

Overview of Federal Health Care Reform

Elizabeth Lukanen, MPH
State Health Access Data Assistance Center,
University of Minnesota

REM Minnesota
Annual Regional Directors Meeting
Bloomington, MN

January 27, 2009

Funded by a grant from the Robert Wood Johnson Foundation

Outline of Presentation

- Current Drivers of Reform
- Key Players in Health Reform
- Status of House and Senate Bills
- High-Level Policy Overview
- Cost Estimates of Proposals
- Impact on Providers and Persons with Disabilities
- Legislative Process - Filibuster and Reconciliation
- Outlook for Reform

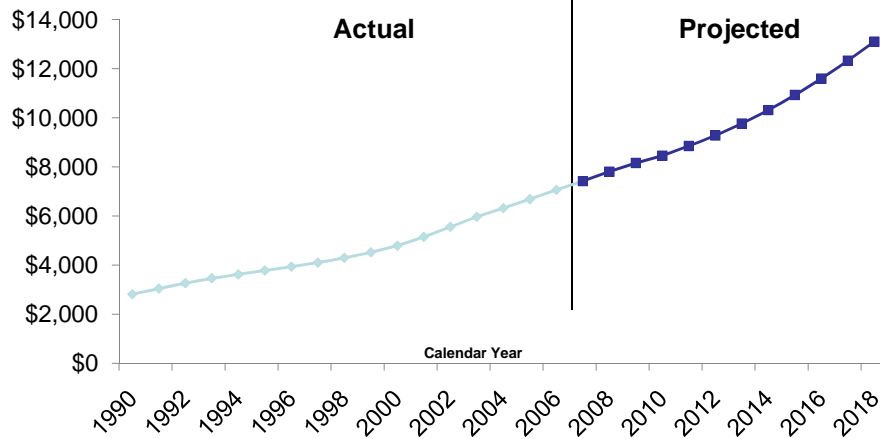
What is Driving Health Care Reform?



U.S. Health Care Costs

- The U.S. will spend roughly \$2.6 trillion on health care in 2010 (\$8,459 per person)
- Rate of health care spending exceeds overall economic growth by more than 2 percentage points
- By 2018, spending is projected to reach \$4.4 trillion and comprise over 1/5 of GDP
- Future spending by public payers is expected to outpace that of private payers due to the recession and the leading edge of the Baby Boom becoming eligible for Medicare

National Health Expenditures Per Capita, 1990-2018



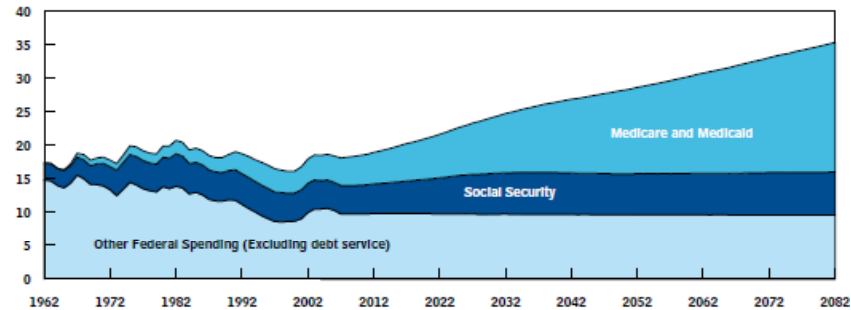
Source: CMS, Office of the Actuary, National Health Statistics Group.

5

“Status Quo” Projected Federal Spending

Projected Federal Spending Under One Fiscal Scenario

(Percentage of gross domestic product)



Source: Congressional Budget Office.

