



Health Reform Update

An Ongoing Analysis Concerning the Direction of Healthcare Policy

December 21, 2009

Senate Compromise on Health Care Reform Moves Forward

Shortly after 1:00 AM this morning, Senate Democrats were, in fact, able to command the necessary 60 votes to cut off debate on their compromise health care reform amendment. The 60-40 straight party line vote will send the revised bill through a series of steps and additional procedural votes which could result in passage before Christmas Day.

As a reminder, this compromise bill is a revision of the bill previously offered by the Senate Finance Committee and despite the changes made to that bill, remains markedly different from the already passed House bill. Once the Senate bill is passed, it will need to be reconciled with the House bill – a seemingly difficult challenge. There is some sense, however, that groundwork is being laid behind the scenes for acceptance by House Democrats of the bill now being advanced in the Senate.

In its original state, the Senate Finance Committee bill offered a counterpoint to the House-passed bill on issues such as the public plan option and sources and methods of funding. The Democratic leadership in the Senate then began behind closed door efforts to include a public plan option and make other changes that would accommodate the strong views of certain constituencies within the Democratic caucus. There were reports of a proposed public plan option with a State opt out feature, offerings to be administered by the Federal Office of Personnel Management, an expansion of Medicare to seniors between ages 55 and 64, and a variety of other possible changes. All of these negotiations were directed at the goal of ensuring the 60 votes necessary for passage of health care reform in the Senate. What emerged and what was voted on early this morning is the result of those negotiations, and, as some critics assert, some trade-offs or favors to secure the needed votes.

Highlights of the final compromise voted on this morning include:

- No public plan option;
- Availability under the exchanges of plan offerings administered by the Office of Personnel Management;
- No expansion of Medicare below age 65;
- Medical Loss Ratios for insurers (basically, claims compared to revenues) reduced to 85% (80% for small plans – under 100 lives);
- A new provision that will provide employer funded vouchers to some lower and middle income workers to buy individual coverage under the exchanges in lieu of employer provided coverage;
- Some modifications to the restrictions on abortion coverage – a key to getting to the 60 vote threshold, but apparently not enough to satisfy some elements on either side of this issue;
- A 0.9% increase in the Medicare payroll tax on higher income individuals, as opposed to the earlier ½ of 1 percent increase; and
- A 10% excise tax on tanning salons (as opposed to the 5% tax on cosmetic surgery, as proposed earlier).



Health Reform Update

An Ongoing Analysis Concerning the Direction of Healthcare Policy

In addition, the compromise contains some targeted provisions which critics assert are thinly veiled rewards for votes. Others point out that these kinds of provisions are commonly found in all legislative efforts and should not be focused in on as a reason to disregard the positive purposes of the bill. These provisions include:

- Significant relief from the costs associated with the planned expansion of Medicaid for a select group of states – Vermont, Massachusetts, Nebraska and possibly Louisiana – with Nebraska, receiving the longest term relief;
- \$100 million in funding for an unnamed hospital facility or facilities in an unnamed location;
- Exemption of certain named union groups from the so-called “Cadillac Plan Tax”.

The House Bill vs., the Senate Bill

Key differences remain in the health care reform proposals in the House and the Senate – most notably concerning the public plan option, funding and access and subsidies.

Public Plan Option – Simply put, the Senate bill does not contain a public plan option and the House bill does. The Senate bill does provide for an offering under the State exchanges of health plans overseen by the Office of Personnel Management, but this will not likely satisfy those who strongly favor a public plan option.

Taxation and Funding – The Senate bill derives much of its funding from taxes on more generous health plans and on health care industry constituencies, although it does contain a modest increase in the Medicare payroll tax for more affluent individuals. The House bill, on the other hand, imposes a significant additional income tax burden on certain middle and upper income individuals.

Access and Subsidies – The Senate bill provides access to health insurance to fewer uninsured than the House bill and with less robust subsidies – but at a lower cost.

Given the differences in voting methodologies in the two bodies, it is hard to see how changes can be made to accommodate interests on the House side without breaking the fragile 60 vote consensus in the Senate. The House can pass legislation with a simple majority. The Senate, on the other hand, has rules that allow filibusters unless closed off by a 3/5ths of the Senate (a 60 vote consensus). Based on the political wrangling that apparently occurred before the Senate Democratic leadership was able to get a 60 vote agreement, it is not likely that there is much they can offer their colleagues in the House. This will possibly leave the House in the position of agreeing to the Senate measure or killing health care reform for the time being. Many observers believe that there will be significant political pressures on the House to accept some level of health care reform, rather than nothing.

What’s Next?

The Senate bill faces a series of procedural steps and votes in the next few days, and, if the 60 vote consensus holds, will be passed by Christmas Eve. Efforts will continue to achieve support from the House and to reconcile the two bills where and if possible. The goals of supporters will be to get a bill to the President for signature as soon as possible.



Health Reform Update

An Ongoing Analysis Concerning the Direction of Healthcare Policy

We will continue to monitor developments and report them to you.

USI is the nation's largest privately held employee benefits and property/casualty insurance brokerage with over 72 offices serving emerging, mid-sized and larger organizations. USI Employee Benefits Services focuses on brokerage and consulting support for plan design, administration, employee communications, enrollment, compliance, benchmarking, data analytics, and wellness/population risk management to help clients understand their risks, mitigate costs through better management of medical trend, optimize financing alternatives - - all leading to increased satisfaction and value for employee benefits. Please contact your USI representative or call (877) 470-9100 if you would like more information. © 2009 USI Insurance Services LLC