

Customized Briefing for Kimberly Barry-Curley

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Leading the News

Clash Over Contraception Mandate Likely Headed To Supreme Court.

On its front page, the [New York Times](#)   (1/27, A1, Bronner, Subscription Publication) reported that "a flood of lawsuits" by religious organizations over a birth control provision in the Affordable Care Act underscore that "a high-stakes clash between religious freedom and healthcare access...appears headed to the Supreme Court." The story backgrounds the growing legal battles with "new suits...filed nearly weekly" and points out that circuit courts are already offering "strong disagreements."

Similarly, the [AP](#)   (1/26, Zoll) reported that "the legal challenges over religious freedom and the birth control coverage requirement in President Barack Obama's health care overhaul appear to be moving toward the U.S. Supreme Court." In addition to dozens of lawsuits filed by "faith-affiliated charities, hospitals and universities," several "for-profit business owners are also suing." Right now, these "lawsuits are yielding conflicting rulings in appeals courts around the country."

District Court Throws Out Catholic Suit Challenging Contraception Mandate. [Bloomberg News](#)   (1/25, Zajac) reported that US District Judge Amy Berman Jackson of Washington threw out a Catholic Church lawsuit against the Obama Administration's healthcare "birth-control mandate" because the regulations in the Affordable Care Act are likely to change. The case was brought by the Archdiocese of Washington "and four other Catholic nonprofit groups." Jackson wrote, "If after the new regulations are issued, plaintiffs are still not satisfied, any challenges that they choose to bring will be substantially different from the challenges in the current complaint."

Ohio Produce Companies File Contraception Mandate Suit. [CQ](#)   (1/26, Norman, Subscription Publication) reported that "two Ohio-based companies that process, pack and transport fresh produce are the latest to file a lawsuit challenging an Obama administration rule that requires employers cover birth control in their health insurance policies." By now, "More than 40 suits have been filed objecting to the Department of Health and Human Services requirement and the split decisions to date by federal judges likely mean the issue will wind up eventually before the Supreme Court."

From NAHU

Access NAHU's latest information on PPACA, including a [timeline](#), through our Compliance Corner by clicking [here](#). This section of the website is constantly being updated, so be sure to check in often!





Legislation and Policy

Undecided States Working Toward Medicaid Expansion Decisions.



The considerable coverage of Medicaid expansion in as-of-now undecided states continued over the weekend through Monday. There were reports from local sources, as well as AP stories, in states like Ohio, Missouri, Wisconsin, and Pennsylvania.



Ohio Weighing Medicaid Expansion Decision. The [Toledo \(OH\) Blade](#)   (1/28, Russell) reports that a week from Monday, "Ohioans will know whether the Kasich administration will expand Medicaid to allow more people to benefit from the federal health-care law." While announcing his budget plan on February 4, Kasich "is expected to also announce whether Medicaid will be expanded." If so, "then the bill passed in 2009 would provide coverage to many Ohio adults whose earnings are up to 138 percent of the federal poverty level."

The [Chillicothe \(OH\) Gazette](#)   (1/26, Zimmer) reported on Ohio's Medicaid expansion debate, writing, "What will the governor and his party, which enjoys large majorities in both chambers of the Ohio General Assembly, do? Few have speculated publicly, although it's clear that Republican leadership, which vociferously opposed the health care law, is conflicted."



The [Cincinnati Enquirer](#)   (1/28, Peale) reports on a recent report from the Health Policy Institute of Ohio which found that Medicaid expansion in Ohio would cost the state \$2.5 billion in the next decade, but bring \$4 billion in savings and new revenue. However, "Conservative groups opposing the expansion said those revenues are overstated and that Medicaid's crushing impact on Ohio's budget is proof that taxpayers shouldn't dump more money into the program."



The [Cincinnati Herald](#)   (1/26) carried a statement from the co-chairs of Ohio Consumers for Health Coverage, a "nonpartisan coalition uniting the diverse consumer voice with the goal of achieving affordable, high quality health care for all." The statement reads, in part, "Today Ohio-based research groups released findings on the report Expanding Medicaid in Ohio-preliminary analysis of likely effects, which confirms that expanding Medicaid eligibility in Ohio will be good for the health of Ohioans and health of our economy. The preliminary results show that the Medicaid expansion can be done in a fiscally responsible manner that will improve the health of hundreds of thousands of Ohioans."



