



**M A R W O O D G R O U P<sup>®</sup>**

**Southwest Healthcare Transaction Conference**

**Patton Boggs and Marwood Group**

*The First 100 Days, the Next 100 Days, and Health Care Reform*

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## First 100 Days





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## A. New Leadership





# New Administration and 111<sup>th</sup> Congress

## Obama Administration

White House Chief of Staff: Rahm Emanuel

Secretary of HHS: Kathleen Sebelius

CMS Administrator: TBD  
Acting—Charlene Frizzera

FDA Commissioner (Nominated): Margaret Hamburg  
Acting/Deputy Commissioner—Josh Sharfstein

Director, Office of Management and Budget: Peter Orszag

Deputy Director, White House Office of Health Reform:  
Jeanne Lambrew

## Senate: 59 Democrats\*, 40 Republicans

Majority Leader: Harry Reid (D-NV)

Republican Leader: Mitch McConnell (R-KY)

*\*One Senate seat remains undecided in Minnesota*

## Key Senate Committees

Finance: Max Baucus (D-MT), Charles Grassley (R-IA)

HELP: Ted Kennedy (D-MA), Michael Enzi (R-WY)

## House: 256 Democrats\*, 178 Republicans

Speaker: Nancy Pelosi (D-CA)

Majority Leader: Steny Hoyer (D-MD)

Republican Leader: John Boehner (R-OH)

*\*One House seat remains undecided in California*

## Key House Committees

Energy and Commerce: Henry Waxman (D-CA),

Frank Pallone (D-NJ)

Ways and Means: Charles Rangel (D-NY),

Pete Stark (D-CA)



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## B. Healthcare Reform





# 2009 Healthcare At-a-Glance

## *Out of the Gate*

- ◆ CHIP Expansion
- ◆ Medicaid Bailout for States (FMAP)
  - ◆ Health IT

## *Major Change to Products Landscape*

- ◆ New FDA Leadership
- ◆ Follow-on Biologics Pathway
- ◆ New Generics-friendly Policies
  - ◆ Import Safety

## *“The Big Idea”*: Comprehensive Health Reform

- ◆ White House 2010 Budget Proposal

## *Large Medicare Bill*

- ◆ Big Doctor Payment Fix
- ◆ MA/Provider Cuts plus Payment System Reforms



# 2009 Healthcare: Out of the Gate

**CHIP Expansion:** Signed into law by President Obama on February 4, 2009, expands and provides health insurance to children living in families not poor enough for Medicaid

## Highlights

- ◆ Expands coverage to include an extra 4 million children under a combination of CHIP and Medicaid
- ◆ Reauthorizes CHIP through FY2013
- ◆ Allows \$32.8 billion in new spending
- ◆ NO prospective ban on specialty hospitals
- ◆ State option to cover legal immigrants
- ◆ Offset through a \$0.62 cigarette tax

**Economic Stimulus:** American Recovery and Reinvestment Act of 2009 was signed into law by President Obama on February 17, 2009, totaling \$787 billion in spending and containing a number of healthcare provisions

## Highlights

- ◆ Medicaid assistance to states (FMAP): \$87 billion
  - ◆ 6.2% across the board increase plus bonuses based upon unemployment
- ◆ Health Information Technology: \$19 billion (net)
  - ◆ \$17 billion for incentives and penalties for EMR adoption beginning in 2011 (including CBO estimates of \$10b in savings)
  - ◆ \$2 billion near term funding for Office of HIT Coordinator
- ◆ NIH: \$10 billion for research and construction
- ◆ COBRA subsidy of 60% for 9 months: \$25 billion
- ◆ Comparative Effectiveness Research: \$1.1 billion
- ◆ Hospice – One year delay of phase out of budget neutrality adjustment to wage index
  - ◆ Would have cut 1.1% from payments in first year



# Health IT

**Economic Stimulus legislation included comprehensive HIT package: CBO estimates the measure will result in 90% of doctors and 70% of hospitals adopting EHR within 10 years**

