines that were included in the earlier memorandum and for which no or only partial implementation action had been taken through April 1, 2011. **Table 2** summarizes the PPACA provisions that require the HHS Secretary (or another federal entity) to take specific action by a specific date during the period March 24, 2011, through October 15, 2011.

¹ CRS Congressional Distribution Memorandum, "Deadlines for the HHS Secretary and Other Federal Entities in the Patient Protection and Affordable Care Act (PPACA; P.L. 111-148), March 23, 2010 – March 23, 2011: Implementation Actions Taken as of April 1, 2011," by C. Stephen Redhead and Todd B. Tatelman, April 5, 2011.

The entries in both tables include the following information: (1) the deadline; (2) the PPACA section number; (3) a brief description of the provision's requirements; and (4) a summary of the actions taken *as of October 24, 2011*. The information on actions taken as of that date is based solely on an examination of publicly available sources. In obtaining this information, CRS relied on official federal sources, such as agency websites and the Federal Register.² If CRS was unable to find any public information about implementation of a particular PPACA provision using these sources, then this is indicated in the table by the phrase "No public information located." That indication does not necessarily mean that an agency or other federal entity has taken no action towards meeting a deadline. It may be that there has been internal activity, but that CRS was unable to locate any public information about the activity.

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Acronyms

The following laws and federal agencies are referred to in the tables by their acronym:

- Centers for Disease Control and Prevention (CDC)
- Centers for Medicare and Medicaid Services (CMS)
- Food and Drug Administration (FDA)
- Government Accountability Office (GAO)
- Health Insurance Portability and Accountability Act (HIPAA)
- Health Resources and Services Administration (HRSA)
- Indian Health Care Improvement Act (IHCIA)
- Indian Health Service (IHS)
- Public Health Service Act (PHSA)

² A more comprehensive analysis of federal government actions taken to meet PPACA deadlines would require the examination of internal agency documents and interviews with agency officials. Such activities are beyond the scope of this memorandum.

Table I. PPACA Deadlines in the First Year After Enactment (March 23, 2010 – March 23, 2011)

Updated Information on Selected Deadlines Included in the CRS Memorandum Dated April 5, 2011

Deadline	PPACA Section	Requirements	Actions Taken as of October 24, 2011
Title I: Private Health Insurance			
March 23, 2011	1001	Requires the HHS Secretary, by regulation, to develop standards for use by a group health plan and a health insurance issuer offering group or individual health insurance coverage in compiling and providing an accurate summary of benefits and coverage. Requires the Secretary, in developing such standards, to consult with the National Association of Insurance Commissioners (NAIC), a working group composed of representatives of health insurance-related consumer advocacy organizations, health insurance issuers, health care professionals, patient advocates including those representing individuals with limited English proficiency, and other qualified individuals. [PHSA Sec. 2715]	On August 22, 2011, HHS, the Department of the Treasury, and the Department of Labor published the following two documents: (1) proposed rule with request for comment, "Summary of Benefits and Coverage and the Uniform Glossary," (76 Federal Register 52442); and (2) solicitation of comments, "Summary of Benefits and Coverage and Uniform Glossary – Templates, Instructions, and Related Materials Under the Public Health Service Act," (76 Federal Register 52475). Comments on both proposals are due by Oct. 21, 2011.
Title II: Medicaid, Children's Health Insurance Program (CHIP)			
Sept. 19, 2010	10201(f)	Requires the HHS Secretary to promulgate regulations relating to applications for, and renewals of, any Medicaid or CHIP section 1115 demonstration project that has an impact on eligibility, enrollment, benefits, cost-sharing, or financing.	On September 17, 2010, CMS published a proposed rule on the review and approval process for section 1115 demonstrations (75 Federal Register 56946). A final rule has yet to be published.
Title III: Medicare, Health Care Quality			
Dec. 31, 2010	3012	Requires the Interagency Working Group on Health Care Quality, convened by the President and chaired by the HHS Secretary, to submit to Congress, and publish on the Internet, a report on its progress and recommendations.	The Interagency Working Group on Health Care Quality has been convened, consisting of 23 senior federal officials. The Group held its first meeting on March 4, 2011. No report has been submitted to Congress. See http://www.ahrq.gov/workingforquality/ .
Jan. 1, 2011	3006(f)	Requires the HHS Secretary to develop and submit to Congress a plan that would implement value-based purchasing for ambulatory surgery centers (ASCs).	On April 18, 2011, HHS released "Report to Congress: Medicare Ambulatory Surgical Center Value-Based Purchasing Implementation Plan." See https://www.cms.gov/ASCPayment/downloads/C_ASC_RTC%202011.pdf .