The [Chillicothe \(OH\) Gazette](#)   (1/26, Zimmer) reported that "the question of Medicaid expansion has particular importance to community hospitals that thought the uninsured people they must serve would be able to pay." The law reduces payments to the Disproportionate Share Hospital fund, which hospitals expected to be offset by an increase in insured patients. However, if states like Ohio do not expand Medicaid, hospitals will likely face increased uncompensated care payments.

Missouri Budget To Include Medicaid Expansion. The [AP](#)   (1/27, Lieb) reports, "When Missouri Gov. Jay Nixon outlines a budget on Monday, he will be banking on federal Medicaid money to help bolster the state revenues available to spend on education and other government services." Nixon "already has said his budget will include a Medicaid expansion – as allowed under President Barack Obama's health care law – that could cover an additional 259,000 people during the next fiscal year. That expansion could bring an additional \$907 million of federal money to Missouri doctors, hospitals, nursing homes, pharmacies and other medical providers."

New Jersey Still Awaiting Christie's Medicaid Expansion Decision. The [AP](#)   (1/28, Mulvihill) reports on the progress of the Medicaid expansion decision in New Jersey. Although Governor Chris Christie has yet to make his announcement, "many observers expect he'll announce his decision by late February, when he is scheduled to present his state budget proposal." The article then looks into the debate, quoting experts and lawmakers who come down on both sides of the issue, with advocates for the poor supporting the expansion while Republican legislators and the medical community remain "tepid."

Washington State Debating Medicaid Expansion. The [Seattle Times](#)   (1/28, Shannon) reports that the expansion of Medicaid "is getting a close look in the [Washington state] Legislature." The debate centers around whether the state can afford to expand eligibility of the program. The Federal government "is covering costs for all people who become newly eligible for Medicaid in 2014-15," and "the state share would rise after that, topping out at 10 percent of costs in 2020." However, "some Republicans and their allies in the Legislature worry that the state might be saddled with a big bill in later years."



Indiana Republicans, Democrats Weighing Medicaid Expansion. The [Merrillville \(IN\) Post-Tribune](#)   (1/28, Mikus) reports on the Medicaid expansion decision in Indiana, where Republicans "don't care for the Affordable Care Act," but "because of the amount of funding on the table from the federal government, it's hard to say no." Though Democrats widely back expansion, "What worries Republican state lawmakers is what will happen after the funding to implement the Medicaid expansion runs out." Finally, "Recently, Gov. Mike Pence said that expanding Medicaid is still a possibility, but it would have to be up to the General Assembly to find a financially responsible method."



Wisconsin Medicaid Expansion Decision Expected Next Month. The [Milwaukee Journal Sentinel](#)   (1/27, Boulton) reports on Wisconsin's Medicaid expansion decision, writing that Governor Scott Walker "has not indicated what he will do, but his decision is expected to be part of his proposed budget next month." According to the article, both options appear unattractive; "As an opponent of the Affordable Care Act, Walker may be loath to give even tacit support to the law. But expanding the Medicaid program could bring hundreds of millions of federal dollars into the state each year and billions of dollars over the next decade."



Vote On Wyoming Medicaid Expansion Uncertain. The [Billings \(MT\) Gazette](#)   (1/28) reports, "Bringing the Medicaid

expansion bill to the Senate floor for a full debate will be difficult after it received negative recommendations from two legislative committees this week, the Senate's vice president said Friday." The Senate Appropriations Committee gave the bill a negative recommendation on Friday, after "a Senate committee that oversees health issues made the same recommendation Wednesday." Still, Senate President Tony Ross, R-Cheyenne "said earlier this week that he intended to have an open debate on the matter."


Mississippi Could Benefit From Medicaid Expansion, Bryant Still Opposed. The [Memphis \(TN\) Commercial Appeal](#)   (1/28) reports from Mississippi, "even the toughest fiscal conservatives in the Legislature could start feeling pressure from health care providers who see Medicaid expansion as a way to pump money into the state to support their livelihoods and improve people's well-being." According to the article, "Health care as economic development" is "just what the governor says he wants." However, "Bryant has dug in so strongly against Medicaid expansion that turnabout is practically unthinkable."