- ◆ \$30+ billion total for HIT in the stimulus package (projected savings from new efficiencies in healthcare system approximately \$12 billion; 19 billion net spending)
  - ◆ Net \$17 billion framework for incentives and penalties within Medicare and Medicaid program for EHR adoption starting in 2011
  - ◆ \$2 billion under the control of ONCHIT to be used for HIE support, state grants, and possibly loan programs to increase adoption
- ◆ Physicians and hospitals that engage in “meaningful use” of HIT may be eligible to receive incentives:

**Physicians** – temporary Medicare bonus payments range up to a maximum of \$44,000 over five years, ranging from \$18,000 in the first payment year, \$12,000 in the second, \$8,000 in the third, \$4,000 in the fourth and \$2,000 in the fifth year

**Hospitals** – estimated that large hospitals can qualify for up to \$11m in Medicare incentives over 4 years. The formula is complex, based on \$200 per discharge methodology under IPPS, starting with the 1,150 discharge and ending with 23,000; Incentives are increased for hospitals providing large amounts of uncompensated care

- ◆ Penalties phased in for physicians (fee schedule reductions) and hospitals (reduction in annual market-basket update) who fail to use EHR starting in 2015



# “The Big Idea”: Comprehensive Health Reform

## White House 2010 Budget Proposal: 10-year, \$634 billion plan with \$316 billion in major policy initiatives as offsets

### Medicare Advantage

- ◆ \$46.8 billion over 5 years in savings by establishing MA benchmarks through a competitive bidding process in 2012

### Hospitals

- ◆ \$2.45 billion over 5 years in savings by eliminating readmissions
- ◆ \$2.9 billion from creating pay-for-performance program

### Home Health

- ◆ \$13 billion over 5 years in savings by reducing payments
- ◆ Bundled payment for hospital/physicians and post-acute providers

### Medicaid Drug Rebate

- ◆ \$8.2 billion over 5 years in savings by increasing federal drug rebate from 15.1% to 21%

### Imaging

- ◆ Use radiology benefit managers to manage volumes

### Physicians

- ◆ Reserved funds to revise payment to Medicare physician formula (SGR)

### NIH

- ◆ Called for doubling of NIH cancer research funding over multi-year

### Follow-on Biologics

- ◆ Creation of a pathway for FDA approval



# 2009 Healthcare Reform Scenarios

Scenarios	Pro	Con	Outlook
<p><b>Congress Enacts Single Comprehensive Universal Coverage Bill</b></p>	<ul style="list-style-type: none"> <li>◆ Unique window of opportunity: Single large bill addressing uninsured population while making necessary changes to Medicare, Medicaid, FDA, and taxation of healthcare</li> <li>◆ Obama campaign proposal and main Democratic proposals (i.e., Baucus &amp; HELP Committee) modeled on existing Massachusetts reform plan, not single-payer system</li> <li>◆ As a core Democratic issue, large majorities in Congress make bill passage possible</li> <li>◆ Key stakeholders, including AHIP, embrace universal coverage/universal mandate/guaranteed issue               <ul style="list-style-type: none"> <li>◆ Consensus close on many key issues</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>◆ Congress and Administration preoccupied by financial sector crisis and economic stimulus legislation</li> <li>◆ Historically, institutional inertia against major change</li> <li>◆ Cost of comprehensive health reform likely to be at least several hundred billion dollars over ten years—potentially over \$1 trillion</li> <li>◆ Too much emphasis on government-run plan option</li> </ul>	<ul style="list-style-type: none"> <li>◆ <b>Spring: Draft legislation in June</b></li> <li>◆ <b>Summer: Floor votes prior to August recess</b></li> </ul>
<p><b>Piecemeal Healthcare Legislation</b></p>	<ul style="list-style-type: none"> <li>◆ Politically contentious issues such as coverage mandates are dropped</li> <li>◆ Not as expensive as comprehensive health reform, but still results in expansion of coverage (i.e., CHIP/Medicaid)</li> <li>◆ Several significant bills pass as stand-alone</li> </ul>	<ul style="list-style-type: none"> <li>◆ Implementation of Plan B will only unfold after it is clear that comprehensive reform effort has stalled, pushing implementation to 2010</li> <li>◆ More individuals are left uninsured</li> </ul>	<ul style="list-style-type: none"> <li>◆ <b>Fall: Final legislation</b></li> </ul>