PPACA		Actions Taken as of October 24, 2011	
Deadline	Section	Requirements	
March 23, 2011	3507	Requires the HHS Secretary to submit to Congress a report providing the determination of whether the addition of quantitative summaries of the benefits and risks of prescription drugs would improve health care decision making by clinicians and patients.	On March 23, 2011, FDA's Office of Prescription Drug Promotion released "Report to Congress: Implementation of Section 3507 of the Patient Protection and Affordable Care Act of 2010, First Progress Report." The agency indicated that conducting the necessary research and literature reviews and consulting with the appropriate experts would take about three years. FDA promised to provide Congress with annual progress reports towards fulfilling the requirements of the law. See http://www.fda.gov/downloads/AboutFDA/CentersOffices/CDER/UCM250581.pdf .
Title IV: Prevention and Public Health			
March 23, 2011	4001(g)	Requires the chairperson of the National Prevention, Health Promotion and Public Health Council to publish a national prevention, health promotion and public health strategy.	On June 16, 2011, the U.S. Surgeon General and members of the National Prevention Council released "National Prevention Strategy: America's Plan for Better Health and Wellness." See http://www.healthcare.gov/prevention/npphpc/strategy/report.pdf .
Title V: Health Workforce			
April 1, 2010; May 7, 2010; June 1, 2010; July 1, 2010	5602	Requires the HHS Secretary to appoint a negotiated rulemaking committee (pursuant to 5 U.S.C. §§ 561 et seq.) to establish a methodology and criteria for designating medically underserved populations and health professions shortage areas. By May 7, 2010, the Secretary must publish a notice announcing the intent to form such a committee to negotiate and develop a proposed rule, and setting the target date for publication of the rule as July 1, 2010. The committee is required to provide a status report to the Secretary by April 1, 2010. [Note: This predates the deadline for publication of a notice of intent to form the committee.] A final committee report is due by June 1, 2010.	On May 11, 2010, HRSA published a notice of intent to form the negotiated rulemaking committee (75 Federal Register 26167-26171). The committee members were appointed on July 9, 2010, and the committee has been meeting monthly since September 2010. The committee submitted its report to the Secretary on March 17, 2011, which the Secretary responded to on April 27, 2011. For more details about the committee and links to the report and response, see http://www.hrsa.gov/advisorycommittees/shortage/About/index.html .
Titles VII & X: 340B Drug Pricing, Indian Health			
Sept. 19, 2010	7102	Requires the HHS Secretary to promulgate regulations regarding the PHSA section 340B drug pricing program to (1) establish and implement an administrative process for the resolution of claims by covered entities that they have been overcharged for drugs purchased under the program, and manufacturers' post-audit claims of violations related to drug rebates or resale; and (2) establish civil monetary penalties (CMPs) for noncompliant drug manufacturers.	On September 20, 2010, HRSA published two Advance Notices of Proposed Rulemaking: (1) 340B Drug Pricing Program Administrative Dispute Resolution Process (75 Federal Register 57233-57235); and (2) 340B Drug Pricing Program Manufacturer Civil Monetary Penalties (75 Federal Register 57230-57232). No final rule has been published. [Note: HRSA's FY2012 budget included new user fees to provide additional funding for the 340B drug pricing program, which was significantly expanded under PPACA.]

