



Speaker Pelosi Reveals Merged House Health Reform

House leadership, led by Speaker Nancy Pelosi (D-CA), announced on October, 29 2009 the completion of a health reform bill that combines the efforts of the House's Committees on Education & Labor, Energy & Commerce, and Ways & Means.

Below is a summary of its major provisions.

Government/Public Plan Option: The bill contains a government/public plan option, based on rates to be negotiated by a new government agency (the Health Choices Commission, or HCC). The government plan option would be one of many (the bill's authors hope) choices available to those who buy their insurance through an exchange. The government/public plan option would be subject to the same rules (e.g., insurance reform, essential benefits packages) as the private insurance sold through the exchange.

Exchange: The bill would create a national exchange. It would allow states to instead set up their own exchanges. Exchanges would offer private health insurance to individuals not otherwise covered by "acceptable" insurance, and to small businesses.

The exchange would be set up and administered by a new government agency, the Health Choices Commission (HCA). The HCA would promulgate nondiscrimination and parity (mental health) rules.

States would be required to assist groups who want to establish "Consumer Operated and Oriented Plan Programs," or "co-ops" as options for health insurance that would be offered through the exchange.

Insurance Reforms: Beginning in 2010, a number of insurance reforms are mandated. They include:

- Guaranteed issue and renewability
- Limit on premium costs based on age to no more than a two to one ratio
- Community rating

- No use of health history or preexisting conditions (full prohibition against preexisting conditions becomes effective as of 1/1/13; between now and then, the look-back period is limited to 30 days; and exclusion of coverage due to preexisting conditions would be allowable for three rather than 12 months)
- No annual or lifetime benefit limits
- Parents could continue to cover their children on their health insurance policies up through age 26
- Insurance companies could have no more than an 85 percent loss ratio. If loss ratios fall below the 85 percent level, the excess would have to be rebated to policyholders. There is some flexibility built into this rule with respect to the individual market if market disruption results from the 85 percent loss ratio requirement.
- As of the date of enactment, employers would not be allowed to reduce retiree health benefits unless they are also reducing the same benefits for active employees

Individual Mandates: The bill contains an individual mandate that will require all individuals to carry health insurance. Failure to comply with this rule would result in an additional 2.5 percent tax on modified adjusted gross income. There would be a hardship exemption (based on affordability). There is language that specifies that those eligible for Medicaid, CHIP, Veterans Affairs (VA) coverage and other government health insurance programs would be deemed to have acceptable coverage.

Employer Mandate: The melded bill requires employers to offer and pay for health insurance for their workers. The rules are:

- Employers with payrolls of \$750,000 or more would be subject to the mandate
- Employers subject to the mandate would have to pay at least 72.5 percent of the cost of individual coverage, and 65 percent of the cost of dependent coverage. “Proportional” employer contributions to the premium would be required for “non fulltime” workers.
- Employers with payrolls of \$500,000 or less would be exempt from the employer mandate
- Failure to comply with the mandate would result in a tax of eight percent of payroll in excess of \$750,000. A two percent tax would apply to payroll starting at \$500,000, and the tax would graduate, in two percent increments, up to a payroll size of \$750,000.
- There would be a two-year tax credit for small employers electing to offer health insurance to their workers. The credit would be equal to 50 percent of the cost of the insurance for employers with 9 or fewer workers. The credit would phase down for employers with 10 to 25 workers. It would not be available to employers with 26 or more workers.

National Risk Pool: Between date of enactment and the date the exchange is up and operating (2013) there would be a national high risk pool program. Per this program, Congress would authorize \$5 million to insure people who have been denied coverage due to preexisting conditions and/or who have been without coverage for “several months.” The program would stop if and when the \$5 million authorized is used up.

Taxes (Offsets): The bill is principally offset by savings in Medicare (including Medicare Advantage) and new taxes. The new taxes include:

- An indexed annual cap of \$2,500 on contributions to flexible spending accounts (FSAs)
- An increase from 10 percent to 20 percent in the penalty tax for early (prior to age 65) withdrawals (for nonmedical expenses) from health savings accounts (HSAs)
- Modification of rules for permissible tax-free withdrawals from HSAs, FSAs and/or health reimbursement accounts (HRAs) to disallow use of HRA/FSA/HSA tax-free funds for over-the-counter medicines, unless those medicines are obtained via prescription
- A 5.4 percent surcharge on modified adjusted gross income in excess of \$500,000 for individuals and \$1 million for married couples filing joint tax returns
- Elimination of the tax deduction for employers receiving government subsidies for providing retiree prescription drug coverage
- Tax parity for employer-provided health coverage for domestic partners and other non-dependents
- Information reporting for payments made to corporations
- A 2.5 percent excise tax on the sale of medical devices (excluding resales and retail sales) for use in the United States

COBRA Extension: The bill would extend COBRA eligibility (from 18 or 36 months as under current law) for the period between the health reform bill’s enactment and the date by which the exchange would be up and operating.