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**Next 100 Days**



## Healthcare In the Next 100 Days of the New Administration

*Congress will focus on 3 themes:*

- ◆ **Improving Care/Reforming Delivery**
  - ◆ **Expanding Coverage**
  - ◆ **Cost Control/Reimbursement**

### Senate

- ◆ **Hold series of roundtables**
  - ◆ **Senate Finance Committee wants a bill in June in collaboration with Senate HELP Committee**

### House

- ◆ **Chairman Henry Waxman predicts House passage by end of July**
  - ◆ **House bill will be formulated by Energy and Commerce Committee, Ways and Means Committee, and Education & Labor Committee**



## Reforming Delivery Systems and Improving Care

*Senate Finance Chairman Max Baucus' (D-MT) healthcare  
whitepaper contained the following considerations:*

- ♦ **Payment Bundling of acute and post-acute services**
- ♦ **“Medical Home” concept**
- ♦ **Quality incentive program:  
Linking payments to quality outcomes**
- ♦ **Care coordination and provider management**

- ♦ **Health IT Expansion**
- ♦ **Comparative Effectiveness**
- ♦ **Physician payment sunshine act**
- ♦ **Physician-owned hospitals**



# Expanding Coverage

*In order to expand healthcare coverage,  
Congress will explore a range of options*

- ◆ **Covering the uninsured**
- ◆ **Age 55 Opt-in to Medicare**
- ◆ **Children**
- ◆ **Public Plan Option**



## Large Medicare Legislation Will Be Expensive Requiring Other Providers to Serve as “Pay-Fors”

**Lack of functionality in Medicare physician reimbursement system drives annual Medicare legislation to prevent reductions to physician payments (“Doc Fix”):**

- ◆ 1-year patch for 2010 costs as much as \$20 billion
- ◆ 2-year patch plus the beginning of a permanent solution could cost as much as \$100 billion

**Congress has bipartisan agreement that “doc fix” be revenue neutral**

- ◆ \$20 - \$100 billion of revenue raisers will be needed

Sub-sector	Potential Savings Over 5 Years		Sub-sector	Potential Savings Over 5 Years
MA	\$25-35b		Hospice	\$500m
Inpatient	\$5 - 15b		LTCH	\$2.5b
Oxygen	\$1.5 - 2b		Labs	\$1b
SNF	\$3b		Part D	\$10 – 15b
Outpatient	\$800m		DME	TBD
IRF	\$3b		Imaging	\$1.5 – 3b
Home Health	\$3b		Other	TBD



# 2009 Marwood Healthcare Outlook

## Most Growth

- ◆ Generic Pharma
- ◆ Health IT
- ◆ Medicaid Managed Care
- ◆ Medical Instrument Manufacturers

## Growth

- ◆ Dialysis
- ◆ Disease Management
- ◆ Psych Hospitals

## Stable

- ◆ Pharmacies
- ◆ PBMs
- ◆ Clinical Labs
- ◆ Hospitals
- ◆ LTCHs
- ◆ IRFs
- ◆ Physicians
- ◆ Hospice

## Pressure

- ◆ Biotech
- ◆ Branded Pharma
- ◆ Medical Devices
- ◆ DME
- ◆ Diagnostic Imaging
- ◆ SNFs
- ◆ Home Health
- ◆ ASCs

