

The Volokh Conspiracy

HOME ABOUT DMCA CONTACT E-MAIL POLICY LINK POLICY STUFF WHO ARE WE? SEARCH SUBSCRIBE TWITTER

Washington DC: An Aetna Medicare Plan can help you save with a low monthly premium.

Let's talk value.

Learn More

The benefit information provided herein is a brief summary, not a comprehensive description of benefits. For more information contact the plan. Health insurance plans offered by Aetna Life Insurance Company and its affiliates. Plans contain exclusions and limitations.

©2010 Aetna Inc.

Aetna Medicare

« Judge Upholds Eviction of Occupy Wall Street

Happy (?) American Censorship Day! »

Another ObamaCare Glitch

Jonathan H. Adler • November 16, 2011 7:10 am

As I discussed in this post, the IRS is proposing to give tax credits as premium assistance more broadly than is authorized by the text of the Patient Protection and Affordable Care Act (PPACA). Specifically, the law only authorizes such premium assistance for health insurance purchased in state health care exchanges, but the IRS is proposing to provide such assistance for insurance plans purchased on federally run exchanges as well. In today's *WSJ*, the Cato Institute's Michael Cannon and I argue the IRS lacks the authority to make this fix and expand on the implications of this glitch in the law. Not only will it hamper the law's ability to hold down health insurance costs borne by individuals, it could also frustrate enforcement of the employer mandate.

What happens if the IRS goes ahead with its proposed fix? Would anyone have standing to challenge this violation of the law? Normally the answer would be no, as no taxpayer would have standing to challenge an IRS decision to give preferential tax treatment to someone else. But in this case standing is likely because, as discussed here, premium assistance is tied to the enforcement of the employer mandate in a way that would give a penalized employer standing to sue. So if the IRA goes ahead, this is another PPACA issue that will end up in court.

Categories: Health Care

