

Supreme Court Grants *Certiorari* in Affordable Care Act Subsidy Case: The U.S. Supreme Court will hear the case of *King v. Burwell*, which upheld regulations adopted by the Internal Revenue Service (“IRS”) under the Affordable Care Act (“ACA”). In *King v. Burwell*, the United States Court of Appeals for the Fourth Circuit upheld IRS regulations which allow premium tax credits to be granted to persons who purchase health insurance coverage using either exchanges established by the individual states, or by the federal government via HealthCare.gov, with respect to states which have not established their own exchanges. The plaintiffs argued that statutory language calculating the amount of the credit according to the cost of a policy which the taxpayer “enrolled in through an Exchange established by the State” precludes credits where a policy has been purchased via a federal exchange. While the Obama Administration is adamant that the law’s intent was to offer subsidies and expand coverage to Americans in every state, opponents of the legislation seek to have this clause interpreted literally. As there are sharply differing interpretations, the U.S. Supreme Court will decide how this clause is to be construed. The eventual ruling might affect millions of Americans across multiple states, as many states have not created their own exchanges, and a decision invalidating the IRS regulations would result in residents of those states not receiving federal subsidies.

HIPAA Privacy in Emergency Situations: In response to the introduction of Ebola to the United States, and the resulting concerns of health care providers and the public, the U.S. Department of Health and Human Services, Office for Civil Rights (the “OCR”) has released a bulletin reminding health care providers of important privacy protections that must be afforded to all patients, even in an emergency situation that may involve Ebola. All physicians and providers should review the circumstances which rise to the level of a threat to public health and under which they are permitted to disclose protected health information. The bulletin also outlines what types of information physicians and providers are permitted to disclose, when doing so in order to protect public health. The complete bulletin can be downloaded here: <http://ow.ly/EgPKQ>.

NYS ACO Regulations: The NYS Department of Health (DOH) has published proposed regulations in the October 15, 2014 NYS Register, that would require Accountable Care Organizations (ACOs) to obtain a certificate of authority from DOH. No application would be required for a Medicare-only ACO whose contract with the Center for Medicare and Medicaid Services (CMS) does not permit shared losses to exceed 10 percent. Such Medicare-only ACO would be eligible to receive certification through an expedited process, and would only be subject to certain limited provisions of the regulations. Similarly, a Medicare-only ACO whose contract with CMS allows shared losses to exceed 10 percent may receive certification through an expedited process, but would be subject to strict financial conditions.

The proposed regulations would establish the criteria that must be satisfied for an ACO to obtain and maintain a certificate of authority and address matters such as: (1) governance, leadership and management structure; (2) the population to be served; (3) the character, competence and fiscal responsibility of the ACO; (4) adequacy of network; (5) mechanisms by which the ACO will manage and coordinate care; (6) mechanisms by which the ACO will receive and distribute payments; (7) quality assurance and grievance procedures; (8) mechanisms that promote evidence based health care, patient engagement, coordination of care and electronic health records; (9) quality assurance and utilization review; and (10) patient rights.

The proposed regulations can be found at the DOH website www.health.ny.gov (click to “Laws and Regulations”). There is a 45 day comment period that ends on December 1, 2014.

For more information on the above items, contact Kern Augustine Conroy & Schoppmann, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



*Experience and Vigilance make a difference.
Log on to ThePAP.com for more details
or email us at info@ThePAP.com*

Or Scan the QR Code with your Smartphone!



To Stay Updated Daily: Search for “KERN AUGUSTINE CONROY & SCHOPPMANN, P.C.” on