## Most Pressure

- ◆ Medicare Advantage
- ◆ Commercial Managed Care
- ◆ Home Oxygen
- ◆ Specialty Hospitals



# Sectors Facing Most Pressure

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Medicare Advantage</b>	Will Congress or CMS make significant cuts to MA reimbursement?	<ul style="list-style-type: none"> <li>◆ Democrats support reducing MA payment to traditional FFS program levels; President proposed establishing benchmarks through a competitive bidding process in 2010 budget (\$40-\$50b)</li> <li>◆ House Democrats want county-by-county; Senate wants to achieve 100% FFS nationally, but looking at several models</li> <li>◆ Likely to be used as an off-set for healthcare reform and doctor payment fix</li> <li>◆ AHIP is an effective lobby, but large Democratic majorities make cuts likely</li> <li>◆ CMS 45-day letter proposed to apply a -3.74% reduction to all plans' risk scores</li> </ul>
<b>Commercial Managed Care</b>	<p>How will coverage expansion impact commercial insurance?</p> <p>Will more states enact MLRs?</p>	<ul style="list-style-type: none"> <li>◆ Administration will seek to expand coverage, but will also impose significant regulatory burdens (i.e., MLR, guaranteed issue, etc.)</li> <li>◆ Continued regulatory pressure at the state level (i.e., 85% MLR effort in CA)</li> </ul>
<b>Home Oxygen</b>	Will Home Oxygen get cut in 2009?	<ul style="list-style-type: none"> <li>◆ Cuts likely in 2009: Bipartisan consensus that oxygen payments are excessive</li> <li>◆ Likely off-set for doctor payment fix (\$1-2b)</li> </ul>
<b>Specialty Hospitals</b>	<p>Will Congress enact specialty hospital legislation in 2009, limiting sector growth?</p> <p>Will regulatory reimbursement reductions occur?</p>	<ul style="list-style-type: none"> <li>◆ Although avoided enactment of moratorium in recent legislation (e.g., House CHAMP Act, Senate Iraq war supplemental, mental health parity and recently signed SCHIP legislation) Marwood expects this issue to be revisited due to bipartisan and lobbyist (i.e., AHA) support for moratorium on new facilities and limits on existing facilities               <ul style="list-style-type: none"> <li>◆ President proposed prospective ban on specialty hospitals in 2010 budget</li> </ul> </li> <li>◆ Regulatory pressure to reduce growth through marginal payment system updates</li> <li>◆ Likely off-set for doctor payment fix (\$1b+)</li> </ul>



# Sectors Facing Pressure

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Diagnostic Imaging</b>	Will Congress and CMS continue to pressure Diagnostic Imaging utilization through payment reductions?	<ul style="list-style-type: none"> <li>◆ GAO and MedPAC pushing utilization controls such as establishing a prior-authorization regime in Medicare</li> <li>◆ Congress to increase equipment utilization assumption from 50% to 90%, yielding savings of \$1-\$2b over 5 years</li> <li>◆ House lawmakers likely to press for “per-click” payment cuts plus utilization controls</li> <li>◆ President proposed “private sector” tools (RBMs) to manage volumes of services</li> <li>◆ SGR reform adds to future pressure on payments</li> </ul>
<b>Skilled Nursing Facilities (SNFs)</b>	<p>Will SNFs escape from legislative and regulatory pressures in 2009-2010?</p> <p>Is card-check legislation likely to be enacted this year?</p> <p>How will state deficits impact Medicaid reimbursement?</p>	<ul style="list-style-type: none"> <li>◆ SNFs face market basket reductions from Congress as larger Medicare bill forms in 2009 as off-set for doctor payment fix (\$3b)               <ul style="list-style-type: none"> <li>◆ MedPAC recommended to freeze the SNF market basket for 2010</li> </ul> </li> <li>◆ Adjustments proposed by CMS would decrease spending by an average negative 1.2% or \$390 million</li> <li>◆ Based on STRIVE study analysis, CMS likely to recalibrate highest RUG rates to better reflect actual costs               <ul style="list-style-type: none"> <li>◆ Redistribute payments away from therapy RUGs to higher acuity RUGs</li> </ul> </li> <li>◆ Proposed market basket update to fall near 2.1%</li> <li>◆ CMS proposed “forecast error” adjustment greater than 3.3%</li> <li>◆ President proposed post-acute bundled payment system in 2010 budget</li> <li>◆ Card-check legislation likely to bring more union activity</li> <li>◆ States facing budgetary concerns; Medicaid payments to SNFs remain at risk, despite stimulus aid</li> </ul>