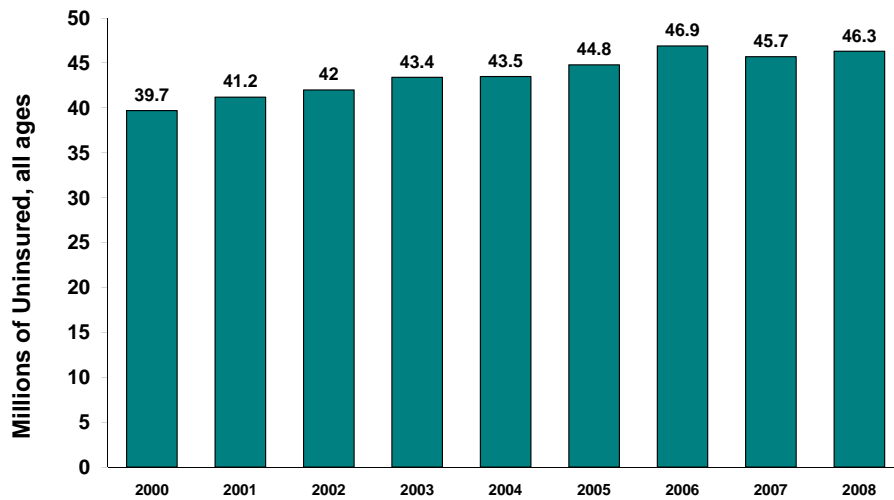
Note: The figure, from the December 2007 *Long-Term Budget Outlook*, portrays CBO's "alternative fiscal scenario," which deviates from the agency's baseline projections to incorporate some changes in policy that are widely expected to occur and that policymakers have regularly made in the past.



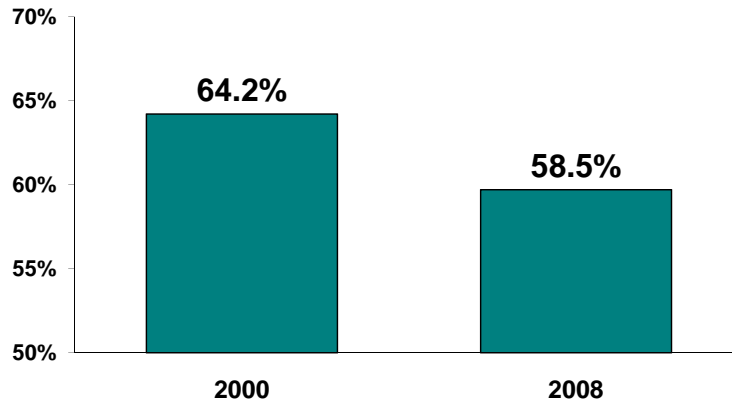
6

Increase in number of uninsured

15.4% of the population in 2008



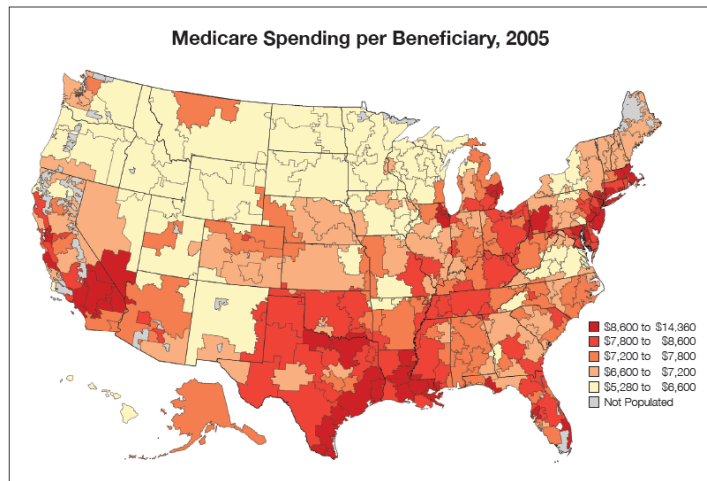
Drop in Employer-Sponsored Coverage



Quality: Misuse, Overuse, Underuse

- 2.5-fold variation in Medicare spending across counties cannot be explained by local prices, age, race and underlying health of the population (Wennberg J, et al.)
- Medicare beneficiaries in higher-spending, higher-utilization regions do not receive “more effective” care (Fisher ES, et al.)
- 54.9 % of American adults receive only half of their recommended health care (McGlynn EA, et al.)

Quality: Regional Variation



Source: Dartmouth Atlas of Health Care

Key Players in Health Reform



President Barack Obama



- Reform one of highest domestic priorities
- Has largely left the details up to Congress, but is vocally supporting action across the nation
- Sticking points were: Universal coverage, lower costs, improve quality, protect consumer choice, public plan option (softened), budget neutrality
- Iraq war, unemployment, Afghanistan war competing for his time
- Will he shift focus to jobs and abandon the current bill?