Survey: Michigan Doctors Would Continue To Take New Patients Under Expansion. [Crain's Detroit Business](#)   (1/27, Greene) reports, "A new survey shows 81 percent of Michigan primary care physicians are interested in taking on newly insured patients, including new Medicaid patients, if the state Legislature this year approves an expansion under health care reform, said the Ann Arbor-based Center for Healthcare Research & Transformation." Further, "Of those doctors willing to accept new patients, 90 percent of family physicians, internal medicine practitioners and pediatricians said they would accept new Medicaid patients." Discussing whether the state will expand the program, the article notes, "GOP leaders in the state House and Senate have not expressed interest in expanding Medicaid, although Gov. Rick Snyder has indicated he could be open to the idea if the newly insured patients do not overburden emergency departments."



Pennsylvania Lawmakers, Advocates Pressure Corbett To Expand Medicaid. The [Philadelphia Inquirer](#)   (1/26, Brubaker) reports, "In a bid to build pressure on Gov. Corbett to expand Medicaid next year, Democratic members of the Pennsylvania Senate Appropriations Committee met Thursday in Philadelphia with city health officials, hospital experts, and advocates for the poor." According to the Inquirer, "The Kaiser Commission on Medicaid and the Uninsured estimated that 719,000 additional Pennsylvanians would enroll in Medicaid by 2022 were Corbett to expand it." However, "the Corbett administration has shown no signs that it will opt for the Medicaid expansion, citing additional costs that would accrue to the state despite the federal government's plan to pay 100 percent of the expansion at first and 90 percent from 2020 on."

Arkansas Hospital Chief Urges Legislature To Expand Medicaid. The [Arkansas Business](#)   (1/28, Frieden) reports that last week, Dr. Dan Rahn, chancellor of the University of Arkansas for Medical Sciences, told the Arkansas House Committee on Public Health, Welfare & Labor that "approval of the expansion of Medicaid to the 250,000 Arkansans who aren't on it is critical." He said that "the projected cost of treating uninsured patients at UAMS' hospital would rise to \$66 million in 2014 if Medicaid isn't expanded."


Oklahoma AG Files Suit Against IRS For ACA Tax Credit Rule.

The [Washington Times](#)   (1/26, Howell) reported that "the Internal Revenue Service flatly ignored Oklahoma's 'sovereign choice' to reject a key portion of President Obama's health care law, exposing the state to burdensome penalties despite its willful strategy to avoid the sanctions by following the letter of the law, the state's top lawyer said in court papers filed Friday." Oklahoma Attorney General E. Scott Pruitt's "filing is the latest salvo in his fight against a rule the IRS issued in May to ensure that tax credits will be available to persons who buy insurance through state-run insurance markets, or 'exchanges,' as well as states that opted for federally run exchange under the Patient Protection and Affordable Care Act of 2010."



Coburn Introduces Bill To Restrict Abortion Covered By ACA Plans.

[The Hill](#)   (1/26, Baker) "Healthwatch blog" reported that Sen. Tom Coburn (R-Okla.) "introduced a bill Friday to ban abortion coverage in new healthcare plans created by President Obama's reform law." The measure "would restrict multistate plans selected by the Office of Personnel Management." Currently, "the healthcare law states that one multi-state plan must not cover abortion, but others can." Coburn's bill would change this, with exceptions for rape, incest, or mother's health.



Immigration Reform Could Add Millions Of ACA Beneficiaries.

[The Hill](#)   (1/26, Viebeck) "Healthwatch" blog reported that "comprehensive immigration reform could make millions of people suddenly eligible for assistance under President Obama's healthcare law, assuming a final deal paves the way for undocumented immigrants to receive papers." Currently, illegal aliens are not allowed to buy insurance coverage through the ACA exchanges launching in October, and are generally ineligible for Medicaid. However, "the picture could change completely if Hispanic lawmakers get their wish - an overhaul of U.S. immigration policy that includes a path to legalization." Says Rep. Luis Gutierrez (D-IL), a leader in the immigration debate, "We have to figure out a way in which [undocumented immigrants] incorporate themselves into the larger workforce, and into our society in general, and not be a burden."



Poll Shows ACA Is Biggest Worry For Small Businesses.

