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Today's News for the National Association of Health Underwriters from Newspapers, TV, Radio and the Journals

Customized Briefing for Kimberly Barry-Curley

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## Leading the News

### CMS announces physician payment cuts.

The [Wall Street Journal](#) (10/31, Favole, subscription required) reported that the Center for Medicare and Medicaid Services announced new rules to cut payments for physicians who use expensive medical-imaging equipment. Under the rules, the use of equipment for MRIs and CT scans to screen for diseases will result in cuts of up to 38 percent for physicians who are paid under the Medicare Physician Fee Schedule.

[Bloomberg News](#) (10/31, Nussbaum) reported that CMS also announced a "21.5 percent cut for all physicians" with "lower reimbursements for specialists." The "reductions will be made over four years rather than imposed at once in 2010." According to Allen S. Lichter, chief executive officer of the American Society of Clinical Oncology, "cancer-care doctors will see a six percent reduction over four years." Meanwhile, Jack Lewin, chief executive officer American College of Cardiology, noted that "the phase-in means 'a slow death' for heart doctors," adding that most cardiologists will "elect to leave the practice."

Lewin noted that "the rule puts into effect policy proposals that will unacceptably reduce payments for cardiovascular-related services," [CQ HealthBeat](#) (10/31, Reichard, subscription required) reported. Jonathan Blum, director of the CMS Center for Medicare Management, said however, that CMS "is removing drug expenditures from a calculation used to set doctor payment rates, which won't affect 2010 payments but "will have a positive effect on future payment updates." James J. Rohack, president of the American Medical Association, urged Congress to "fix the payment formula once and for all this year."

In a separate article, [CQ HealthBeat](#) (10/31, Reichard, subscription required) reported that CMS also announced that "hospital outpatient departments will receive a 2.1 percent increase in Medicare payments in 2010 unless they failed to report data on the quality of their services," while "ambulatory surgery centers will see a 1.2 percent inflation update next year."

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## From NAHU

We know many of you have been extremely active with legislative issues and we want to thank you for your hard work and assure you it is making a difference. We are seeing some inroads on the legislative front and continue to work diligently with Congress to keep things on the right track.

The next few months will be the most intensive of times for our association's government affairs efforts. We have every reason to believe that health system reform legislation will move forward, and we need to preserve the role of agents and brokers and ensure continuance of the private market. It is for these reasons that we have decided to reinstate our Grass Roots Initiative Program. GRIP is a voluntary donation program created some years ago for our legislative expenses at the national level.

We are now soliciting both individual and chapter contributions to GRIP, and would greatly appreciate any additional help as there is still much to be done on the legislative and regulatory front. **Please click [here](#) to make a donation to GRIP today.**

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## Legislation and Policy

### House to see floor action on healthcare bill this week.

[CQ Weekly](#) (11/2, Armstrong, Wayne, subscription required) reports, "House democratic leaders introduced their long-awaited healthcare overhaul package last week, as rank-and-file party members appeared to be rallying behind the proposal. The 1,990-page bill (HR 3962), unveiled Oct. 29 by Speaker Nancy Pelosi (D-CA), in a ceremony on the West Front of the Capitol, is expected to be on the House floor late this week. Senate Democrats are lagging their House counterparts. Senate Majority Leader Harry Reid (D-NV), who is working to draft a final bill in that chamber, will not be ready to introduce one this week, his spokesman said Oct. 29."

**Nelson encouraged to rally moderates behind public option.** The [Miami Herald](#) (11/2) editorializes that no significant reform can be accomplished without some version of a public option," noting that while the current proposal may not please supporters of a single-payer system, it "would still offer consumers a far better deal than what the system offers today. ... It's encouraging that Democratic Sen. Bill Nelson, who was once not enthusiastic about a public option, now says he will support a version that Majority Leader Harry Reid plans to bring to the floor." Moreover, "Mr. Nelson, a veteran lawmaker who served as Florida's insurance commissioner, has an opportunity to bring more moderates to the reform table."

**Only about two percent of those under 65 expected to join public option.** The [AP](#) (10/31, Alonso-Zaldivar) reported, "After all the noise over Democrats' push for a government insurance plan to compete with private carriers, coverage numbers are finally in: Two percent. That's the estimated share of Americans younger than 65 who'd sign up for the public option plan" under the bill moving through the House. The "underwhelming statistic is raising questions about whether the government plan will be the iron-fisted competitor that private insurers warn will shut them down or a niche operator that becomes a haven for patients with health insurance horror stories."

**Business opposition to public option seen as self-serving.** In his column in the [Los Angeles Times](#) (11/2), David Lazarus notes that members of the Business Roundtable held a news conference last week "to denounce" the public option. Although Roundtable members "account for millions of dollars in political donations," they are "also the ones whose repeated cutbacks have resulted in countless families now going without insurance." So, listening to their remarks, Lazarus writes, was "about as convincing as listening to the insurance industry serve up repeated predictions of medical doom, all the while salivating" over the benefits of mandated insurance. Lazarus concludes that "the only opinion that matters...is that of the millions of people who can't afford or obtain health insurance, or who have found their coverage wanting when they need it most"; and most polls "show that a majority of Americans favor a public option."

