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Customized Briefing for Kimberly Barry-Curley

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Leading the News

Critics of health reform eye Supreme Court challenge.

The [Washington Post](#) (1/3, Pershing) reported that a "small but vocal contingent of legal scholars and many Republican lawmakers" are arguing that Democratic healthcare measures "are unconstitutional and will be ruled so by the Supreme Court. Their primary target: the individual mandate, which requires people to get health insurance or pay a financial penalty of at least 2 percent of their income to the government." Critics say the bills "would force people to buy a particular product. Laws requiring drivers to carry auto insurance do the same thing, but people can choose not to own a car. The health insurance mandate includes no such alternative."

Insurance mandate draws criticism. The [Los Angeles Times](#) (1/2, Oliphant) reported that the legislation's "mandate for near-universal coverage is generating opposition not only from libertarians," who "object to the guiding hand of government regulation in almost any form, but from some liberals -- and even from some members of the insurance industry." As "right-wing critics talk of legal challenges, critics on the left complain that Americans will be locked into buying a product that threatens to become ever more expensive -- especially if, as seems likely, the final bill does not contain" a government-run public option.

As many as 23 million could remain uninsured under health reform plans. The [Washington Post](#) (1/2, Bacon) reported that "even as Democrats seek the biggest expansion of health coverage in decades, as many as 23 million people could still be without insurance by 2018, illustrating the complexity of achieving the long-held Democratic goal of universal health care." The Senate legislation passed late last month, "which is expected to resemble closely the final bill that is hashed out between the House and Senate over the next month, would leave about 8 percent of the population under age 65 without health insurance," according to the Congressional Budget Office.

Senate bill seen as inviting problems with state-based health insurance exchanges. [USA Today](#) (1/4) editorializes that insurance-exchange provisions in the health reform bills "could be a godsend. ... But in neither the House bill nor the Senate bill would they go into effect" until 2013 or 2014. In part, the delay is a "budgetary gimmick designed to lowball the bill's cost over the next 10 years. ... The delay in the Senate is also due to needless complexity. While the House would create a single national healthcare exchange, with an opt-out provision for states...to create their own exchanges, the Senate would have each of the 50 states creating its own exchange." The 50-state approach would "invite problems" with insurance competition and in "trying to get all 50 states to act," especially considering that some state officials "are already trying to block implementation."

Experts say states are best equipped to manage regional differences in medical expense. In the [USA Today](#) (1/4) "Opposing View," National Association of Insurance Commissioners CEO Therese M. Vaughan and NAIC President Jane L. Cline point out that research has "shown large geographic variations in medical practice and expense," evidenced by insurance policy pricing. There are also state-by-state differences in "labor markets, demography and economics" that effect pricing and regulation; and state-based exchanges "are best equipped to manage these regional differences." State exchanges would "be run by officials with local understanding

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and experience, attuned to healthcare needs of their communities and motivated to respond quickly." In addition, it is "unrealistic to expect a national exchange to yield meaningful premium reductions" because insurers "operating primarily in lower cost areas would have no incentive to pool risk with higher cost areas."

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.**

NAHU in the News

Insurance industry proposes moratorium on Colorado mandates.

The [Colorado Independent](#) (1/1, Redding) reported that a bill proposed by the Colorado State Association of Health Underwriters "would institute a one-year moratorium on insurance mandates aims to wipe out a number of measures slated for next season, including legislation that would require Colorado insurance companies to cover maternity care and birth control." CSAHU lobbyist Cindy Sovine-Miller said that the measure is intended "to point out that requiring insurance companies to cover different healthcare needs unfairly puts 'unfunded mandates' on small businesses instead of turning to other available resources to provide health services." Still, "she acknowledged...the moratorium would expire long before most federal healthcare reforms are expected to take effect in 2013."

Legislation and Policy

GOP AGs threaten legal action over Nebraska Medicaid cost exemption.

The [Washington Post](#) (1/1, Kinnard) reported Republican attorneys general in 13 states "are threatening legal action over a provision in the federal health-care reform bill that would shield Nebraska from the costs of expanding Medicaid programs." In [a letter](#) (.pdf) to Senate Majority Leader Harry Reid (D-NV) and House Speaker Nancy Pelosi (D-CA), the AGs "wrote that they consider the provision 'constitutionally flawed' and demanded that it be stricken from the final bill."

