



# Bryan Cave Health Reform Update

June 23, 2009

Issue 8

## **White House**

### **White House, PhRMA Announce Plan to Bridge Part D Coverage Gap**

In a June 22 announcement, President Obama said the pharmaceutical industry has pledged to contribute \$80 billion over 10 years to help seniors who have fallen into Medicare Part D's coverage gap. Under the deal, the industry would help fund a new Medicare discount drug program that would cover 50 percent of the costs of brand-name drugs for seniors who have fallen into the "doughnut hole." Senate Finance Committee Chairman Max Baucus (D-MT) announced he will include the drug program and other legislative elements of the agreement in his panel's reform legislation. It is unclear how much of the \$80 billion would constitute scoreable savings to the government, as opposed to savings to Medicare beneficiaries.

Additional details are available [here](#).

### **Obama Promotes Public Plan, Medicare Spending Cuts in Address to American Medical Association**

President Obama in a June 15 speech to the American Medical Association outlined his proposed Medicare spending cuts and reforms to the insurance industry. President Obama said the public plan option is not a "Trojan horse" for a single-payer system, but would ensure that "everyone can afford the cost of a health care option." He added that concerns that the public plan would use Medicare payment rates are

"legitimate concerns, but they're ones, I believe, that can be overcome."

President Obama also said that his proposed Medicare spending cuts would address the inefficiencies of the program and are needed to finance health reform. While noting the cost of reform – estimated at more than \$1 trillion over the first 10 years – would be costly, President Obama said that millions of Americans lacking health coverage is "unacceptable." He added, "If we do not fix our health care system, America may go the way of GM – paying more, getting less, and going broke. So reform is not a luxury, it's a necessity."

### **Sebelius Promotes Public Plan, Cites State Plans as Evidence of Success**

HHS Secretary Kathleen Sebelius on June 17 said a public health insurance option is needed and that the plan would not harm the private insurance market.

Speaking at the New Democrat Leadership Council Policy Forum, Sebelius said, "In 30 states across the country, state employees can choose between a public health insurance option and private insurance companies. The side-by-side competition has not destroyed the private market, nor has it become a single payer system." Sebelius also said the reform effort should include the creation of a health insurance exchange, which she said would promote competition among plans and improve the quality of health care.

Sebelius also addressed the administration's plan for paying for reform, noting that President Obama's

FY 2010 budget proposal includes \$635 billion in savings and revenue for health reform. In addition, she said that President Obama also recently announced \$313 billion in Medicare savings that will, among other things, reduce overpayments to health plans and pharmaceutical companies.

In related news, on June 17, Sebelius and White House Office of Health Reform Director Nancy-Ann DeParle met with state lawmakers to announce the creation of “State Legislators for Health Reform,” a group that will promote health reform. A White House statement said the group will work to “educate their communities on the need for health reform this year.” The state legislators will hold public events, write in support of reform in local publications, and use their local networks to organize support for reform.

## **Congress**

### **Senate Health Committee Takes Up Reform Bill**

The Senate Health, Education, Labor and Pensions Committee on June 17 started consideration of its 615-page health reform bill. Republicans have expressed opposition to the overall cost of the legislation, the role of comparative effectiveness research, an expansion of Medicaid, and the creation of a public plan option. Republicans also criticized the bill based on a preliminary analysis by the Congressional Budget Office (CBO) that indicates that while Title I of the bill would cost more than \$1 trillion over 10 years, it would provide coverage for only 16 million people. Republicans complained about the lack of bipartisanship in the drafting process and noted that Democrats have not yet provided detailed language regarding the public insurance option, an employer mandate, and the creation of a regulatory pathway for follow-on biologics. As a result, CBO has not estimated a cost for these provisions. Acting Chairman Chris Dodd (D-CT) said that the missing proposals will be fleshed out soon and that CBO will provide additional numbers

for the bill. The mark-up will continue over the week before the July 4<sup>th</sup> recess.

