



GOP pounces on mandate penalties - Consumers fired up over broker bill - Census details young adult coverage - Oklahoma challenges IRS subsidy rule

By [JASON MILLMAN](#) | 09/20/12 *With help from Jennifer Haberkorn, Joanne Kenen, David Nather and Brett Norman*

GOP TRIES TO SCORE ON CBO/JCT REPORT – The Wednesday prediction from nonpartisan budget scorekeepers that 6 million people will pay the health care law’s individual mandate penalty — 2 million more than originally thought — set the GOP response machine into action. Mitt Romney’s campaign said the CBO report provides a reminder that the individual mandate counts as a middle-class tax increase. “Today CBO informs us that even more of the middle-class families who President Obama promised would see no tax increase will in fact see a massive tax increase thanks to Obamacare,” campaign spokeswoman Amanda Henneberg said in a statement. The CBO/JCT report said the 6 million who face the mandate penalty will send \$7 billion to the treasury in 2016, and another 2 million more uninsured Americans will face penalties from 2017 to 2022. The POLITICO Pro story: <http://politico.pro/SCGe6z>

--MCCONNELL: NOW WE REALLY HAVE TO REPEAL IT – Senate Minority Leader Mitch McConnell’s statement on the CBO report: “For years, the President and his Democrat allies in Congress have sworn up and down that failing to comply with the individual mandate did not result in a tax on individuals or families ... And now the nonpartisan CBO makes clear that the tax will hit 6 million Americans — mainly middle-class individuals and families. This is just one more reason among many for why Obamacare must be repealed.”

CONSUMER GROUPS GEAR UP AGAINST BROKER BILL – The House Energy and Commerce Committee is expected to approve a bill today removing agent and broker commissions from the medical loss ratio calculation, but only after consumer groups have waged a strong offensive against a bill they say undermines one of the ACA’s most important provisions. A Consumers Union report yesterday claimed the bill would have cut this year’s MLR rebates from \$1.1 billion to as little as \$378.8 million. Almost three dozen consumer groups signed onto a letter of opposition yesterday: <http://politico.pro/OFvOaS>. And ICYMI, NAIC consumer advocate Tim Jost took to POLITICO’s op-ed pages to

criticize the bill as an effort “to protect the income of a special interest group”:
<http://politi.co/SyeTCs>

--The markup started yesterday afternoon with opening statements only, but E&C gets back to work on the bill, H.R. 1206, at 11:45 a.m. The committee is also marking up a far less controversial bill revising Medicare secondary payer rules.

Good Thursday morning and welcome to PULSE, where we're breaking from journalistic tradition to endorse Sen. John McCain's call (<http://politi.co/UfCZYz>) for a congressional investigation into Teddy Roosevelt's losing streak at Nationals Park. Let Teddy win already.

“Even the losers get lucky sometimes, even the losers keep a little bit of PULSE”

TODAY ON POLITICO PRO:

--**CENSUS LOOKS AT YOUNG ADULT COVERAGE** – Young adults in Vermont saw the biggest increase in private health insurance coverage between 2009 and 2011 — 10.5 percent — while others in 13 states didn't record any gains, the Census Bureau says in a new report. <http://politico.pro/NDV3J5>

--**OKLAHOMA CHALLENGING IRS RULE** – Oklahoma is asking a federal court to overturn an IRS rule allowing federally run exchanges to provide subsidies to help individuals purchase coverage. Oklahoma Attorney General Scott Pruitt argues that Congress only intended for state-based exchanges to provide subsidies, so the IRS rule improperly exposes the state's employers to the law's employer penalty – and violates the state's economic sovereignty.
<http://politico.pro/S5EFNK>

...The American Enterprise Institute's Thomas Miller, who's been working to advance the lawsuit, says this challenge has been in the works for four months, even before the major SCOTUS decision came down. Miller also said he expects employers to join the challenge with Pruitt.

--The Cato Institute's Michael Cannon was pretty happy to hear about the lawsuit after trying to build the case against the IRS rule for more than a year. Cannon, who's recently argued that individuals can also challenge the IRS rule, encouraged Oklahoma to think about enlisting individuals to join its lawsuit. “Those are 250,000 potential individual plaintiffs, who would face fewer hurdles in establishing standing,” Cannon contends.