# Sectors Facing Pressure

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Biotech</b>	<p>Will a follow-on biologics pathway be created?</p> <p>Will preemption legislation be enacted?</p>	<ul style="list-style-type: none"> <li>◆ Follow-on biologics pathway likely to be established based on Senate bill; however will take years to implement legislation and bring products to market               <ul style="list-style-type: none"> <li>◆ President's 2010 budget assumes Congress will create a pathway for the FDA to approve follow-on biologics</li> </ul> </li> <li>◆ Legislative reversal of federal pre-emption court decisions likely</li> <li>◆ Increased staff of 500+ at FDA creates potential to expedite approval process for drug application</li> </ul>
<b>Medical Devices</b>	<p>Will preemption legislation be enacted?</p> <p>Will Congress put pressure on device prices?</p>	<ul style="list-style-type: none"> <li>◆ Legislative reversal of federal pre-emption court decisions likely               <ul style="list-style-type: none"> <li>◆ S. 3398 (Kennedy bill) &amp; H.R. 6381 (Pallone bill) seek to overturn <i>Riegel v. Medtronic</i></li> <li>◆ Supreme Court recently declined to establish preemption for pharmaceuticals in <i>Wyeth v. Levine</i></li> </ul> </li> <li>◆ Federal pricing transparency unlikely; states taking the lead on manufacturer-physician relationships</li> <li>◆ Indirect pressure on orthopedic product pricing from a combination of Sunshine Act and expanded gainsharing for hospitals</li> <li>◆ Sunshine Act could fare well for small device manufacturing companies making it easier for them to penetrate markets</li> </ul>



# Sectors Facing Pressure

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<p><b>Branded Pharma</b></p>	<p>Will Part D change?</p> <p>Will the HHS Secretary certify safety of drug reimportation and implement its legislation?</p> <p>What is the impact of recently passed comparative effectiveness legislation by Congress?</p>	<ul style="list-style-type: none"> <li>◆ House Democrats want a federal Part D plan option; Senate Democrats less enthusiastic</li> <li>◆ President proposed increasing the Medicaid drug rebate from 15.1% to 21%</li> <li>◆ Both House and Senate want to apply pre-Part D Medicaid-style rebates to Dual Eligibles</li> <li>◆ Direct price controls not a short-term threat</li> <li>◆ Reimportation likely to be enacted               <ul style="list-style-type: none"> <li>◆ Begin with Canada</li> </ul> </li> <li>◆ Creation of comparative effectiveness research center within department of HHS; Allocation of \$1.1b in Stimulus legislation</li> <li>◆ As a result of FDAAA, drug companies likely to shift more resources to drug safety and risk management, squeezing margins</li> </ul>
<p><b>Durable Medical Equipment</b></p>	<p>Will competitive bidding be implemented?</p> <p>What is the timeline of this implementation?</p>	<ul style="list-style-type: none"> <li>◆ Competitive bidding program will be implemented, impacting oxygen, CPAP, diabetes test strips, power wheelchairs, etc.</li> <li>◆ Bidding of first 10 MSAs in 2009, implemented in 2010               <ul style="list-style-type: none"> <li>◆ 70 additional MSAs bid in 2010, implemented in 2011</li> </ul> </li> </ul>



