



# Bryan Cave Health Reform Update

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## **White House**

### **Obama Gives Pep Talk to “Group of Six” Senators Negotiating Reform Bill**

The bipartisan group of six Senate Finance Committee members negotiating compromise health reform legislation met with President Obama on August 6 to discuss the group’s progress on reaching an agreement. The President encouraged the group to continue their talks over the August recess and supported their need for more time to forge an agreement. While he did not give the group a deadline for completing its work, Finance Committee Chairman Max Baucus (D-MT) said the President understands “it may get to a point where we have to make other decisions and go in a different direction,” referring to the use of the budget reconciliation process to pass health reform. Baucus emphasized that the group is making progress toward producing a bill, but several outstanding issues remain to be resolved, including how to pay for the measure. He added that the group will need to reevaluate its progress toward producing legislation when the Senate returns in September.

### **State-Specific Reports Outline Effects of Reform**

The Department of Health and Human Services (HHS) issued a series of reports on August 7 that examine the health insurance system on a state-by-state basis and detail the potential benefits of health reform for each state. The reports outline the effects of proposed reforms on areas such as premium

increases and small businesses’ access to insurance plans using state-specific statistics. “These reports show how health insurance reform will help Americans save money, get better care, strengthen their insurance if they already have it, and afford insurance if they don’t,” HHS Secretary Kathleen Sebelius said.

Each state’s report can be accessed [here](#).

## **Congress**

### **Senate Reform Talks To Continue During Recess**

After a week of meetings with White House officials and the Democratic Caucus, Sen. Baucus said the “Group of Six” negotiators are making progress and has plans to continue discussions throughout the August recess. According to members of the group, several unresolved issues remain, including how to address the concerns of states regarding the costs associated with expanding Medicaid eligibility. On August 6, Baucus said the federal government should not assume the entire cost of the proposed expansion of Medicaid, adding that “we cannot let U.S. taxpayers pay the full state bill.” While recent discussions have centered on a plan to impose a tax on high-end health insurance plans (those valued at \$25,000 or more) to partially pay for the overhaul, Baucus said, “It is not locked down but we’re in a very, very good place.” Baucus told his colleagues at an August 5 caucus meeting that 80 percent of the health reform bill the group is negotiating will be identical to the legislation approved by the Senate

Health, Education, Labor, and Pensions (HELP) Committee in mid-July. According to press reports, the Group of Six has reached tentative agreement on the following additional issues:

- Reduce bill's cost from \$1 trillion to \$900 billion.
- Provide coverage for 94 percent of Americans.
- Expand Medicaid, but remain fair to states.
- Do not include a public plan option.
- Achieve Medicare spending reductions.
- Require laboratory co-pays.
- Add means-testing to Medicare Part D.
- Cap flexible savings accounts at \$2,000.

### **Proposed Medicare Payment Commission Debated in Both Chambers**

On August 5, Sen. Baucus announced that the "Group of Six" had nearly completed discussions on creating a "Medicare Preservation Commission" in the reform legislation which would set Medicare payment policy that could only be overturned by Congressional vote. Baucus said the group was close to determining the role of the new entity, saying it would "have sufficient authority to get the job done and get cost-savings" attributed to it by the Congressional Budget Office. However, a bipartisan group of 75 House lawmakers said in a July 31 letter to House Speaker Nancy Pelosi (D-CA) that health reform legislation should not include any proposal that would limit the role of Congress in setting Medicare policy. The House members argued against creating an Independent Medicare Advisory Council (IMAC) or strengthening the decision-making powers of the Medicare Payment Advisory Commission, as recommended in recent proposals. Though the proposals vary, all would limit Congressional influence on Medicare policy, including the setting of reimbursement rates.

