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## Public Policy Update

### Advocacy Day Preparation Session

*June 10, 2008*

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## Today's Panel

- **David W. Roberts**, MPA, FHIMSS, Vice President, Government Relations, HIMSS – **Moderator**
- **Thomas M. Leary**, MA, FHIMSS, Senior Director, Federal Affairs, HIMSS - **Regulatory Update**
- **Robert J. Waters**, MPA, JD, Partner, Drinker, Biddle & Reath, LLP - **Telehealth Update**
- **Neal Neuberger**, CISSP, Executive Director, Institute for e-Health Policy - **HIT Legislation Update**

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## Regulatory Update

**Thomas M. Leary**, MA, FHIMSS,  
Senior Director, Federal Affairs,  
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## Why Regulation Matters



- President and Executive Branch have responsibility for regulation
- Regulators turn legislation into practical solutions
- President can also issue Executive Orders
- Seeks industry input through Notice of Proposed Rule Making
- Have a responsibility to the public, but want to find a balance between over-regulating and turning a blind eye

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## FY09 Federal Budget Update

- President submitted his last budget request
- Office of National Coordinator for Health IT
  - FY08 Conference Position: \$66.1M
  - FY09 Request: \$66.1M
- Agency for Healthcare Research and Quality
  - FY08 \$45M
  - FY09 Request: \$45M
- Centers for Medicare and Medicaid Services
  - FY09: \$3.8M for Year #2 of EHR Adoption Demo
- HHS Assistant Secretary for Programs & Evaluation
  - FY09: \$3M for research and analysis of EHR Adoption

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## Initiatives to Watch

### NHIN Collaborative (NHIN-C)

- 16 organizations, including 1 federal HIE
- Connectathon expected in September 2008

### AHIC 2.0 (A2)

- Creating a public-private entity – resistant to political winds

### CMS EHR Adoption Demo

- Two phase roll out – Communities announced in June 2008
- Incentive-laden adoption demonstration program

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## Regulatory (In)Action

**Federal Tamper-Resistant Rx Law**

- Requires non-electronic Rx to use tamper-resistant pad
- Medicaid requirement for October 2008

**Physician Payment Reform**

- Temporary Fix due by June 30<sup>th</sup> – Congress and CMS on same page?

**E-Prescribing**

- New regulation sets standards process for E-Prescribing
- HHS Secretary supportive of mandatory E-Prescribing by specific date
- DEA holding up E-Prescribing of Category 2 Controlled Substances

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## TELEHEALTH UPDATE

**Robert J. Waters, JD**  
 Drinker Biddle & Reath  
[robert.waters@dbr.com](mailto:robert.waters@dbr.com)  
[www.telehealthleadership.org](http://www.telehealthleadership.org)

*Telehealth: Because Getting There Isn't Always Easy...*

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## Major Factors to Consider



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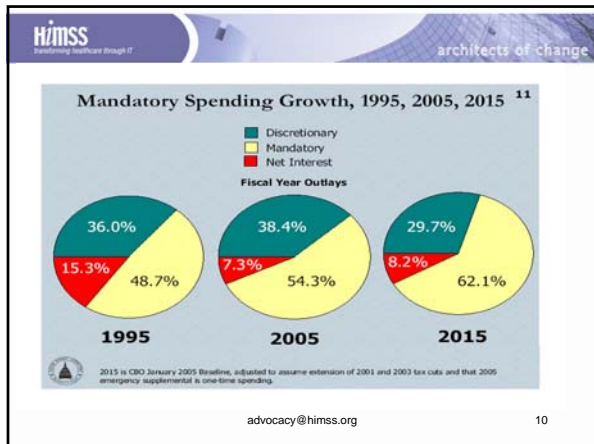
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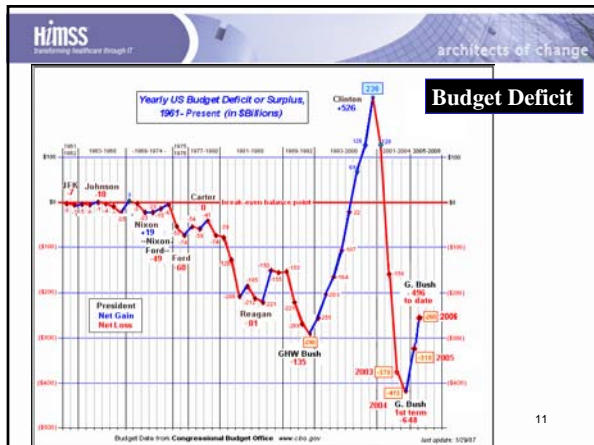
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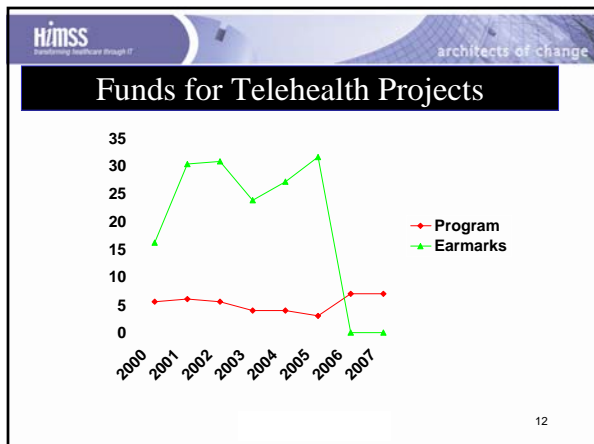
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## Funding for the Office for the Advancement of Telehealth