DEMS SURGE IN KEY SENATE CAMPAIGNS – “Democratic candidates in some of the most critical Senate races in the country are surging, putting the party in its best position of the election cycle to keep its majority in November,” write POLITICO's John Bresnahan, Manu Raju and David Catanese. “The reasons range from the post-convention bounce led by President Barack Obama,

to potent Democratic attack ads, to anemic performances of some GOP candidates.” Their story: <http://politi.co/RBtk8P>

CENSUS RANKS THE CITIES – The Census Bureau also looked at uninsured rates in the 25 largest metropolitan areas. The five lowest: Boston (5.5 percent), Washington, D.C. (6.9 percent), San Francisco (11.2 percent), Seattle (11.7 percent) and Baltimore (13.5 percent). The five highest: Dallas (31.2 percent), Houston (28.9 percent), El Paso (26.2 percent), Los Angeles (25.9 percent) and Fort Worth (23.2 percent).

W.H. SPOX: SEBELIUS’S HATCH VIOLATION NO BIGGIE — White House spokesman Jay Carney yesterday said HHS Secretary Kathleen Sebelius’s Hatch Act violation was basically a minor slip, and he noted that she’s met with ethics experts to avoid future violations. “I think it’s safe to assume that action has been taken by the secretary and the department to remedy what was the result of an inadvertent error based on extemporaneous remarks,” Carney said during a press briefing. “And she acknowledged it immediately, promptly corrected it and ensured that no taxpayer dollars were used, and that the department reclassified the event to make sure that the correct standards were met.”

** A message from PhRMA: Thousands of biopharmaceutical industry scientists are hard at work, pushing the frontiers of research in the pursuit of the next treatment or cure that will help patients live longer, healthier lives. Learn about their progress and support their efforts at www.fromhopetocures.org. **

FIRST IN PULSE: HONDA TO UNVEIL HEALTH IT BILL — Rep. Mike Honda (D-Calif.) plans to introduce a bill this week that would establish low-interest small business loans to clinics and physician offices to purchase new technology; set up an Office of Mobile Health at the FDA to provide mobile health recommendations; and establish tax incentives to allow providers to deduct certain health IT costs, among other provisions to try to spur health IT development.

A POSSIBLE HITCH FOR SIX-MONTH CR — And that hitch’s name is Sen. Rand Paul (R-Ky.). The Senate easily passed a procedural vote yesterday on the CR, but Paul could still be standing in the way of final passage. He’s insisted that the Senate first vote on his amendment to withhold U.S. aid to Egypt, Libya and Pakistan. The CR increases labor, health and education spending by almost \$1 billion. The POLITICO story: <http://politi.co/QmfiZ5>

AIDS GROUPS: SEQUESTER CUTS \$538M FOR DOMESTIC PROGRAMS – Digging into sequester details, HIV/AIDS advocates warned congressional leaders that the scheduled cuts would slash more than a half-million dollars in funding for domestic HIV/AIDS programs next year. The AIDS Institute, using fiscal year 2012 appropriations as a baseline, figured the sequester would cut a

combined \$538 million from the CDC'S HIV prevention, Ryan White HIV/AIDS Program, NIH AIDS research and Housing Opportunities for People With AIDS. The cuts to the Ryan White's drug assistance program would mean 9,400 patients losing access to their medication, the institute projects. "It is imperative that alternatives to sequestration be identified and agreed upon by the Congress and the president so that these drastic cuts will not automatically occur," the group wrote yesterday. The letter: <http://bit.ly/Qm9oYb>

AHIP WARNS OF LOOMING MEDICARE ADVANTAGE WOES – CMS officials said yesterday that despite the ACA's cuts to Medicare Advantage, the private plans were thriving, with enrollment up 28 percent over three years and premiums down 10 percent. Republicans on the Senate Finance Committee countered that that was only because of an \$8 billion boost in quality payments to high-scoring MA plans. And AHIP, while welcoming the news from CMS, also issued a dire warning. "We remain concerned that the benefits and coverage Medicare Advantage beneficiaries rely on today could be put at risk as the health care reform law's unprecedented \$200 billion in cuts to the program are phased in and a new premium tax begins in 2014," AHIP President Karen Ignagni said in a statement. "[G]iven the size and scope of these cuts, Medicare beneficiaries are likely to face higher costs and coverage disruptions in the coming years." The AHIP statement: <http://bit.ly/SCliwo>. Pro's story on the news from CMS, ICYMI: <http://politico.pro/PTTZRN>

DeMINT KEEPS UP AARP OFFENSE — Sen. Jim DeMint's (R-S.C.) staff is out with a new report this morning accusing the AARP of putting "profits before principles" in its support of "Obamacare" and the administration. You've probably heard this argument before: The AARP supports "Obamacare" because it stands to make some serious loot on Medigap coverage, all while the Obama administration turns a blind eye to the AARP's insurance practices and grants it special favors. "AARP has acted against its members' interest, but in its own financial interests, on several occasions during the major health care debates of the past several years," the report states. The report: <http://politico.pro/Uk43lO>

--AARP: YOU'VE GOT IT WRONG — The group responds: "While we respect the oversight role of Congress, we categorically disagree with the rehashed arguments of this report," AARP spokesman Jim Dau said in a statement. "For more than 50 years, AARP has been singularly driven in our work to improve the lives of our members and all older Americans. We are committed to transparency, and encourage anyone to look at the facts on www.aarp.org/checkforyourself."