Nelson urges state AGs to drop constitutional challenge to healthcare reform. [Politico](#) (1/1, Isenstadt) reported Sen. Ben Nelson (D-NE) "reached out Thursday evening to South Carolina GOP Attorney General Henry McMaster, the leader of a group of 13 Republican state attorneys general who are threatening to file suit against the Senate health care bill, and urged him to forgo any legal action. ... According to a copy of a memo sent by McMaster's chief of staff to other GOP state attorneys general detailing the call, Nelson asked McMaster to 'call off the dogs,' a reference to recent threats by the state AGs to file a lawsuit challenging the constitutionality of a Medicaid provision in the bill that benefits Nebraska at the expense of other states."

Nelson faces criticism at home. The [Wall Street Journal](#) (1/2, A4, Davis) reported Nelson is facing criticism at home in Nebraska over his support for the bill, and has launched an ad defending his vote even though he does not face reelection until 2012. The Journal notes that a December 28 Rasmussen poll showed Republican Gov. Dave Heineman leading Nelson by a two-to-one margin in a potential 2012 Senate matchup.

Industry-specific provisions seen as complicating health reform bills.

In an article drawing attention to a provision in the Senate healthcare reform bill that "singles out the construction industry for special treatment" by mandating that small businesses in that sector provide coverage if they have more than five employees, whereas the limit is 50 in other industries, the [New York Times](#) (1/4, A10, Pear) reports that this exemption, won by labor union lobbyists, "was one of many added to the bill as senators rushed to finish the legislation by Christmas Eve. It illustrates the difficulty of establishing uniform national requirements in a country where employers have, over decades, devised myriad different arrangements for providing health insurance to

employees." The Times notes that such provisions are "receiving a second look" as work to reconcile the two bills begins, adding that the unions were unable to get a similar provision inserted into the House version.

Senate bill seen as having "upper hand." [Bloomberg News](#) (1/4, Jensen, Gaouette) reports that Democrats in the Senate will have "more clout" when reconciling the chambers' versions of the bill "because they have no room for defections, analysts and lawmakers said. Even so, House members will push for their provisions, including the public insurance program, likely making the negotiations among the most complex in congressional history. 'There's only a certain amount of wiggle room and I don't know where it is,' Senator Jay Rockefeller, a West Virginia Democrat, said in an interview. Lawmakers aim to combine their bills and hold final votes in each chamber around the time President Barack Obama gives his State of the Union address in late January."

House, Senate bills differ on plans for CHIP.

The [New York Times](#) (1/3, Herszenhorn) "Prescriptions" blog reported on the future of CHIP should national healthcare reform pass, noting that "the Senate bill would preserve the program...and would extend federal financing through 2015, two years past its expiration date under current law. Two Democrats, Senators John D. Rockefeller IV of West Virginia and Bob Casey of Pennsylvania, fought hard to protect CHIP in the bill. The House bill, by contrast, would end CHIP and redirect the millions of children either to Medicaid, the federal-state insurance program for the poor, or to new health insurance exchanges where moderate-income Americans would be able to buy private coverage using new federal subsidies to help offset the cost." The piece describes the debate over whether to continue CHIP.

Ohio law caps insurance premiums for individuals with pre-existing conditions.

The [Columbus \(OH\) Dispatch](#) (1/4, Hoholik) reports that in Ohio, "people who pay dearly for health insurance -- as much as \$1,000 a month -- because they have diabetes, cancer, kidney failure, or other medical conditions soon will be able to save money." As of Jan. 1, a new state law caps "what insurance companies can charge people with pre-existing health conditions who buy individual policies." Specifically, "they can't be charged more than twice the lowest rate the company charges a person of similar age and gender."

Texas requires insurers to reimburse preventive heart screenings.

The [Houston Chronicle](#) (1/3, George) reported, "A law that took effect [Jan. 1] makes Texas the first state to require insurance companies to reimburse preventive heart screenings." Under the new policy, health insurance companies "will be required to reimburse up to \$200 for exams given to women ages 56 to 74 and men 46 to 75 considered at elevated risk of heart disease based on the Framingham Risk Score." The Chronicle pointed out that "in 2006, the Houston-based Society for Heart Attack Prevention and Eradication, or SHAPE, published a report indicating that preventive screenings for people without cardiac symptoms would save more than 4,000 lives a year in Texas."