Administration



Director, Office of
Health Reform
Nancy-Ann DeParle



HHS Secretary
Kathleen Sebelius



Director
Congressional
Budget Office
Douglas Elmendorf

White House Chief of Staff
Rahm Emanuel



Director Office of
Management and Budget
Peter Orszag



Committees



Senator Finance
Chair
Sen. Max Baucus,
D-MT

Chair House Education and
Labor
Rep. George Miller, D-CA



Senate Health,
Education, Labor and
Pensions (HELP)
Sen. Chris Dodd,
D-CT

Chair House Ways and Means
Rep. Charles Rangel, D-NY



Chair House Energy and
Commerce
Representative Henry
Waxman, D-CA



Other Legislative Players

Speaker of the House
Nancy Pelosi (D-CA)

Senate Majority Leader
Harry Reid (D- NV)



Blue Dog Democrats



Senator
Olympia Snowe
R- ME



Senator-elect
Scott Brown
R- MA

Special Interest Groups



President
America's Health
Insurance Plans
Karen Ignagni

President-elect,
American Medical
Association
J. James Rohack



President
American Federation
of Labor and Congress
of Industrial
Organizations
Richard Trumka

President
National Federation of
Independent Business
Dan Danner

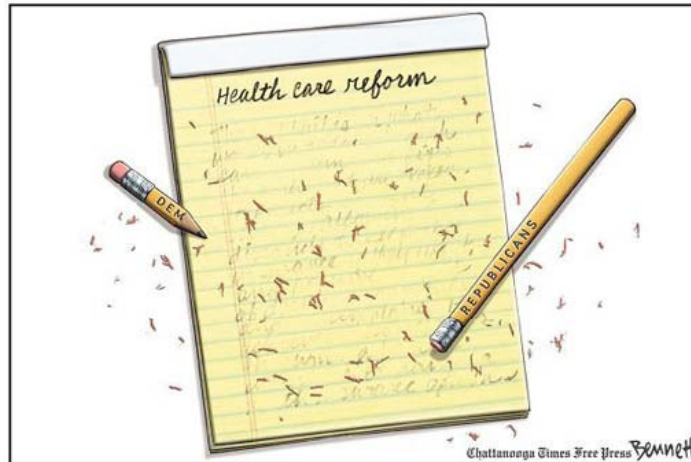


President of the
Service Employees
International Union
Andy Stern

AARP CEO
A. Barry Rand



Proposal Status: House



© Cby Bennett.

www.shadac.org

House – H.R.3962

- Affordable Health Care for America Act
- Originated from 3 bills
 - Education & Labor (Miller, D-CA)
 - Ways & Means (Rangel, D-NY)
 - Energy & Commerce (Waxman, D-CA)
- Bill was merged via House Rules and moderated:
 - Public option softened
 - Premium subsidies reduced
 - Greater number of employers exempt from mandate
 - States pay for more of Medicaid expansion

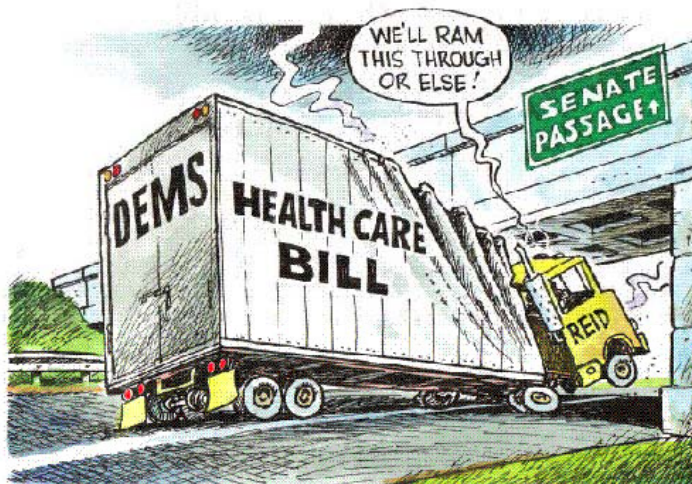
www.shadac.org

18

House – H.R.3962

- Scored by CBO, brought to House Floor
- To gain support, an amendment passed to prohibit federal funds for abortion services in the public option and in the insurance exchange
- Late endorsements from AARP, the AMA and the Conference of Catholic Bishops were crucial
- On November 7 HR 3962 Passed (220-215)
 - 219 Democrats for, 39 voted against, garnered one Republican vote