Deadline	PPACA Section	Requirements	Actions Taken as of October 24, 2011
June 21, 2010	10221	Requires the HHS Secretary to develop a plan to increase IHS's behavioral health care staff by 500 positions (200 of which will be devoted to child, adolescent and family services) within 5 years of enactment. [IHCIA Sec. 127]	No public information located. [Note: In August 2011, IHS released "American Indian/Alaska Native Behavioral Health Strategic Plan 2011-2015," which included an implementation plan for developing a skilled and culturally competent behavioral health workforce. See http://www.ihs.gov/PublicAffairs/DirCorner/2011_Letters/AIANNationalBHStrategicPlan.pdf]
March 23, 2011	10221	Requires the HHS Secretary, acting through the IHS, to assess the need for, availability, and cost of inpatient mental health care for Indians. [IHCIA Sec. 181]	No public information located.
March 23, 2011	10221	Requires the HHS Secretary and the Secretary of the Interior to enter into a Memorandum of Agreement (MOA) regarding mental illness and self-destructive behavior among Indians and strategies for addressing unmet needs. [IHCIA Sec. 181]	In March 2011, HHS and the Department of the Interior amended a 2009 MOA on behavioral health care delivery to incorporate the requirements of the new IHCIA provision.
March 23, 2011	10221	Requires the HHS Secretary to establish protocols, policies, and procedures for IHS programs for victims of domestic or sexual violence. [IHCIA Sec. 181]	In March 2011, IHS issued an agency-wide policy on how hospitals should respond to adult and adolescent victims of sexual assault. See http://www.ihs.gov/MedicalPrograms/MCHN/DV01.cfm . [Note: On Oct. 26, 2011, GAO released report GAO-12-29, "Indian Health Service: Continued Efforts Needed to Help Strengthen Response to Sexual Assaults and Domestic Violence." See http://www.gao.gov/new.items/d1229.pdf]

Source: Prepared by the Congressional Research Service based on (i) the text of the Patient Protection and Affordable Care Act (PPACA; P.L. 111-148), as amended; and (ii) publicly available information from official federal sources.

Table 2. Selected PPACA Deadlines in the Second Year After Enactment (March 24, 2011 – October 15, 2011)

Deadline	PPACA Section	Requirements	Actions Taken as of October 24, 2011
Title I: Private Health Insurance			
July 1, 2011	1104(b)	Requires the HHS Secretary to adopt operating rules for the following HIPAA electronic transactions: (i) health care claim status inquiry and response; (ii) plan eligibility inquiry and response.	On June 30, 2011, HHS issued an interim final rule, "Administrative Simplification: Adoption of Operating Rules for Eligibility for a Health Plan and Health Care Claim Status Transactions." The rule was published on July 8, 2011 (76 Federal Register 40458).
Title II: Medicaid, Children's Health Insurance Program (CHIP)			
July 1, 2011	2702(a)	Requires the HHS Secretary to issue regulations prohibiting federal Medicaid payment for specified health care-acquired conditions.	On June 6, 2011, CMS published a final rule, "Medicaid Program; Payment Adjustment for Provider-Preventable Conditions Including Health Care-Acquired Conditions" (76 Federal Register 32816). The rule took effect on July 1, 2011.
Title III: Medicare, Health Care Quality			
June 1, 2011	4204(e)	Requires the Comptroller General to submit to Congress a report on Medicare beneficiaries' access to recommended vaccines covered under Part D.	GAO has not yet published the report. It is recorded in the GAO database of active assignments (#290877) with an anticipated completion date of Nov. 30, 2011.
July 1, 2011	3113	Requires the HHS Secretary to begin a 2-year, \$100 million demonstration under Part B that will make separate payments to labs for complex diagnostic tests provided to Medicare beneficiaries.	On July 5, 2011, CMS published a notice of an opportunity to participate in the demonstration, "Medicare Program; Section 3113: The Treatment of Certain Complex Diagnostic Laboratory Tests Demonstration" (76 Federal Register 39110). See http://www.cms.gov/DemoProjects/EvalRpts/MD/Itemdetail.asp?itemID=CMS1240611 .
July 1, 2011	3313(a)	Requires the HHS Office of the Inspector General (OIG) to submit to Congress an annual report (beginning in 2011) on the extent to which drugs commonly used by dual eligibles are included on Part D drug formularies.	On April 26, 2011, the HHS/OIG released a memorandum report, "Part D Plans Generally Include Drugs Commonly Used by Dual Eligibles." See http://oig.hhs.gov/oei/reports/oei-05-10-00390.pdf .
Oct. 1, 2011	3006(a) & (b)	Requires the HHS Secretary to submit to Congress plans for implementing a value-based purchasing program for Medicare payments to skilled nursing facilities (SNF) and home health agencies.	CMS has not yet released the SNF and home health value-based purchasing plans.
Oct. 1, 2011	3313(b)	Requires the HHS/OIG to submit to Congress a report that compares the prices of drugs covered under Part D with the prices of outpatient drugs covered under state Medicaid plans.	In August 2011, HHS/OIG released a report, "Higher Rebates for Brand-Name Drugs Result in Lower Costs for Medicaid Compared to Medicare Part D." See http://oig.hhs.gov/oei/reports/oei-03-10-00320.pdf .