Public Health and Private Healthcare Systems

California court ruling allows greater scrutiny of health insurance rescissions.

The [Los Angeles Times](#) (1/2, Girion) reported that a decision last month by the California Court of Appeal in Los Angeles opened the door for increased "scrutiny of [health insurers'] practice of rescinding the policies of sick patients." The court ruled "that local prosecutors could sue health insurers over the way they treat consumers," in "a high-stakes lawsuit accusing Anthem Blue Cross of California of violating state business laws by selling the promise of insurance but rescinding coverage after policyholders submit claims for costly medical care." Blue Cross argued that its "rescission practices fell under the jurisdiction of the state Department of Managed Health Care and not the Los Angeles city attorney's office," but "the appellate court rebuffed those arguments, saying the law was 'unambiguous' in giving the city attorney the authority to sue."

States facing budget deficits struggling to meet demand for Medicaid, other programs.

The [AP](#) (1/4, McCaffrey) reports that federal stimulus dollars "are about to dry up. Rainy-day funds have been tapped. And demand for" public services, such as Medicaid is increasing. Unless state lawmakers "increase taxes or fees," most will need to "cut even more" from their budgets in 2010. Still, some relief "could come in the form of more" federal stimulus money. "States last year were able to tap President Obama's economic stimulus package to soften the blow of budget cuts, mainly in education and healthcare, and some of that money is still left."

Medicare payments no longer accepted at Arizona Mayo Clinic.

[Bloomberg News](#) (12/31, Olmos) reported that "more than 3,000" patients that are eligible for Medicare "will be forced to pay cash if they want to continue seeing their doctors at a Mayo family clinic in Glendale, northwest of Phoenix, said Michael Yardley, a

Mayo spokesman." Mayo spokeswoman Lynn Closway said the organization "lost \$840 million last year on Medicare," adding that the clinic believed Medicare payments "no longer reflect the increasing cost of providing services for patients." However, "Mayo will continue to accept Medicare as payment for laboratory services and specialist care such as cardiology and neurology, Yardley said." In its "Health" blog, the [Wall Street Journal](#) (1/1, Goldstein) added that the new Medicare policy could soon be expanded to other sites beyond the Glendale region.

Uninsured

Many laid-off workers unable to afford COBRA coverage in Florida.

The [Miami Herald](#) (1/4, Dorschner) reports that although federal COBRA coverage "requires companies with more than 20 employees to offer laid-off workers up to 18 months of health insurance in most cases, as long as the worker pays the entire cost of the premium," in South Florida, COBRA "can easily cost \$1,200 a month for a family, and many find that too expensive." Even with the Obama administration's 65-percent COBRA subsidy, "many still can't afford it." Moreover, companies with "fewer than 20 employees are covered by a state law, but people who have had to use it...say it's even more convoluted than the federal law." Federal law requires "large companies to give departing employees a thick COBRA packet stuffed with explanations. But state law makes no such demand on small companies."

Also in the News

Baltimore Sun criticizes Maryland's efforts to crack down on Medicaid fraud.

The [Baltimore Sun](#) (1/4) editorializes that "one of the bigger errors made by members of the Maryland General Assembly last year was to reject a bill that would have helped the state crack down on Medicaid fraud." The Sun also notes that "Maryland's fraud investigations are now hampered: Without some form of punitive damages, perpetrators end up returning their ill-gotten gains as if it was all little more than a no-interest loan." The Sun concludes, "The attitude in the hallways of Maryland Medicaid is lackadaisical. Claims are processed and paid in full with nary a thought expended on all the details that will thwart the cheats."

BGlobe argues Massachusetts should increase reimbursement levels to safety-net hospitals.

The [Boston Globe](#) (1/4) editorializes, "A group of financially strapped hospitals that serve a disproportionate number of publicly insured patients has gone to court to make the case that the state has stiffed them on legal commitments for fair reimbursements." While "the spike in layoffs has forced more people onto the rolls of the state programs," the recession has also "depleted the state's coffers, making it difficult for the state to obey a longstanding state law requiring full reimbursement for safety-net hospitals' patients covered by Medicaid and the state-subsidized Commonwealth Care." The Globe concludes that "the state should save legal costs by acting quickly to raise the reimbursement level for these hospitals, rather than take on the much more costly option of raising Medicaid reimbursements across the board."

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