Proposal Status: Senate



Senate – H.R. 3590

- Patient Protection and Affordable Care Act
- Originated from 2 bills
 - Health, Education, Labor and Pensions (HELP) Committee (Harkin, D-IA; Formerly Kennedy, D-MA)
 - Finance Committee (Baucus, D-MT)
- Passed out of committees by party line vote plus, historic vote in finance by Republican Olympia Snowe (R-ME)
- Bill was merged via Senate Rules and moderated:
 - States can opt out of public option
 - Tax on “Cadillac plans” starting at higher threshold
 - Tax on medical device manufacturers lowered
 - 5% Medicare payment cut for “outlier” physicians removed
 - Passed procedural motion to allow debate (needed and got 60 votes)

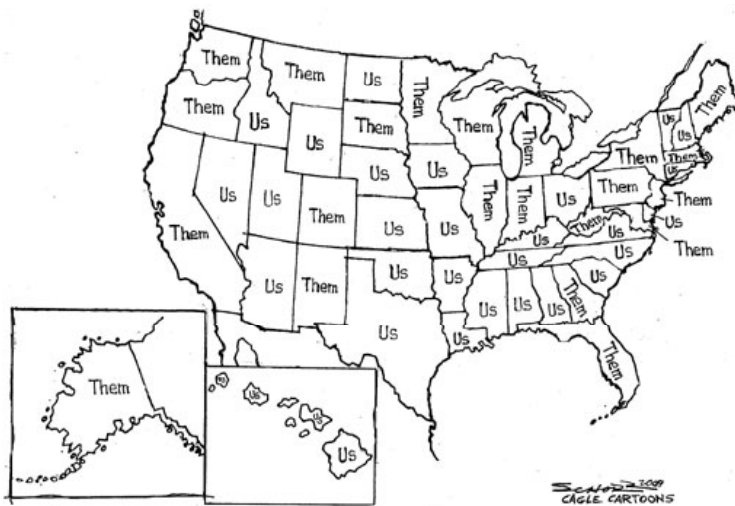
Senate – H.R. 3590

- Major debate – Abortion, PhRMA, public option, Medicaid expansion, Medicare Advantage cuts
- Action to get 60 votes:
 - No public option
 - Drop Medicare buy-in program
 - Three states, including Nebraska, were exempted from paying for the mandated expansion of Medicaid
 - Strong language against federal funding of abortion
 - Dropped Medicare specialists pay cut, and 5% tax on elective cosmetic surgery
 - Rejected plan to import low-cost prescription drugs from Canada and other countries
- Late endorsements by AARP, AMA and AHA
- On December 24 HR 3590 Passed in a party line vote (60-39)

High-Level Policy Overview – Senate and House Debate



Agreement Across Proposals



Agreement Across Proposals

Access

- Expand Medicaid to across-the-board eligibility floor of at least 133% FPL
- “Maintenance of effort” restrictions, starting at enactment, that prohibit states from modifying benefits and eligibility
- Subsidies for families < 400% FPL to buy into the exchange through sliding scale “affordability credits”

Agreement Across Proposals

Mandates

- Individual Mandate
 - Standards for “adequate coverage” or “minimal benefit package”
 - Hardship waivers
- Employer Mandate
 - Large employers offer coverage or pay a fine
 - Small employer exempt

Agreement Across Proposals

Market Regulation

- Insurance Market Reforms
 - Community rating (no rating on health status, gender, or occupation; rate restrictions on age, family size, tobacco use in Senate)
 - Guaranteed issue/pre-existing condition underwriting prohibition
 - No annual/lifetime benefit cap
 - No rescission
- National high-risk pool until exchange is established
- Adult dependent definition expanded to age 26/27
- Medical loss ratio of 85% for large group products