### **Finance Committee Postpones Reform Action**

Senate Finance Committee chairman Max Baucus (D-MT) on June 17 announced that it was unlikely his panel would begin marking up health reform legislation on June 23 as originally scheduled. The delay comes after the CBO provided preliminary cost estimates of the reform package. CBO estimated that the Finance Committee bill would cost \$1.6 trillion over 10 years. Democrats and Republicans attending the Finance Committee meeting welcomed the delay, saying it would provide more time to lower the overall cost of the bill and address numerous outstanding provisions, increasing the chances of a bipartisan package. Baucus appears committed to bipartisanship and is building what he calls a “coalition of the willing,” comprised of four Republicans and four Democrats from the Finance Committee. While it is unclear which Democrats are part of Baucus' coalition, the Republicans reportedly include Senators Charles Grassley (R-IA), Orrin Hatch (R-UT), Michael Enzi (R-WY) and Olympia Snowe (R-ME).

### **House Democrats Unveil Reform Draft**

At a June 19 press briefing, Ways and Means Committee Chairman Charles Rangel (D-NY), Energy & Commerce Committee Chairman Henry Waxman (D-CA), and Education and Labor Committee Chairman George Miller (D-CA) unveiled draft health reform legislation, which includes an individual mandate to obtain health coverage, a requirement for most employers to offer health insurance or pay into a fund on their workers' behalf, and the creation of a new government-run health plan. The House Democrats said the draft bill would increase coverage for the uninsured, reduce costs, expand Medicaid eligibility to individuals and families with incomes below 133 percent of the federal poverty level, and create a state-based insurance exchange. It also contains provisions designed to improve the quality of care and expand

delivery of preventive services, increase the health workforce, fight health care fraud and abuse, and boost the regulation of private health plans.

The draft bill does not indicate how its provisions will be paid for, although Democrats have promised to fully offset the legislation. The three House committees with jurisdiction over health care will hold hearings on the draft bill the week of June 22 and mark-ups after the July 4<sup>th</sup> Congressional recess.

Earlier in the week, House Ways and Means Committee Chairman Charles Rangel (D-NY) said the committee is considering a number of “controversial” options to pay for health reform, adding, “It’s hard for me to think of any [revenue raiser] that’s not on the list.” For example, the committee is considering eliminating a tax deduction for pharmaceutical companies for the cost of advertising. The committee also is considering enacting a surtax as high as 1 percent on individuals earning more than \$250,000. Taxes on sugary drinks, (10 cents per 12-ounce serving), also are under consideration. While not officially rejected, reports indicate the Ways and Means committee will not modify the tax exclusion on employer-sponsored health care. Committee members also discussed raising the excise tax on alcohol, but Rep. Allyson Schwartz (D-PA) said that idea did not gain much support.

House Republican Leader John Boehner (R-OH) criticized the Democratic plan and said, “This plan is nothing less than a government takeover of health care, and families and small businesses who are already footing the bill for Washington’s reckless spending binge will not support it.”

A summary of the proposal and fact sheets on various elements are available [here](#).

### **House Republicans Release Reform Proposals**

House Republicans this week introduced two health reform proposals. On June 16, the Centrist Republican Tuesday Group introduced the Medical

Rights and Reforms Act, which would reform the insurance market, expand coverage through small business incentives, and provide subsidies for low-income families to purchase coverage. The bill would create a State Innovation Program that would provide incentives to states that reform their insurance markets to meet the needs of patients. The bill provides a model for states -- Universal Access Program -- that would provide coverage to the sickest patients and those with pre-existing conditions. The bill also would give low-income families the option to use public funds to purchase private health insurance. The legislation would enhance Health Savings Accounts, allow young adults to remain dependents on their parents’ plan, and expand rural health care programs.

Additional details are available [here](#).

In related news, the House Republican Health Care Solutions Group on June 17 released a health reform plan that would provide an “above the line” tax deduction for health insurance coverage. The deduction would be equal to the cost of a family’s insurance premium; refundable and advanceable tax credits would be provided to low-income families to help them purchase coverage. The measure also would allow states, small businesses, associations and other organizations to join together to offer health insurance.

Additional details are available [here](#).