### Boehner says GOP to unveil healthcare reform plan.

[AFP](#) (11/2) reports, "A leading Republican Congressman said Sunday that his party would present by the end of the week its own plan for healthcare reform, one of President Barack Obama's top domestic priorities." Rep. John Boehner (R-OH) "spoke after Obama's top allies on Thursday unveiled sweeping compromise legislation, including a government-backed insurance plan to compete with private firms." Boehner said on CNN, "By the end of this week, people will be able to look at one proposal," which will "clearly delineate that 'what the CBO (Congressional Budget Office) says it will cost and...what the CBO says will end up the percent of Americans who will have health insurance.'" Boehner "declined to give details on the Republican proposal, but said it would not increase taxes, cut existing government programs for the poor and elderly, or have 'mandates on individuals or businesses.'" The [Wall Street Journal](#) (11/2, Hitt, subscription required) also reports the story.

### GOP says House Democratic healthcare plan would top \$1 trillion over decade.

The [Washington Post](#) (10/31, Montgomery) reported congressional Republicans "are challenging an assertion by House leaders that their new healthcare package comes in under President Obama's spending limit of \$900 billion over the next decade." While the Congressional Budget Office has said "expanding coverage to an additional 36 million Americans would cost \$1.055 trillion over the next decade under the House plan," House Democratic leaders "emphasize a different number: the net cost of expanding coverage," or \$894 billion over 10 years.

### Health insurers seen as apathetic to renewed efforts to repeal antitrust exclusion.

In continuing coverage, [CQ Weekly](#) (11/2, Reynolds, subscription required) reports that Judiciary Committee Chairs Sen. Patrick J. Leahy (D-VT) and Rep. John Conyers, Jr. (D-MI) "are leading a renewed charge to repeal the antitrust exclusion," which "has survived previous legislative challenges from both parties." Currently, "neither party is comfortable arguing against a basic tenet of capitalism," that

companies "shouldn't be allowed to bypass the marketplace by colluding to set prices." Leahy and Conyers, however, say they "want to lift the exclusion only on health insurers...to increase competition and presumably lower" healthcare costs. Still, "health insurers have made little public effort to defend the exclusion." This may be "because they have bigger issues at stake."

In his column in the [Los Angeles Times](#) (11/2), Michael Hiltzik asserts, "Repeal of the measure wouldn't have much effect on health insurers at all, good or bad, though it would permit Congressmen to swank around as though they were courageously lowering the boom on an industry with few fans among the voters." Hiltzik says the insurance industry "itself has gone along with the joke, informing Congress a week ago that the repeal would 'remedy a problem that does not exist' -- a hint that the lawmakers can score anti-industry points without imposing on the insurers."

## **Critics say health insurance mandate may be unconstitutional.**

The [Los Angeles Times](#) (11/1, Savage) reported, "Among some libertarians and conservatives, the most troubling aspect of the pending healthcare reform bills is the prospect of a federal requirement that Americans buy insurance." Some "foresee a constitutional challenge" to the mandate, "on the claim that Congress' power to regulate commerce does not extend to forcing citizens to buy a commercial product." Supporters of the mandate "point to state laws that require motorists to buy auto insurance," and "many constitutional-law experts also predict that even a conservative Supreme Court would uphold a federal requirement that individuals buy health insurance."

**NYTimes says mandate must come with affordability guarantees.** In its sole Sunday editorial, the [New York Times](#) (11/1, WK7) wrote, "If Congress approves healthcare reform, virtually all Americans will be required to buy health insurance or pay a penalty. That raises a fundamental question: Will the policies be affordable? ... Many people who might still find the premiums too high will face an agonizing choice: buy insurance coverage or pay a penalty of hundreds or even thousands of dollars per family if they still decide to forgo insurance. Successful reform will provide financial support for those who need it and is the only way to finally guarantee coverage for tens of millions of uninsured Americans. ... The House bill, unveiled last week, seems a safer bet than the Senate Finance bill...to make coverage affordable and widespread."

## **Federal healthcare plan could clash with Massachusetts system.**

The [Boston Globe](#) (11/2, Wangsness) reports that Massachusetts healthcare officials "are working to make sure" that national healthcare reforms "don't undermine the state's pioneering system -- and that Massachusetts isn't penalized financially for being first. Under some versions of the federal legislation, Massachusetts could face pressure to reduce the subsidies it now provides to low- and middle-income residents who get insurance under the state system, a study commissioned by the Blue Cross Blue Shield of Massachusetts Foundation found." Since proposed federal subsidies are "less generous," the state "could be forced to choose between scaling back sharply to match the federal payment levels, jockeying for a special deal from the federal government, or dipping even more deeply into state taxpayer dollars to make up the gap."