[The Hill](#)   (1/26, Baker) "Healthwatch" blog reported on a new Gallup poll, which found that "small businesses say healthcare costs are the No. 1 factor hurting their operating environment." The survey showed that "fifty-four percent of small businesses said healthcare costs are hurting the business environment 'a lot' - making it the No. 1 impediment identified by business owners." Gallup said in the release, "These worries are likely tied - at least in part - to the implementation of the Affordable Care Act and its potential impact. Small-business owners are trying to keep their workforces under 50 employees so they are exempted from key parts of the act, and in this regard are reducing employee hours so they are not counted as full-time."



ACA Boosting Outlook Of For-Profit Hospitals.



[Modern Healthcare](#)   (1/27, Kutscher, Subscription Publication) reported that "despite worries about a storm of reimbursement cuts expected to rain on all sectors of the healthcare industry, shares of for-profit hospital operators remained buoyant in the early weeks of 2013." Hospitals "continued what was already a strong run last year as investors calculated that the benefit of having more insured patients would ultimately outweigh any payment squeeze." As trading closed on January 25, "shares of hospital operators showed sizable gains over their performance four weeks earlier, during the last full week of 2012."

Groups Respond To Proposed ACA Wellness Programs Rule.



[CQ](#)   (1/26, Reichard, Subscription Publication) reported that "a proposed federal rule allowing employers to tie stronger pocketbook incentives to employee wellness programs should be rewritten to prevent entire families from being punished financially, the Georgetown University Center for Families and Children said in a letter Friday." Further, "other groups weighing in on the proposal said it places intolerable administrative burdens on doctors and that it permits too many employees to be exempted from wellness standards." The proposal in question is "intended to implement a provision of the health care law that increases the maximum permissible financial rewards and penalties relating to employer sponsored wellness programs."

Health Insurance Exchanges To Take Effect This Fall.

The [AP](#)   (1/28, Alonso-Zaldivar) provides an overview of the health insurance exchanges which will open in each state this fall with the goal of providing "quality coverage for millions of uninsured people in the United States." The AP notes, "What the reality will look like is anybody's guess - from bureaucracy, confusion and indifference to seamless service and satisfied customers." The AP adds that "nothing in life is free and change isn't easy. ... Many people, even if they get government help, will find that health insurance still doesn't come cheaply. Monthly premiums will be less than the mortgage or rent, but maybe more than a car loan. The coverage, however, will be more robust than most individual plans currently sold."

Minnesota Eyeing Massachusetts, Utah Models For Its Exchange. The [Minneapolis Star Tribune](#)   (1/28, Crosby) reports that Minnesota lawmakers are working "at break-neck speed to hammer out details of one of the law's central mechanisms." the state is "trending toward the more hands-on model embraced by Massachusetts but wanting to also attract small business owners, as in Utah." The Star Tribune notes, "The exchanges in Massachusetts and Utah offer a lesson in extremes. Massachusetts, a state with one of the nation's highest premium costs, opened its exchange in 2006. In its first three years, the rate of uninsured dropped from more than 10 percent to 4.4 percent, the lowest in the nation, where it has remained. But the exchange was costly." Utah "chose a more bare-bones approach," launching its exchange "as a pilot for small businesses in 2009 with a two-person staff and a budget of \$670,000. It outsourced much of its IT work, unlike Massachusetts."

CMS Report: EHR Incentive Payments Up To \$10.7 Billion.

[Modern Healthcare](#)   (1/25, Conn, Subscription Publication) reported that "the federal government's electronic health-record incentive payment program has paid out nearly \$10.7 billion to more than 190,000 hospitals, office-based physicians and other 'eligible professionals' through December, according to the latest report from the CMS." The report showed that "Both numbers climbed substantially in a month, with total payments up 15% from \$9.3 billion in CMS' November totals, and paid providers, including those in Medicare Advantage plans, up 7.7% from 176,561 in November."



Public Health and Private Healthcare Systems

Alzheimer's Groups Push For Brain Imaging To Be Covered By Medicare, Insurers.