Agreement Across Proposals

Dual Eligibles

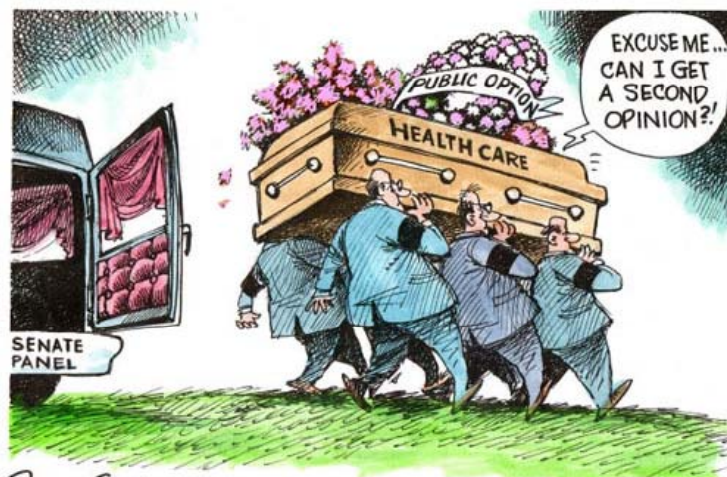
- Improve care coordination by creating a new office of “dual eligibles” within CMS
 - 5-year demonstration projects to test models of integration without a budget neutrality requirement
 - Federal reporting and evaluation required
- Part D cost-sharing relief
- Extends Special Needs Plans (SNPs)

Agreement Across Proposals

CLASS

- “Community Living Assistance Services and Supports” (CLASS) Act:
 - National, voluntary long-term care insurance program
 - Provides functionally impaired individuals with cash payment of not less than \$50/day for non-medical services and supports to remain in the community
 - Financed through payroll deductions; requires opt-out
 - 5 year enrollment before vesting
 - Effective 2010 or 2011

Disagreement Across Proposals



DAVE GRANLUND © www.davegranlund.com

Disagreement Across Proposals

Medicaid

- Size of Expansion Population
 - **Senate:** to 133% Federal Poverty Level
 - **House:** to 150% Federal Poverty Level
- Maintenance of effort
 - **Senate:** Children (until 2019); adults until exchange is operational
 - **House:** All eligibility groups as of June 16, 2009
- FMAP for Expansion Populations
 - **Senate:** Newly eligible fully federally financed for 3 years, then 32.3% increase in base FMAP
 - **House:** Newly eligible fully federally financed for 2 years, then financed at 91%

Disagreement Across Proposals

Individual Mandate

- Penalty
 - **Senate:** Phased in - by 2016, greater of \$750/yr or 2% of income
 - **House:** 2.5% of income
- Tax credits to 400% FPL
 - **Senate:** More generous for middle income (300-400% FPL)
 - **House:** More generous for low income (up to 300% FPL)
- Product for “Young Invincibles”:
 - **Senate:** “Catastrophic” coverage available for those up to age 30
 - **House:** No young adult product to meet mandate

Disagreement Across Proposals

Employer Mandate

- Acceptable Coverage Guidelines
 - **House:** Large employer's benefit must meet federal benchmark and employer must contribute a minimum amount
 - **Senate:** No such requirements
- Sanction
 - **Senate:** "Free Rider" - \$750 fee per employee IF one or more employees receive a federal credit through the exchange
 - **House:** "Pay-or-Play" - 8% payroll fee if insurance offer doesn't meet guidelines
- Small Employer Exemption
 - **House:** payroll of \$500,000 or less
 - **Senate:** 50 or fewer employees (who work 31 or more hours/week)

Disagreement Across Proposals

Insurance Market Regulation

- Community rating: age
 - **Senate:** Variation limited to 3:1
 - **House:** Variation limited to 2:1
- Community rating: tobacco
 - **Senate:** Variation limited to 1.5:1
 - **House:** Variation based on tobacco use prohibited

Disagreement Across Proposals Insurance Exchange

- Governance
 - **Senate:** State exchanges
 - **House:** National exchange
- Individual and Small Group Markets
 - **House:** Combined in national exchange
 - **Senate:** State discretion to merge or keep separate
- Product Availability
 - **Senate:** No provisions
 - **House:** Products offered inside the exchange must be available outside the exchange at the same price
- Undocumented Immigrants
 - **Senate:** Barred from participating
 - **House:** Can purchase coverage through exchange with own funds

Disagreement Across Proposals Public Option

- **Senate:**
 - No public option
 - Federal Office of Personnel Management (OPM) would contract with national carriers to offer at least two plans in each exchange, one of which is offered by a non-profit
- **House:**
 - Public option run by HHS that meets same requirements as private plans
 - Negotiates provider rates

Disagreement Across Proposals

Medicaid Long Term Care

- **Senate:** Enhance HCBS state plan option - State Plan Amendment 1915i
 - Allow financial eligibility to 300% SSI
 - Flexibility to target certain populations
 - Broadens scope of services that can be covered
- **Senate:** “First Choice” option
 - FMAP incentives (6%) to offer home and community-based attendant services and supports to individuals needing nursing home level of care
 - Sunsets after 5 years
- **Senate:** Mandate same spousal impoverishment rules in HCBS as nursing facilities