# Sectors Facing Pressure

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Home Health</b>	<p>Will the home health market basket be cut?</p> <p>Will the rural add-on be reinstated?</p>	<ul style="list-style-type: none"> <li>◆ On-going payment system reform results in effective payment freeze through 2011               <ul style="list-style-type: none"> <li>◆ March 2009 MedPAC report recommends cutting Medicare reimbursements by 5.5% in 2010, however Marwood does not expect CMS to follow the recommendation to front load its two remaining years of case-mix offsets into 2010</li> </ul> </li> <li>◆ President proposed \$13b in five-year savings from reducing home health payments in 2010 budget</li> <li>◆ House likely to pass a one-year freeze</li> <li>◆ Rural Senators pushing for 5% rural add-on; likely to succeed               <ul style="list-style-type: none"> <li>◆ Sen. Max Baucus (D-MT) &amp; Sen. Chuck Grassley (R-IA)</li> </ul> </li> </ul>
<b>ASCs</b>	<p>Do ASCs face reimbursement or regulatory risk?</p>	<ul style="list-style-type: none"> <li>◆ House likely to cut 2010 update</li> <li>◆ In the January 2009 meeting, MedPAC approved a recommendation to increase ASC payments by 0.6% in 2010, as opposed to a full market basket update</li> <li>◆ President proposed post-acute bundled payment system in 2010 budget</li> <li>◆ ASCs could face scrutiny over the issue of physician ownership and doctor self-referral               <ul style="list-style-type: none"> <li>◆ Rep. Pete Stark (D-CA) has been leading these efforts</li> </ul> </li> <li>◆ Silver lining: Payment system transition to 65% of outpatient hospital payment rate remains a positive for orthopedic procedures</li> </ul>



# Sectors With Potential for Most Growth

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Health IT</b>	<p>Will Health IT be mandated in Medicare and Medicaid?</p> <p>Will Health IT standards be established?</p> <p>Will federal government spend money to expand Health IT adoption?</p>	<ul style="list-style-type: none"><li>◆ Stimulus legislation includes incentives and penalties for EHR adoption</li><li>◆ Health IT legislation establishing technical standards and privacy protocols likely to be adopted</li><li>◆ Stimulus legislation provides \$19b in net funding (30+ in total funding) to spur adoption of HIT: “Carrot and stick approach”<ul style="list-style-type: none"><li>◆ Includes allocation to support HIT adoption in larger institutions</li><li>◆ Provides financial incentives for IT adoption through Medicare and Medicaid, beginning in 2011 (penalties by 2015)</li></ul></li></ul>
<b>Medicaid Managed Care</b>	<p>How will the economy and Medicaid expansion affect Medicaid managed care?</p>	<ul style="list-style-type: none"><li>◆ Expansion of SCHIP (coverage increase by 4m children) and Medicaid programs increase number of potential enrollees available to MCOs</li><li>◆ President’s 2010 budget included extending Medicaid drug rebates on behalf of Medicaid managed care plans</li></ul>



# Sectors With Potential for Most Growth

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Generic Pharma</b>	What opportunities are open to generic pharma?	<ul style="list-style-type: none"><li>♦ Follow-on biologics likely enacted</li><li>♦ Expect movement on legislation to block authorized generics</li><li>♦ Senators Herb Kohl (D-WI) and Charles Grassley (R-IA) reintroduced bill (S. 369) that would ban reverse settlements between branded and generic pharma companies</li><li>♦ Henry Waxman (D-CA), as Chairman of Energy &amp; Commerce, likely to make the bill more generics-friendly</li><li>♦ Generic usage seen as part of fundamental healthcare reform</li></ul>
<b>Medical Instrument Manufacturers</b>	How will medical instrument manufacturers fare in the near future?	<ul style="list-style-type: none"><li>♦ Stimulus legislation includes \$10b increase to NIH budget for research and construction</li><li>♦ President's 2010 budget proposed \$6b in increases for NIH cancer research, as part of a multi-year effort to double cancer research funding</li><li>♦ Approximately \$1b increase in funding for NIH in the FY 2009 Omnibus Appropriations bill, expected to pass by early March</li></ul>



