Health Law Daily Wrap Up, AGENCY NEWS—Did CMS just sound the death knell for Medicaid expansion?, (Mar. 15, 2017)

Health Law Daily Wrap Up

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In their first joint action, HHS Secretary Price and newly confirmed CMS Administrator Verma issued a letter to state governors discussing potential improvements to the Medicaid program. The letter underscored the need to develop cost-effective, state-specific ways to serve vulnerable populations but made clear the administration’s anti-expansion stance, noting that the Patient Protection and Affordable Care Act’s (ACA’s) (P.L. 111-148) expansion of Medicaid "to non-disabled, working-age adults without dependent children was a clear departure from the core, historical mission of the program."

Overall, Price and Verma emphasized their desire to grant states more freedom to design their own programs, but committed to retaining mechanisms to ensure state accountability, including budget neutrality in waivers and demonstration projects. To this end, the letter suggested fast-tracking waiver and demonstration project extensions and developing consistent guidelines for evaluating requests to waivers and demonstration projects that have already been approved in other states. Price and Verma plan to use "Section 1115 demonstration authority to review and approve meritorious innovations that build on the human dignity that comes with training, employment and independence." Prior to serving as CMS Administrator, Verma was involved in crafting Indiana’s Healthy Indiana 2.0 expansion program. The program initially sought to impose a work activity requirement. CMS declined to approve the requirement linked directly to Medicaid eligibility, but allowed the state to encourage enrollees to participate in other voluntary state programs (see Amendment of Healthy Indiana Plan implements Medicaid expansion, February 11, 2015).

Price and Verma also noted the importance of maintaining public input processes and transparency guidelines, with respect to State Plan Amendments (SPAs) and other actions, expressed a desire to make the SPA process less burdensome. They discussed allowing states more time to comply with a 2014 Final rule regulating expanded access to home- and community-based services (see Final rule sets requirements for expanded home and community based services, January 16, 2014). They made suggestions for aligning Medicaid policies for non-disabled adults with commercial health insurance features to help them "prepare for private coverage," including alternative benefit designs with aspects similar to health savings accounts (HSAs), designing emergency room copayments to encourage the use of primary and other providers for non-emergency care, and facilitating enrollment in employer-sponsored health plans. They also plan to work with states to combat the opioid epidemic, through state plans, the Medicaid Innovator Accelerator Program, and other methods.