Disagreement Across Proposals

Medicare Part D Doughnut Hole

- **House:** Phase out by 2019 (revenue from Rx rebates)
- **Senate:** Drug manufacturers must give 50% discount on drugs purchased in the doughnut hole

Disagreement Across Proposals

Medicare Reform

- **House:** Study implications in regional variation in payment

- **Senate:** Establish new, Independent Payment Advisory Board (IPAB) that could reduce payments in expedited fashion (with limited Congressional intervention or amendment, a la Base Realignment and Closure process)

Disagreement Across Proposals

Abortion

- **Senate:**
 - Abortion coverage may be included in plans, but the person must pay separately (with own funds) for premium associated with this benefit

- **House:**
 - Abortion coverage may not be included in the public plan option
 - Individuals receiving federal subsidies (150-400% FPL) may purchase supplemental coverage for abortions but that coverage must be paid for entirely with private funds

Disagreement Across Proposals Children's Health Insurance Plan

- **House:**
 - Repeals CHIP
 - Children below 150% FPL would get Medicaid
 - Children 150% FPL and up would get coverage through exchange
- **Senate:**
 - Retains CHIP
 - Overflow kids covered through exchange

Disagreement Across Proposals Malpractice Reform

- **Senate**
 - Grants for initiatives to reduce medical errors and improved access to liability insurance
- **House:**
 - Incentive payments to states that reduce lawsuits
 - Laws cannot limit attorneys' fees or impose caps on damages

Cost Estimates of Proposals



www.shadac.org

43

Compare - Impact on the Number of Uninsured and Cost: 2019 Projections

House

- \$871 million
- Net deficit reduction \$132 billion
- Uninsured reduced to 10 million

Senate

- \$894 million
- Net deficit reduction \$104 billion
- Uninsured reduced to 15 million

Currently there are 46 million uninsured with projections to reach 53 million by 2019 if no plan is enacted

www.shadac.org

44

Agreement Across Proposals

Revenue/Savings

- **Savings**
 - Medicaid prescription drug rebates extended to managed care organizations
 - Disproportionate Share Hospital (DSH) payments reduced
 - Medicare Advantage plan savings
- **New Revenue:**
 - Individual and employer penalties for violating mandate

Disagreement Across Proposals

New Revenue

- **Senate**
 - “Cadillac” excise tax (40%) on benefits that exceed \$8,900 for individual or \$24,000 for family
 - New tax on health insurers (self-insured exempted)
 - Medicare payroll tax rate increased for high earning individuals
- **House**
 - Excise tax on high income: 5.4% on income above \$500,000 for individual or \$1 million for couple
- **House and Senate**
 - Various new taxes on manufacturers of medical devices

Disagreement Across Proposals

New Savings

- Medicare Advantage
 - **House:** Bring rates to parity with FFS (estimated savings: \$170 billion)
 - **Senate:** Require competitive bidding (estimated savings: \$120 billion)

Potential Impact on Providers and Persons with Disabilities



Positive Impacts on Health Professionals

- Workforce development grants and loan repayment to recruit new nurses
- Nurse Practitioners recognized as PCPs
- Maintained or expanded payment for teaching hospitals including FQHCs
- Grants for oral health training
- Increased funding for primary care services
- New residency training slots geared toward primary care medicine and general surgery
- Potential changes to Medicare

Positive Impact on Persons with Disabilities

- Ban or limit on annual and lifetime coverage limits
- Temporary national high-risk pool
- Insurance regulations
- Standard benefit packages may include rehabilitation, mental health and chemical dependency
- CLASS and HCBS flexibility
- Many on Medicaid LTC and Chronic Care provisions

Potential Negative Impact on Providers and Persons with Disabilities

- Increase in demand may mean strain on providers (particularly primary care)
- Increase in comparative effectiveness research may impact practice patterns (long term)
- Changes to Medicare payment rates
- Impact on Medicaid expansions on state budgets may impact delivery of Medicaid optional services and other state programs

Legislative Process - Filibuster and Reconciliation



Path to the President (before 1/10/10)