## **Federal COBRA subsidies to expire at year's end.**

The [Wall Street Journal](#) (11/2, McQueen, subscription required) reports that government subsidies for COBRA premiums will expire Dec. 31. However, given that COBRA plan membership has doubled since the subsidy took effect in March, Rep. Joe Sestak (D-PA) has introduced a bill that would extend the subsidy for six more months and extend eligibility to workers who lost jobs between Jan. 1 and June 30, 2010. Sestak says Democratic leaders have expressed interest in the extension. In the meantime, however, workers who will lose the subsidy this month must decide whether stay with unsubsidized COBRA in hopes that the extension will be approved or seek insurance elsewhere.

## **Illinois General Assembly passes individual health insurance fairness bill.**

[Modern Healthcare](#) (11/2, Blesch, subscription required) reports, "Both houses of the Illinois General Assembly passed a bill calling for tighter regulation of the individual health insurance market. The Individual Health Insurance Fairness Act is headed to the desk of Gov. Pat Quinn." The bill's "backers, including AARP Illinois and more than 20 other consumer-protection and health-advocacy organizations, say the legislation would make the process of applying for an individual plan simpler and more transparent." If the measure is approved, the "Insurance Department would create standard application and health-statement forms for individuals and small businesses. The bill also would require insurers participating in the individual market to report financial information to allow consumers to see what portion of premiums goes toward administrative expenses and profit compared with paying healthcare benefits."

## Medicare open enrollment said to present "overwhelming" number of options.

In the [New York Times](#) (10/31, B6) "Patient Money" column, Walecia Konrad wrote about the pending open enrollment period for Medicare recipients, noting that they may face "a potentially overwhelming welter of choices. They may need to sort through dozens, even hundreds, of choices during the annual enrollment period, which runs Nov. 15 through Dec. 31. Those already enrolled in Medicare, of course, might not need to do anything." However, "there are various reasons that staying put might not be a good idea. And making a change means coming to grips with an array of Medicare options that has been expanding at a bewildering rate in the past decade."

## HHS IG says Medicare failed to give fraud investigators needed data.

The [New York Times](#) (10/31, A12, Harris) reported HHS Inspector General Daniel Levinson concludes in a report to be made public Monday that the Medicare program "largely failed" to give private companies hired to investigate fraud "much of the information they needed to do their work." Levinson says in the report that officials "needed to give antifraud contractors more data and that the government should require private insurers to report all instances of potential fraud to those companies."

## Louisiana Medicaid program facing \$250 million deficit.

The [AP](#) (10/30, Deslatte) reports that Louisiana Health and Hospitals Secretary Alan Levine said on Thursday that the state's Medicaid program "is more than \$250 million over budget this year, as swine flu made costs rise and Medicaid rolls grew amid the national recession." Levine said "he'll give lawmakers on Monday a formal estimate of the midyear deficit for the \$6.5 billion program that cares for the poor, elderly and disabled, but said it is 'well in excess of \$250 million.' The shortfall will have to be closed before the 2009-10 fiscal year ends on June 30."

## Uninsured

## Health plan costs seen as reason for high rate of uninsured young adults.

The [San Francisco Chronicle](#) (11/2, A15, Burton) reports that "29 percent" of "all the uninsured" are young adults. In California, the "18-to-34 age group...constitutes 41 percent" of the state's uninsured. Most young adults "aren't in working situations where they have a generous employer-based insurance option right now," said Marian Mulkey, senior program officer at the California HealthCare Foundation; and most young adults left to the private market "don't have an incentive -- or the finances -- to buy in." In contrast, Robert Laszewski, president of Health Policy and Strategy Associates, noted that individual "insurance may be more affordable than some people think." He added that House Speaker Nancy Pelosi's (D-CA) "proposal to allow young adults to remain covered by their parents' plans would merely load added costs onto employer-based plans."

## Also in the News

## Number of provider-owned health plans said to be declining.

[American Medical News](#) (11/2, Berry) reports, "The once-plentiful population of health plans owned by physician groups, hospitals or integrated health systems has dwindled steadily in the last decade. The demise of those plans has continued with acquisitions by larger plans over the last year." Experts say the reasons "include state regulations requiring large reserves, patient preference for large networks, and limited resources for marketing that would allow the smaller plans to compete with the national giants." Moreover, physician- and hospital-run "plans are challenged with keeping down medical spending while the practices and facilities need patient volume."

## HHS increases penalties for HIPAA privacy, security violations.

[Modern Healthcare](#) (10/31, Conn, subscription required) reported, "HHS has issued an interim final rule" that increases "penalties for privacy and security violations under the Health Insurance Portability Act of 1996." The new "rule covers modifications of the civil penalty provisions of HIPAA that flesh out part of the health information technology privacy and security sections of the American Recovery and Reinvestment Act" of 2009. The law "significantly increased the maximum individual penalty for civil violations of HIPAA from \$100 to \$25,000, and increased the penalty cap from \$25,000 to \$1.5 million for total violations of the same provision."

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