HAPPENING TODAY — Reps. Brian Bilbray and Ed Markey join members from the medical research community at the National Press Club to release new polling figures on the industry and discuss the sequester. ... The House oversight committee holds a 2 p.m. hearing, "Examining the Administration's Failure to Prevent and End Medicaid Overpayments." ... Cancer care advocates lobby the Hill.

PREVENTION OR TREATMENT? — The ACA is supposed to cover certain preventive care without co-pays, which can be a barrier to getting these services. Yet a new report from the Kaiser Family Foundation finds that some people are getting charged unexpectedly for colonoscopies. Sometimes the charges come after a polyp is found and removed, which can be seen as crossing the line from screening to treatment (at least for coding and billing purposes). But the report, co-authored by the American Cancer Society and the National Colorectal Cancer Roundtable, also found that patients may be charged if they are high-risk and are screened more frequently than other people, or if they get the colonoscopy after a positive stool blood tests. All this adds up to variation, confusion and quite possibly more complaints than any other ACA consumer protection in effect so far. And state regulators haven't clarified or addressed the inconsistencies. The report: <http://bit.ly/OFTDKb>

HOLD THE STETHESCOPE, GRAB THE POPCORN – “Escape Fire,” a documentary on U.S. health care, has made the film festival rounds and will open in select theaters on Oct. 5. But 50 med schools around the country got special screenings last night. “That’s our target,” director Matthew Heineman told PULSE. “They’re idealistic, they’re the future; we want to reach out to them. The point is to provide and instigate conversations.” The film tries to highlight solutions for our ailing health care system — from cutting back on the number of drugs an injured soldier takes, to figuring out smarter ways to pay doctors. The trailer and website: <http://www.escapefiremovie.com/>

WHAT WE’RE READING, by Brett Norman

Mitt Romney said that it was “a compliment” to be called the grandfather of “Obamacare,” touting his Massachusetts health law but pledging to repeal the federal one, the LA Times reports. <http://lat.ms/OdBF7n>

Paul Ryan’s premium support plan for Medicare will either cause doctors to drop out of the program or else require extra payments to keep them in the system, undercutting the estimated savings, Peter Orszag writes for Bloomberg News. <http://bit.ly/S8KXlw>

States have cut at least \$4.35 billion in public mental health spending from 2009 to 2012 — the largest funding cut since de-institutionalization in the 1970s, according to a report in The Huffington Post. <http://huff.to/Qn69IU>

NPR’s Diane Rehm explores state efforts to cut Medicaid costs, with guests including Gail Wilensky, Ron Pollack and Alan Weil. <http://bit.ly/OCOWWV> (what we’re listening to)

“Obamacare” is in disarray, far behind its implementation timeline and a general disaster, American Enterprise Institute’s Scott Gottlieb argues at Real Clear Markets. <http://bit.ly/PR4cOT>

Suppliers complained at a hearing yesterday about a new requirement that Medicare contractors sign off on the purchase of motorized wheelchairs before they are delivered to beneficiaries. Medicare pays almost \$500 million annually for wheelchairs that don't meet program requirements, The Associated Press reports. <http://bit.ly/T6F9KB>

Newt Gingrich will raise money in St. Louis for embattled Rep. Todd Akin's Missouri Senate bid, ABC News reports, suggesting that there is money in the effort for Gingrich, too. <http://abcn.ws/P0fqgM>

Aaron Carroll marvels — and is dismayed — at the cost of American health insurance after the release of the Kaiser Family Foundation's survey of employer health benefits. <http://bit.ly/RyCP8w>

** A message from PhRMA: Investing \$500 billion in research and development since 2000, the biopharmaceutical sector is helping to solve some of our nation's toughest health care and economic challenges. Employing over 600,000 people and working on more than 3,000 medicines in development, biopharmaceutical companies are an integral part of our health care system and our nation's success as the global leader in medical innovation. Join us at www.fromhopetocures.org to learn more about how investment in biopharmaceutical research is helping patients and our economy. **