# Sectors With Potential for Growth

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Dialysis</b>	Is it likely Congress will look to dialysis providers for Medicare savings?	<ul style="list-style-type: none"> <li>◆ Congress unlikely to cut reimbursement for dialysis</li> <li>◆ MIPPA moved dialysis to a bundled payment system beginning in 2011, increasing reimbursement predictability</li> <li>◆ Broad bipartisan support for dialysis industry, especially among Congressional minority caucuses</li> </ul>
<b>Disease Management</b>	Is there support for expanding disease management?	<ul style="list-style-type: none"> <li>◆ Congress and Obama Administration committed to “making disease management work”</li> <li>◆ Democrats considering adding disease management benefit to traditional Medicare coverage               <ul style="list-style-type: none"> <li>◆ Rep. Pete Stark (D-CA), Sen. Max Baucus (D-MT)</li> </ul> </li> <li>◆ CMS/RTI reject call-center model; however, expanded Medical Home demonstration project launching—could be a positive for SNPs</li> </ul>
<b>Psych Hospitals</b>	What opportunities exist for Psych Hospitals?	<ul style="list-style-type: none"> <li>◆ Increased enrollment due to enactment of mental health parity in the last Congress</li> <li>◆ Expansion of SCHIP likely to increase enrollment</li> <li>◆ Payment system recently modernized, unlikely to see changes for a number of years</li> <li>◆ CMS released a notice proposing base payment increase by 2.1% to inpatient psych facilities PPS for RY 2010</li> <li>◆ Increases to for-profit, freestanding psych hospitals for both urban and rural facilities</li> </ul>



# Stable Sectors

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Hospitals</b>	<p>Will market basket cuts be used as an offset for 2009 Medicare bill?</p> <p>What other catalysts exist for hospitals in 2009?</p>	<ul style="list-style-type: none"> <li>◆ Broad bipartisan Congressional support of hospitals; Hospitals among the strongest lobbies in Washington</li> <li>◆ Nevertheless, possible market basket reductions as off-set for doctor payment fix</li> <li>◆ However, CMS has proposed a net -0.5% update to FY 2010 hospital Medicare payments</li> <li>◆ As of the January 2009 MedPAC meeting, commissioners recommended a full market basket increase for inpatient and outpatient hospital departments, concurrent with implementation of a quality incentive payment program</li> <li>◆ President's 2010 budget proposes \$2.45b in savings over 5 years from reducing or eliminating hospital readmissions within one month of a discharge</li> <li>◆ SCHIP expansion and potential COBRA subsidies help alleviate bad debt</li> <li>◆ FMAP increases should reduce the likelihood of Medicaid rate cuts</li> <li>◆ Value based purchasing likely, with phase-in of up to 2% of reimbursement</li> </ul>
<b>LTCHs</b>	<p>Do LTCHs face inflationary reductions as an offset for Medicare bill in 2009?</p> <p>What type of regulatory risks do LTCHs face?</p>	<ul style="list-style-type: none"> <li>◆ Congress removed regulatory pressure through 2010 in exchange for a short-term moratorium on growth; however, CMS may pressure reimbursement after 2010</li> <li>◆ Risk of market basket reduction for doctor payment fix (\$2b+)</li> <li>◆ Stimulus bill makes technical corrections to ensure relief from the 25% rule to all LTCH facilities</li> </ul>