### **Witnesses, Lawmakers Call for Reform to Individual Insurance Market at House Hearing**

A House Energy & Commerce Subcommittee held a hearing June 16 to examine reports that insurance companies were conducting investigations to find a reason to rescind policies when claims were made for chronic and costly medical conditions. Three witnesses at the hearing testified that insurance companies had rescinded their health policies based on a failure to disclose a health condition that was unrelated to their current medical condition or a health condition that physicians had not disclosed to

them. Insurance companies testified that the only way to eliminate policy rescissions is to require all individuals to obtain health coverage. Subcommittee members from both parties called for the problems in the individual insurance market to be corrected in health reform legislation. Lawmakers called for changes in the way insurance companies consider applications and handle expensive claims after policies have been issued. While acknowledging that companies need to protect themselves from fraud, lawmakers said companies need to investigate applications for coverage during the enrollment period and prior to the issuance of a policy.

Additional details are available [here](#).

### **CBO Cites Need for Fiscal Sustainability of Health Reforms**

In a June 16 letter to Senators Kent Conrad (D-ND) and Judd Gregg (R-NH), the CBO said fundamental changes in the financing and delivery of health care are required to reduce health care spending both in the near- and long-term. CBO said the federal government could make those changes by transforming payment policies in federal health care programs and by significantly limiting the current tax subsidy for health insurance. In a joint statement, the Senators said the CBO letter “shows that it will not be enough to simply offset the cost of health reform over the next 10 years. We must also ensure that reform bends the cost curve on health care over the long-term.”

Additional details are available [here](#).

## ***Interest Groups***

### **Former Senators Release Bipartisan Health Reform Plan**

On June 17, former Senate Majority Leaders Howard Baker (R-TN), Tom Daschle (D-SD) and Bob Dole (R-KS) unveiled a health reform proposal as part of their work with the Bipartisan Policy Center. The plan is centered around four main proposals. The first

promotes high quality and high value care. Second, the plan focuses on making health insurance available, meaningful, and affordable. The third component requires individuals to obtain at least basic health coverage and creates a public health and wellness fund that would provide support for wellness, prevention, and care coordination programs. Fourth, the plan develops a sustainable approach to health care financing through budget savings and revenue generating policies. The Senators said the proposal would cost \$1.2 trillion for the first 10 years but then become budget-neutral.

The proposal is available [here](#).

### **AMA Publicly Backs Health Reform, Silent on Public Option**

After much debate, the American Medical Association’s House of Delegates approved a resolution on June 17 that is generally supportive of health reform efforts. The resolution indicates that the AMA “supports health system reform alternatives that are consistent with the AMA principles of pluralism, freedom of choice, freedom of practice, and universal access of patients.” The AMA held multiple votes before adopting the final language of the resolution; a consensus was reached only after the phrase “public option” was removed from the resolution.

Additional details are available [here](#).

### **Chamber of Commerce Details Opposition to Public Plan, Employer Mandate**

The U.S. Chamber of Commerce on July 17 indicated it intends to oppose the Senate HELP Committee’s health reform proposal unless significant changes are made. In a letter to committee chairman Edward Kennedy (D-MA) and ranking member Mike Enzi (R-WY), the Chamber noted it is “gravely concerned” about the process the committee is using to consider the legislation, as a markup has been scheduled before a final version of the policy language has been released publicly. The Chamber is opposed to a

public plan option and an employer "play or pay" requirement.

The letter is available [here](#).

## ***Hearings This Week***

The **Senate Health, Education, Labor and Pensions Committee** will continue markup of draft health reform legislation.

Meetings are scheduled daily from June 22 through June 26.

10 a.m. (except for Monday's which is TBD)

325 Russell

The **House Ways and Means Committee** will hold a hearing to examine proposals to reform the health system.

June 24, 10:00 a.m.

1100 Longworth

The **House Energy & Commerce Committee** will hold a hearing on health reform legislation.

June 24, 9:30 a.m.

2123 Rayburn

The **House Energy & Commerce Committee Health Subcommittee** will hold hearings on health reform legislation June 23 through 25.

9:30 a.m. (The June 24 hearing will be held after the full committee hearing. See above item.)

2123 Rayburn

The **House Education and Labor Committee** will hold a hearing on health reform legislation.

June 23, 12:00

2175 Rayburn