- ✓ Combine committee bills, introduce on floor
 - DONE
- ✓ Pass bill in each Chamber
 - DONE
- ✓ Combine bills in conference committee or in informal process know as “Ping-pong”
 - Ping-pong in process
- ✓ Reconciled bill scored by CBO
- ✓ Vote on chamber floor for combined bill
 - No additional amendments allowed
- ✓ Send to President for Signature

Filibusters and the 2010 Massachusetts Special Election

- Filibuster is a procedural act that allows the minority party in the Senate to extend floor debate indefinitely
- The minority needs 41 votes to successfully filibuster legislation
- In other words, without 60 votes (“super majority”) to cloture (end debate) and avoid filibuster, vote can be prevented indefinitely
- Special election held in Massachusetts on January 19, 2010, to fill the late Senator Kennedy’s seat
- Republican Scott Brown won, causing Senate Democrats to lose super majority
- With 41 votes, Senate Republicans can now filibuster

Senate Reconciliation

- Reconciliation: Bill may pass the Senate with simple majority of 51
 - Key problems with Reconciliation:
 - Byrd Rule: Can only take up “budget” matters to “reconcile” legislation with Senate Budget Resolution
 - Senate Parliamentarian decides which provisions qualify as budgetary
 - Laws are time-limited to 10-year budget window; then sunset
 - Example: SCHIP – created in 1997, nearly lost in 2007
- Lacks bipartisanship

Outlook for Reform...



Fallout From Democrats Loss of Supermajority?

- Reform has lost momentum
- Republic complaints have gained legitimacy and publicity
- Renewed debate – access before cost containment? Cost containment before access?
- Reconciliation looks more appealing
- Waning support from some Democrats fearful of backlash and loss of re-election
- Americans losing interest and want Obama to focus on jobs

Three (Unlikely) Scenarios

- Scenario #1: Proceed as planned and try to modify current bill for vote in the House and Senate
 - It is unlikely that a comprehensive bill as it is currently conceived would avoid a filibuster
- Scenario #2: Pass the Senate bill without amendment in the House, get a compromise before Brown is seated
 - Unlikely that House could garner 218 votes for the Senate bill
 - May not have time to pass bills and get scored by CBO
 - Violate Senate precedent
- Scenario #3: No health reform bill is passed
 - Huge political consequences

Scenario #4: Scaled Back Bill

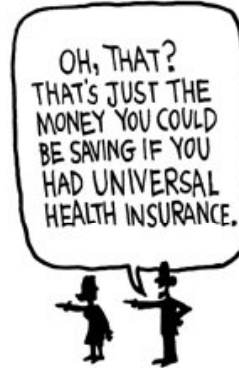
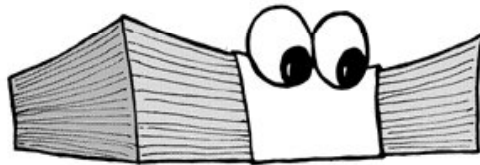
- Pass scaled-back measure that could attract Republican support
 - Prohibit insurance companies from denying coverage for pre-existing conditions
 - Aid for small businesses
 - Malpractice reform
- Without mandates, will insurance reforms lead to increases in premiums due to adverse selection?
- Without subsidies, will mandates be too expensive?
- Can consensus be reached in a timely manner?

Scenario #5: Two Bill Strategy

- House passes Senate bill with an agreement for follow-up legislation to settle major differences
- Follow-up bill would address House Democrats complaints and would be passed in Senate through reconciliation
 - Roll/scale back tax on "Cadillac" insurance plans
 - Remove "vote buying" provisions
 - Increases subsidies for low- and moderate-income
 - Modify aspects of the exchange and abortion provisions
- Is it politically palatable to House Democrats?
- Can you make all the changes that need to be made using reconciliation (budget provisions only)?
- Does Senate have 51 votes to pass changes?

My Two Cents

Allo
ALCARRAZ
©2009
DISTRIBUTED BY
UNIVERSAL PUBLISHING
SYNDICATE



www.s.....

6/17 61

Contact Information

Elizabeth Lukanen, M.P.H

elukanen@umn.edu

State Health Access Data Assistance Center

www.shadac.org

University of Minnesota

School of Public Health

Division of Health Policy and Management

2221 University Avenue, Suite 345

Minneapolis, Minnesota 55414

(612) 624-4802

www.shadac.org

62