PPACA Section		Requirements		Actions Taken as of October 24, 2011	
Title IV: Prevention and Public Health, Health Disparities					
Sept. 23, 2011	4302(b)	Requires the HHS Secretary to submit to Congress a report evaluating health care disparities data collection under Medicaid and CHIP.	Requires the HHS Secretary to submit to Congress a report evaluating health care disparities data collection under Medicaid and CHIP.	On Sept. 29, 2011, HHS released "Report to Congress: Approaches for Identifying, Collecting, and Evaluating Data on Health Care Disparities in Medicaid and CHIP." See http://www.healthcare.gov/law/resources/reports/disparities09292011a.pdf .	
Sept. 23, 2011	4103	Requires the HHS Secretary to make publicly available a health risk assessment model to support Medicare coverage of personalized prevention plan services.	Requires the HHS Secretary to make publicly available a health risk assessment model to support Medicare coverage of personalized prevention plan services.	CDC's "Interim Guidance for Health Risk Assessments and their Modes of Provision for Medicare Beneficiaries" is available at http://www.cms.gov/coverageninfo/downloads/healthriskassessmentsCDCfinal.pdf .	
Title V: Health Workforce					
April 1, 2011	5101	Requires the National Health Care Workforce Commission to submit to Congress a report containing a review of, and recommendations on, high-priority health care workforce issues.	Requires the National Health Care Workforce Commission to submit to Congress a report containing a review of, and recommendations on, high-priority health care workforce issues.	The 15-member commission was appointed in 2010, but has received no funding and has not produced any reports. See http://www.cq.com/doc/hbnews-3962182?wr=bzR2QWhQbmtjMG1HalczZYVpWWTNIZw .	
Oct. 1, 2011	5101	Requires the National Health Care Workforce Commission to submit to Congress a report containing a review of, and recommendations on, national health care workforce priorities, goals, and policies.	Requires the National Health Care Workforce Commission to submit to Congress a report containing a review of, and recommendations on, national health care workforce priorities, goals, and policies.	The 15-member commission was appointed in 2010, but has received no funding and has not produced any reports. See http://www.cq.com/doc/hbnews-3962182?wr=bzR2QWhQbmtjMG1HalczZYVpWWTNIZw .	
Sept. 23, 2011	5507(a)	Requires the HHS Secretary to award 3-year demonstration grants to states for developing core training competencies and certification programs for personal or home care aides. PPACA appropriated a total of \$15 million for the grant program over the period FY2010-FY2012.	Requires the HHS Secretary to award 3-year demonstration grants to states for developing core training competencies and certification programs for personal or home care aides. PPACA appropriated a total of \$15 million for the grant program over the period FY2010-FY2012.	On Sept. 30, 2010, HRSA awarded six Personal and Home Care Aide State Training (PHCAST) Program grants totaling \$4.5 million for FY2010. See http://bhpr.hrsa.gov/nursing/grants/phcast.html .	
July 1, 2011	5503(a) & (b)	Requires the HHS Secretary to reduce the residency caps of hospitals with unused residency positions for the purpose of making graduate medical education (GME) payments under Medicare. Further requires the Secretary to redistribute these unused positions, based on a specified formula. Direct GME and indirect medical education (IME) payments for the redistributed residency positions are to be made on the same basis as the payments for existing residency positions. Effective beginning July 1, 2011.	Requires the HHS Secretary to reduce the residency caps of hospitals with unused residency positions for the purpose of making graduate medical education (GME) payments under Medicare. Further requires the Secretary to redistribute these unused positions, based on a specified formula. Direct GME and indirect medical education (IME) payments for the redistributed residency positions are to be made on the same basis as the payments for existing residency positions. Effective beginning July 1, 2011.	On Nov. 24, 2010, CMS published final rules for various Medicare hospital payment systems for 2011, which included the GME payment changes pursuant to PPACA Sec. 5503 (75 Federal Register 72147).	
July 1, 2011	5602	Requires the HHS Secretary to publish a final rule (incorporating public comment on an earlier interim final rule) on a comprehensive methodology and criteria for designating medically underserved populations and health professions shortage areas.	Requires the HHS Secretary to publish a final rule (incorporating public comment on an earlier interim final rule) on a comprehensive methodology and criteria for designating medically underserved populations and health professions shortage areas.	A final rule has yet to be published. See the entry for PPACA Sec. 5602 in Table I for the status of HHS actions taken towards meeting this final rule deadline.	