### **Sen. Schumer Raises Possibility of Reconciliation**

On August 3, Democratic Conference Vice Chairman Charles Schumer (D-NY) said Democratic leaders may use the budget reconciliation process to clear the way for health reform legislation to be passed by the

Senate this fall if bipartisan negotiators do not reach an agreement by mid-September. "We hope [an agreement] can be struck in a compromise with our Republican colleagues by September 15, but if Republicans are not able to produce an agreement, we will have contingency plans," Schumer said. Under the reconciliation process, reform legislation would need only 51 votes to pass, not the 60 votes typically needed to stave off a filibuster. While Sen. Baucus (D-MT) has not given the "Group of Six" negotiators a deadline to produce a deal, he said, "We've got to have some sort of stopping point. There's got to be some realistic time when you've got to make decisions."

### **Progressive Caucus Reiterates Support for Public Plan Option**

In an August 4 letter to Speaker Pelosi, the co-chairs of Congressional Progressive Caucus emphasized their commitment to the creation of a "robust" government-run plan option and the provision of adequate subsidies to individuals and families for the purchase of health coverage within the House health reform legislation (H.R. 3200). "The final bill brought to the House floor must include these provisions or we will oppose the bill," Reps. Lynn Woolsey (D-CA) and Raul Grijalva (D-AZ) said in the letter. Earlier, 57 members of the caucus wrote to House leaders and said they would not support the Energy and Commerce Committee version of the public plan because it would require HHS to negotiate reimbursement rates with providers. Members of the Progressive Caucus later came to an agreement with Committee Chairman Henry Waxman (D-CA) and some members of the moderate Blue Dog Coalition, which enabled the committee to be able to approve the bill before the August recess. However, this deal does not carry over to the House floor. Speaker Pelosi will have her work cut out for her in attempting to satisfy the concerns and demands of the various factions of the Democratic Party.

## ***Industry***

### **Insurance Industry Plans Recess Response to Critics**

In response to heavy criticism of the insurance industry, America's Health Insurance Plans President and CEO Karen Ignagni said her organization will spend the August recess "setting the record straight" on health reform. During an August 4 conference call with reporters, Ignagni said recent criticisms of insurers seek to "demonize health plans." On July 30, Speaker Pelosi called health insurers "villains" in reference to their opposition to the creation of a government-run insurance option. Ignagni said private plans will refute the criticisms by making their case for reform directly to the American people by stressing their commitment to adopting increased market regulation paired with an individual mandate to obtain health coverage. While AHIP remains opposed to the creation of a public plan option, Ignagni said the focus on the issue has obscured the broad consensus insurers and House leaders have on many other components of reform.

Additional details on the health insurance industry's efforts regarding health reform are available [here](#).

### **BIO, PhRMA Express Support for Follow-On Biologics Amendment**

Following the approval of health reform legislation by the Energy and Commerce Committee on July 31, the Biotechnology Industry Organization (BIO) said it supports the follow-on biologics amendment added to H.R. 3200 by an overwhelmingly bipartisan vote of 47-11. The amendment, offered by Reps. Anna Eshoo (D-CA), Jay Inslee (D-WA), and Joe Barton (R-TX), would give companies 12 years of data exclusivity, the same period included in a reform bill approved by the Senate HELP Committee. In a statement, BIO President and CEO Jim Greenwood said the amendment "strikes the appropriate balance among ensuring patient safety, expanding competition, reducing costs and providing necessary and fair incentives that will provide for continued biomedical

innovation." The Pharmaceutical Research and Manufacturers of America (PhRMA) also expressed support for the amendment. President and CEO Billy Tauzin said, "PhRMA, along with research universities, patients and health care providers, supports the development of a responsible, abbreviated approval pathway for biosimilars." However, the Generic Pharmaceutical Association expressed opposition to the amendment. GPhA said it supports legislation with five years of exclusivity, such as the bill introduced by Chairman Waxman earlier this year.

Read BIO's statement [here](#).

## ***Upcoming Congressional Action***

Congress has adjourned for the August Recess. Lawmakers will return to Washington following the Labor Day holiday.