



Bryan Cave Health Reform Update

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Issue 10

White House

Obama Emphasizes Opposition to Taxing Health Benefits

At a July 1 town hall meeting in Virginia, President Obama said he opposes taxing the value of employer-provided health insurance to help pay for health reform, saying reform should not increase costs for those who already have coverage. In response to questions, the President said he continues to favor capping itemized deductions for high-income taxpayers to help pay for reform. Such a move “is a way that we can ensure that people who currently have health care aren’t suddenly seeing their costs go up to pay for other people’s costs going down, but instead everybody’s costs can go down effectively” as a result of reform, the President said.

Click [here](#) for additional details.

Administration Supports Seven Year Data Exclusivity for Biologics

In a June 24 letter to Energy & Commerce Committee Chairman Henry Waxman (D-CA), Obama Administration officials Nancy-Ann DeParle and Peter Orszag said Congress should create an approval pathway at the Food and Drug Administration for generic biologics that would give brand-name biologics seven years of data exclusivity. In the letter, the officials said a recent Federal Trade Commission report found that the biologics industry does not need 12 to 14 years of exclusivity and that granting such a

period before generic competition takes place for a product “will harm patients by diminishing innovation and unnecessarily delaying access to affordable drugs.” They said the seven-year policy included in its fiscal 2010 budget proposal is a “generous compromise between what the FTC research has concluded and what the pharmaceutical industry has advocated.” Congress is considering including an FDA approval pathway for generic biologics in health reform legislation.

To view the letter, click [here](#).

Proposed Medicare Fee Schedule Removes Drugs From Payment Formula

On July 1, the Centers for Medicare & Medicaid Services released a proposed Medicare physician fee schedule that would remove office-administered Part B drugs from the calculation of 2010 physician reimbursement. The agency said it would remove the drugs from the calculation in anticipation of the enactment of legislation that would reform the Medicare physician payment formula. The House health reform discussion draft includes a provision that would require the removal of drugs from the formula. The proposed CMS regulation parallels a number of provisions in the draft legislation. CMS said while removal of the “incident-to” drugs from the proposed fee schedule will not change the projected update for services in 2010, it could reduce the number of years in which physicians are projected to experience a reduction in payment.

Read the proposed fee schedule [here](#).

Congress

Public Plan Option and Employer Mandate Language Unveiled

On July 2, Democrats on the Senate Health, Education, Labor and Pensions (HELP) Committee released legislative provisions detailing a government-run insurance option and an employer mandate to be included in the bill currently being debated by the panel. Democrats also announced that the Congressional Budget Office (CBO) had found that the bill the committee is considering, including the new provisions, is projected to cost \$611 billion over 10 years. The employer mandate provision is largely responsible for bringing down the cost of the bill from an earlier CBO estimate of \$1 trillion. However, the HELP bill does not include an expansion to the Medicaid program, which will add to the total cost of the bill, because that provision falls under the jurisdiction of the Senate Finance Committee.

The public plan option created by the new language would authorize the HHS Secretary to negotiate premiums and provider reimbursement rates. Provider participation in the plan would be voluntary. The plan would follow the same rules that apply to private insurers for defining benefits, setting premiums, and protecting consumers. The federal government would lend money to the public plan for the first three months of claims in order to capitalize the plan. After that, the plan would sustain itself through premium collection. The new language also includes an employer mandate, which would require employers with 25 or more employees to offer insurance coverage and contribute at least 60 percent to the cost of monthly premiums or face a penalty. Employers would be charged \$750 annually for each full-time employee and \$375 annually for each part-time employee without coverage.

The new bill language is available [here](#).

Long-Term Care Program Would Save \$58 Billion

According to CBO, a new assistance program for individuals with long-term care needs included in draft health reform legislation being considered by the Senate HELP Committee would save the federal government nearly \$58 billion over 10 years, including a \$2.5 billion reduction in Medicaid spending. CBO and the Joint Committee on Taxation released the estimate on the Community Living Assistance Services and Supports (CLASS) program on June 26. The new, voluntary program would provide people with disabilities and chronic illnesses with a cash benefit to pay for services and supports needed to remain functional and independent outside an institutional setting. According to the report, the program would collect \$81.5 billion in premiums and pay \$22.6 billion in benefits during the program's first 10 years.

Click [here](#) to view the cost estimate.

Interest Groups

Wal-Mart Supports Employer Mandate

In a June 30 letter to President Obama, Wal-Mart announced it would support a proposal to require employers to provide health insurance to all employees as part of broad health care reform legislation. "We are for an employer mandate which is fair and broad in its coverage, but any alternative to an employer mandate should not create barriers to hiring entry level employees," the letter stated. Joined by the Service Employees International Union and the Center for American Progress, Wal-Mart wrote that it supports the "shared responsibility" health reform model, saying "everyone must make some contribution."

To read the letter, click [here](#).

Report: Technology, Administrative Simplification Would Yield Savings

On June 30, UnitedHealth Group released a report that found the health care system could save \$332 billion over the next 10 years through better use of technology and administrative simplification. Of the savings, half would go to physicians and hospitals, 20 percent to the federal government in its role as a payer, and 30 percent to health plans. The report calls for tighter mandatory data and transaction standards; the elimination of antiquated manual processes, unnecessary paperwork, and redundant intermediaries; system-wide automated payment accuracy processes; a single credentialing and quality measurement process; and a sophisticated and consistent regulatory regime.

The report is available [here](#).

Hearings This Week

The **Senate Health, Education, Labor and Pensions Committee** will continue its markup of health reform legislation on July 7 at 10 a.m. in 325 Russell Senate Office Building.

The **House Small Business Committee** will hold a hearing on “The Looming Challenge for Small Medical Providers: The Projected Physician Shortage and How Health Care Reforms Can Address the Problem” on July 8 at 10 a.m. in 2360 Rayburn House Office Building.