# Stable Sectors

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>IRFs</b>	Do IRFs face market basket cuts as an offset for Medicare bill in 2009?	<ul style="list-style-type: none"> <li>◆ MMSEA legislation removed regulatory overhang through 2010</li> <li>◆ In the January 2009 meeting, MedPAC recommended a payment freeze for 2010; House likely to pass a freeze, which is better than procedure-specific cuts contained in 2007 CHAMP Act</li> <li>◆ Risk of market basket reduction for doctor payment fix (\$3b)</li> <li>◆ CMS proposed rule to increase market basket by 2.4% for FY 2010               <ul style="list-style-type: none"> <li>◆ Could result in an estimated \$150 million increase in payments to IRFs</li> </ul> </li> <li>◆ President proposed post-acute bundled payment system in 2010 budget</li> </ul>
<b>Physicians</b>	<p>Will physicians see legislative relief and avoid potential 20% rate cuts?</p> <p>When will physician payment formula reform be enacted?</p> <p>How will physician specialties be impacted?</p>	<ul style="list-style-type: none"> <li>◆ AMA is an effective lobby and will continue to advocate stable reimbursement</li> <li>◆ Congress will not allow physicians to experience an actual cut – at worst a freeze of payments will be legislated for two years</li> <li>◆ Current physician fee schedule formula will result in deep payment reductions to physicians in 2010</li> <li>◆ Impact of physician payment reform under Medicare could vary widely across specialties – shifts resources towards primary care               <ul style="list-style-type: none"> <li>◆ MedPAC recommended Medicare increase payments for primary care services in a budget neutral manner—meaning that such an increase, if implemented, would likely decrease payments for specialty non-primary care services</li> </ul> </li> </ul>
<b>Pharmacies</b>	If U.S. District Court’s injunction is lifted, will Congress alter AMP to reduce pricing pressure on pharmacies?	<ul style="list-style-type: none"> <li>◆ Should courts allow AMP regulation to move forward, Congress will likely change the calculation of AMP to reduce pricing pressure</li> <li>◆ Sen. Max Baucus (D-MT) and Rep. Frank Pallone (D-NJ) are the lead sponsors of AMP reform legislation</li> </ul>



# Stable Sectors

<u>Sector</u>	<u>Issue</u>	<u>Outlook</u>
<b>Clinical Labs</b>	<p>How will increased coverage impact lab testing?</p> <p>Do clinical labs face legislative risk as a pay-for in the 2009 Medicare bill?</p>	<ul style="list-style-type: none"> <li>◆ Push for universal health coverage puts emphasis on preventative measures such as lab testing</li> <li>◆ Perception that fee schedule overpays for services could bring legislative reduction for doctor payment fix (\$500m)</li> </ul>
<b>PBM</b> s	<p>Will changes to Part D hurt PBM</p> s? <p>Will Democratic healthcare reform impact PBM</p> s?	<ul style="list-style-type: none"> <li>◆ Near term, changes to Part D are not a threat</li> <li>◆ Both Democrats and Republicans believe PBM</li>s are an important component of pharmaceutical cost management <li>◆ PBM</li>s profit most from generics; Bipartisan support <li>◆ Push for universal/expanded coverage by Obama Administration results in increased demand for prescriptions</li> <li>◆ Possible negative impact: Democrats may seek to create a federal drug plan which could threaten PBM</li>s in the long term </ul>
<b>Hospice</b>	<p>Will CMS proceed with eliminating the budget neutrality adjustment factor?</p> <p>When is payment system reform likely to be implemented?</p> <p>Will length-of-stay cap reform be addressed in 2009?</p>	<ul style="list-style-type: none"> <li>◆ Because stimulus legislation included a one year delay of the budget neutrality phase out to the hospice wage index, CMS is now proposing a 75% reduction <ul style="list-style-type: none"> <li>◆ Net result will be an estimated decrease in payments of 1.1%</li> </ul> </li> <li>◆ Payment system overhaul discussions continue, but action on reform from CMS several years away <ul style="list-style-type: none"> <li>◆ President proposed post-acute bundled payment system in 2010 budget</li> </ul> </li> <li>◆ Length-of-stay cap problem unlikely to be addressed until broader reform proposal moves forward</li> </ul>



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## Contact Information

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