PPACA		Requirements		Actions Taken as of October 24, 2011	
Deadline	Section				
Title VI: Elder Justice					
Sept. 23, 2011	6703(a)	Requires the Advisory Board on Elder Abuse, Neglect, and Exploitation to prepare and submit a report to the Elder Justice Coordinating Council and to Congress containing a report on the status of federal, state, and local elder justice activities and recommendations.		On July 14, 2010, HHS published a notice establishing the Advisory Board (75 <i>Federal Register</i> 40838), but it has received no funding. No report has been submitted.	
Sept. 23, 2011	6703(c)	Requires the HHS Secretary to submit to the Elder Justice Coordinating Council and to Congress a report containing the findings and recommendations of a study on establishing a national nurse aide registry.		The Elder Justice Coordinating Council has received no funding. No report has been submitted.	
Titles VII, VIII & X: 340B Drug Pricing, Indian Health					
Sept. 23, 2011	7103(a)	Requires the Comptroller General to submit to Congress a report on whether the 340B program should be expanded, whether mandatory 340B sales of certain products could hinder patients' access to those therapies through any provider, and whether 340B income is being used by covered entities to further program objectives.		On Sept. 23, 2011, GAO released report GAO-11-836, "Drug Pricing: Manufacture Discounts in the 340B Program Offer Benefits, but Federal Oversight Needs Improvement." See http://www.gao.gov/new.items/d11836.pdf .	
Sept. 23, 2011	10221	Requires the HHS Secretary to submit a report to Congress on protocols, policies, procedures, and other programs for victims of domestic or sexual violence. [IHCA Sec. 181]		IHS informed CRS that the report will be submitted to the relevant congressional committees in November 2011.	
Sept. 23, 2011	10221	Requires the HHS Secretary to submit a report describing the specified elements of the prescription drug monitoring program. [IHCA Sec. 196]		IHS informed CRS that the report will be submitted to the relevant congressional committees in November 2011.	
Sept. 23, 2011	10221	Requires the Attorney General (AG) to submit a report to Congress describing certain factors regarding the AG's responsibility related to prescription drug abuse in Indian communities. [IHCA Sec. 196]		In October 2011, the Department of Justice released "Indian Health Care Improvement Act, Report Required by 25 U.S.C. 1680q(b)(2)." See http://www.justice.gov/tribal/docs/ihia-pdmp-rpt-to-congress.pdf .	
Sept. 23, 2011	10221	Requires the HHS Secretary to submit a report to Congress describing disease and injury prevention activities by IHS and other federal agencies. [IHCA Sec. 198]		IHS informed CRS that the report will be submitted to the relevant congressional committees in November 2011.	

PPACA Section		Actions Taken as of October 24, 2011	
Deadline	Section	Requirements	
Sept. 23, 2011	10221	Requires GAO to submit a report to Congress containing the results and recommendations resulting from a study evaluating the effectiveness of the coordination of health care services provided to Indians either through Medicare, Medicaid, or CHIP, with those provided by IHS, with funding from state or local governments or Indian tribes. [HICIA Sec. 199]	GAO negotiated the priority order of the various PPACA mandates with relevant congressional committees. With agreement from the committees, work on this report will commence after the completion of the CHS report, described below.
Sept. 23, 2011	10221	Requires the Comptroller General to study (in consultation with IHS, Indian tribes, and tribal organizations) and make recommendations to improve the use of health care services provided under the contract health service (CHS) program. This will include analyses of amounts reimbursed to providers, suppliers, and entities under CHS, compared to reimbursements through other public and private programs; barriers to access to health care under CHS; adequacy of federal funding of CHS; and other matters that GAO determines appropriate. [HICIA Sec. 199]	On Sept. 23, 2011, GAO released report GAO-11-767, "Indian Health Service: Increased Oversight Needed to Ensure Accuracy of Data Used for Estimating Contract Health Service Need." See http://www.gao.gov/new.items/d11767.pdf . This is one of two reports that GAO will complete in response to this mandate. Work on the second report is in progress.

Source: Prepared by the Congressional Research Service based on (i) the text of the Patient Protection and Affordable Care Act (PPACA; P.L. 111-148), as amended; and (ii) publicly available information from official federal sources.