- 15 Senators Signed Letter to increase OAT Funding – Led by Senator Debbie Stabenow (D-MI) and Senator John Thune (R-SD).
- Request to increase funding OAT in Fiscal Year 2009 from **\$6.8 million to \$13.8 million.**



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## Telemedicine Medicare Reimbursement Objectives --2008

Medicare

- Expand Originating Sites
- Oversight over Program Operations
- Remote Monitoring Progress

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**LONG CONSIDERATION**  
S. 2812

To amend title XXII of the Social Security Act to improve the provision of telehealth services under the Medicare program.

IN THE SENATE OF THE UNITED STATES  
JANUARY 1, 2008

Mr. Conrad (for himself and Mr. Stabenow) introduced the following bill, which now reads twice and referred to the Committee on Finance

**A BILL**

To amend title XXII of the Social Security Act to improve the provision of telehealth services under the Medicare program.

1. Be it enacted by the Senate and House of Representatives...
2. *Short title of Act.*
3. *SECTION 1. SHORT TITLE.*—This Act may be cited as the “Medicare Telehealth Improvement Act of 2008”.
4. (a) *SECTION 2.*—This Act may be cited as the “Medicare Telehealth Improvement Act of 2008”.
5. (b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. Short title of act.  
Sec. 2. Section to amend title XXII of Social Security Act.  
Sec. 3. Repeal of provisions relating to telehealth services.  
Sec. 4. Department of Justice to study the use of telehealth services.

**Conrad-Stabenow**

- Adds SNFs, CMHCs, and Dialysis Centers as Originating Sites;
- Adds new providers (PTs, OTs, SLPs, diabetes educators); and,
- Establishes telehealth advisory committee.

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## H.R. 6163, the Medicare Telehealth Enhancement Act of 2008

- Introduced May 22 by Reps. Thompson (D-CA), Stupak (D-MI), Hulshof (R-MO), and Eshoo (D-CA)
- H.R. 6163 improves and expands telehealth services and access to those services
  - Increases originating sites, facilitates telehealth across state lines, increases access to telehealth in the home, HRSA telehealth grant program reauthorization, etc.

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## HIT Legislation Update

**Neal Neuberger, CISSP**  
President, Health Tech Strategies, LLC and  
Executive Director, Institute for e-Health Policy

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## Some Legislative Considerations

*The More Things Change – The More They Stay the Same*

- **Reimbursement & Capital Costs**
  - Aligning Financial Incentives
  - Driving Cost-Effectiveness (i.e. Chronic Care & Disease Management)
  - Start-up Costs Capital Investment
  - Federal Investments (DoD; VHA; IHS; Appropriations for Contracts & Grants)
- **Standards (Clinical & Communications)**
  - Quality & Safety
- **Infrastructure Issues**
  - Network Infrastructure/Broadband Access/Interoperability

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## Some Legislative Considerations (cont.)