[Bloomberg News](#)   (1/28, Cortez) reports the Alzheimer's Association and the Society of Nuclear Medicine and Molecular Imaging

advocate that "advanced imaging that detects plaque in the brain should be covered by Medicare and private insurers for select people with dementia to help diagnose or rule out Alzheimer's disease." The recommendations "are the first to help govern the burgeoning field of brain imaging and may increase the use of the practice to improve care for the 5 million Americans affected with Alzheimer's." The article notes that "amyloid plaque is a hallmark of Alzheimer's disease," but not everyone who has it also is afflicted with Alzheimer's. "PET scans require a drug injected into patients to highlight the plaque for doctors." Eli Lilly's Amyvid (florbetapir F 18 injection) is the "only compound currently approved for use with PET scans for this purpose," and it is currently not covered by Medicare. The cost of the scans can vary from \$1,000 to \$3,000.



Maryland County Forms Nonprofit Co-Op.

[Bloomberg News](#)   (1/28, Wayne) reports, "Backed by \$65 million in federal loans, Howard County, a suburban area south of Baltimore, Maryland, will become the first municipality to establish a nonprofit, member-run health co-op to compete with commercial insurers under a provision in the 2010 Affordable Care Act." Titled Evergreen Health Cooperative, the co-op "will sell individual and small group plans through the insurance marketplaces, or exchanges, created by the law to help extend medical coverage to 30 million uninsured Americans. It is among two dozen nonprofits to roll out coverage in 23 states starting in October, though the only one run by a local government." County public health director, Peter Beilenson points to an analysis by the Seattle-based consulting company Milliman Inc. that suggests "the Baltimore-based network could offer premiums as much as 30 percent less than competitors."



Facility Fees For Off-Site Care Are Drawing Scrutiny From Medicare.

In a front-page story, the [Boston Globe](#)   (1/27, A1, Kowalczyk) reported that "facility fees for off-site care are drawing scrutiny from Medicare, some insurers, and consumers, who say that they are unfair and that hospitals are collecting more revenue and driving up health care costs." According to the Globe, "The federal Medicare program, which covers 47 million people and is under pressure to cut costs, is taking a look at the practice. An independent agency that advises Congress concluded last year that the charging of facility fees at hospital-owned medical practices is costing Medicare millions of dollars a year."



Pennsylvania Lawmakers, Advocates Seek To Pressure Corbett On Medicaid Expansion.

The [Philadelphia Inquirer](#)   (1/27, Brubaker) reported, "In a bid to build pressure on Gov. Corbett to expand Medicaid next year, Democratic members of the Pennsylvania Senate Appropriations Committee met Thursday in Philadelphia with city health officials, hospital experts, and advocates for the poor." According to the Inquirer, "The Kaiser Commission on Medicaid and the Uninsured estimated that 719,000 additional Pennsylvanians would enroll in Medicaid by 2022 were Corbett to expand it." However, "the Corbett administration has shown no signs that it will opt for the Medicaid expansion, citing additional costs that would accrue to the state despite the federal government's plan to pay 100 percent of the expansion at first and 90 percent from 2020 on."



DOL Pushes Back Employer Exchange Deadline.

[MedPage Today](#)   (1/28, Pittman) reports, "The March 1 deadline for employers to notify workers about health insurance exchanges available under the Affordable Care Act (ACA) is being pushed back, the government said this week." The ACA stipulates that "businesses need to provide to each employee a written notice informing them about the existence of exchanges and the employer's cost-sharing plans." The Department of Labor decided that to ensure "a smooth implementation process including providing employers with sufficient time to comply," the deadline should be moved from March 1, 2013 to "late summer or fall of 2013."

New York Health Insurers Review New Regulations.



The [Buffalo \(NY\) News](#)   (1/27, Epstein) reported, "With the constitutionality of the federal health care reform law settled after last year's Supreme Court ruling, health insurers in Western New York are focused on the changes that will take effect in the next 12 months, especially the launch of the insurance exchanges." Insurers are required to "submit the details of their products, benefits, provider networks and rates to the state for review and approval by April 1 - even as they're busy studying and understanding the requirements coming out of Albany." The state will then make final decisions on the plans, "and the companies must make any adjustments by summer in order to get the information loaded into the state's computer systems in time for the exchange to go live Oct. 1." The system and its insurance plans will be fully operational on Jan. 1, 2014. The article mentions that it remains unclear how many residents will "go onto the public exchange."

Arizona Bill Would Require Hospitals To Check Whether Uninsured Patients Are In US Legally.

The [Los Angeles Times](#)   (1/26, Carcamo) reported, "Under a bill introduced this week in Arizona, hospital staffs would be compelled to check whether uninsured patients are in the country illegally." Should a patient find himself unable to "provide proof that they are in the country legally, hospital staff would have to call federal immigration officials or local law enforcement." Additionally, "the bill by state Rep. Steve Smith (R)...would require hospital officials to file annual reports of how many people they treated who were in the country illegally."



Growing Your Business





LATimes Looks Into Road Ahead For Small Businesses Under ACA.



The [Los Angeles Times](#)   (1/27, Zamosky) examined how small businesses are reacting to the Affordable Care Act. They have "numerous questions and concerns about the future of employee health insurance in California and what it will mean for them," yet "information is scarce." The Times says the lack of information "can be frustrating for small firms that don't have the kind of personnel department and other resources that big companies have." The Times offers insights from business owners and various experts.



Also in the News

San Francisco Restaurants Under Fire For Shirking Healthcare Fees.

The [AP](#)   (1/27) reported that "dozens of San Francisco restaurants are under investigation for exploiting a new city program by keeping customer surcharges instead of spending them on employee health care, city attorney Dennis Herrera announced Friday." Herrera said "that the offending restaurants have until April 10 to spend at least half the fees collected on employee health care or face consumer fraud lawsuits. Unspent fees must then be turned over to the city, which will use the money for future enforcement of the city's landmark universal health care program," Health San Francisco.



[The Hill](#)   (1/25, Baker) "Healthwatch" blog explained that "San Francisco requires employers to set aside a certain amount of money to help pay for a program that covers uninsured residents." According to a [report](#)   in the San Francisco Chronicle, "more than 50 restaurants allegedly kept the money themselves, rather than paying into the healthcare program." Now, "city officials are set to announce an 'amnesty program' Friday that will allow restaurant owners to pay back a portion of what they owe."

The [San Francisco Chronicle](#)   (1/28) reports that City Attorney Dennis Herrera "has come up with a very practical solution that should pose no concern to the vast majority of restaurants that appear to be making a good-faith effort to comply with the law, which requires them to either provide health insurance or set aside between \$1.55 and \$2.33 an hour for each employee's medical expenses." He has "sent notice to more than 50 restaurants that were flagged after a city audit of how more than 3,600 dining spots were dealing with the health care mandate," giving "those flagged restaurants until April 10 to bring their records to his office and to show that they have come into compliance with the law."

In a separate report on the reactions from the accused restaurants, the [San Francisco Chronicle](#)   (1/28, Finz, Lucchesi) writes, "Restaurant owners on the list deny misusing the money, many saying that the cash they collected is still in an account for workers who need medical care. Others say their surcharges were not just for employee health care, but also to cover the cost of other San Francisco requirements, taxes and fees. And some have just voiced confusion over the whole process."

The [San Francisco Business Times](#)   (1/26, Frojo, Subscription Publication) "Bay Area BizTalk" blog also reported.

North Dakota Healthcare Providers "Swamped" Due To Oil Boom.

The [New York Times](#)   (1/28, A9, Eligon, Subscription Publication) reports on the troubles of North Dakota's healthcare providers due to the rapid increase in oil exploration. "Swamped by uninsured laborers flocking to dangerous jobs, medical facilities in the area are sinking under skyrocketing debt, a flood of gruesome injuries and bloated business costs from the inflated economy." The Times article describes how one county hospital has seen its debt quadruple in four years due to the increase in patients. "The 12 medical facilities in western North Dakota saw their combined debt rise by 46 percent over the course of the 2011 and 2012 fiscal years, according to Darrold Bertsch, the president of the state's Rural Health Association." Bertsch explained that hospitals "cannot simply refuse to treat people or raise their rates," and because costs to hire and retain staff members is rising, Bertsch calls the current situation "not sustainable."

Friday's Lead Stories

- **Senate Panel Addresses Mental Healthcare For First Time Since 2007.**
- **Report: Medicare Paid \$120 Million To Care For Illegal Immigrants, Inmates.**
- **Limited Network Plans Expected To Play Major Role In Exchanges.**
- **Maryland Providing Healthcare To Five Disadvantaged Zones.**

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