- **Human Dimension Issues**
  - Arrangements to Practice in an e-enabled Environment
  - Practitioner and Patient Acceptance
  - Licensure, Accreditation, Certification
  - Legal (Stark Law, Liability, FDA, HIPAA & Ongoing Security Concerns)
  - Training an HIT Workforce

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## Authorization/Appropriations Update

- Congressional hearing cycle just began
- House Energy & Commerce to pursue Chairman's Package – "Best of the best" of HIT legislation. Wednesday, June 4<sup>th</sup> Hearing
- No Appropriations bills?
- Continuing Resolution and move decisions into 2009 with new President and Congress ?
- Medicare Bill Yet in 110<sup>th</sup> .

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## CBO Report on HIT Released

- CBO report on potential savings and improved efficiencies associated with the adoption of health information technology
- In its report, *Evidence on the Costs and Benefits of Health Information Technology*, CBO stated that adoption by providers of HIT will not result in significant savings to the nation's health care system unless it is accompanied by broader health care system reforms to alter incentives to promote savings
- Most successful examples involving HIT have involved relatively integrated health systems
- Per report, savings from HIT adoption for federal health care programs such as Medicare and Medicaid would be significantly less than in other parts of the health care system
- The report is available at:  
<http://www.cbo.gov/ftpdocs/91xx/doc9168/05-20-HealthIT.pdf>

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## 2008 Healthcare Legislative Priorities

- Reauthorization of SCHIP – through 3/09
- Medicare and Medicaid Reform
  - Chronic Disease Habit Change and Management
- Long-term fix for Physician Reimbursement – Need to complete by June
- Electronic Prescribing
- HIT seen by some as a subset to these “Big Rocks”
- ONC Funding and Codification

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## Legislative HIT Environment

- No significant action during 1<sup>st</sup> Session of 110<sup>th</sup> Congress
- Currently tracking **over 100** separate pieces of HIT related legislation, plus Chairman’s Package and Kennedy/Murphy
- What to expect during 2<sup>nd</sup> Session (2008)?
  - S. 1693 (Wired for Health Care Quality Act)
    - Has passed HELP Committee
    - Awaiting full Senate Action; No House Action on companion bill
  - H.R. 1467 (10,000 Trained by 2010)
    - Passed House
    - Viewed as education legislation by Senate HELP. No Action to date.
- Track all HIT legislation at the HIMSS Legislative Tracker at [www.himss.org/advocacy/actioncenter.asp](http://www.himss.org/advocacy/actioncenter.asp)

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## Chairman’s Package

- House Energy & Commerce Committee Chair (Dingell) and Ranking Republican (Barton) released draft prior to Memorial Day recess
- Compilation of other HIT legislation
- Highlights include:
  - Codification of ONCHIT
  - Development of policies and standards for electronic exchange and use of information
  - Adoption of standards
  - Voluntary certification and testing of standards
  - Financial incentives
  - Accountability and enforcement for privacy and security
  - Greater protections on information

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## Kennedy/Murphy Legislation

- New legislation being finalized that would be update version of 2005 legislation which never passed
- Continues to be bi-partisan approach
- Proposes to eliminate AHIC 2.0 and instead establishes Health Information Technology Authority
- Proposes new Health Care Quality Commission
- HIMSS has informally voiced concerns to staff that over provisions that are not consistent with HIMSS Legislative Principles

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## Medicare Physician Payment Reform

- Senate Finance Committee leaders continue to hash out a Medicare package to delay 10% physician pay cut set to take effect July 1
- Some health groups are scrambling to attach their issues to the must-pass bill, while others are hoping lawmakers won't seek offsets for the bill's possibly \$18 billion price tag from their specialties
- The bill has to be through both chambers by June 16 to avoid administrative costs
- Require pharmacy benefit managers to reimburse for Medicare prescription drug claims in 14 days and to delay for one year a cut in Medicaid reimbursement for generic drugs
- E-prescribing legislation to be attached?

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## E-Prescribing

- S. 2408/H.R. 4296 (Medicare Electronic Medication and Safety Protection Act)
- Introduced into both House and Senate
- Highlights include:
  - One time start up bonuses
  - On-going 1% reimbursement bonus
  - Payments for each provider
  - Penalties if don't use by 2011
- Per CBO, legislation pays for itself
- One first step toward transformation of healthcare using information technology
- Proposal is to attached to Medicare Physician Reform bill
- HIMSS has endorsed both E-MEDS legislation with modifications

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# Questions & Answers

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