

February 23, 2010

President Obama Releases Details on Health Reform Proposal in Advance of Bipartisan Health Care Summit

In advance of the bipartisan health care summit that President Barack Obama will convene on February 25, the President yesterday released details of his own legislative proposal for how to reform the United States health care system. A [summary](#) of the proposal and [supporting materials](#) are available at Ropes & Gray's [Health Reform Resource Center](#), along with materials on the Senate- and House-passed versions.

The President's proposal is based on the health reform bill that the Senate passed in December 2009 ([H.R. 3590](#)), though it includes measures designed to appeal to House Democrats who have indicated their hesitancy to support the Senate-passed bill without change. Notably, the proposal also contains several program integrity provisions included in various Republican health reform bills. The President's proposal does not take the form of legislative language but, according to the White House, incorporates the provisions of the Senate-passed bill unless specifically indicated otherwise. President Obama is hoping that this effort will help reinvigorate the debate on health care reform and pave the way for legislation that will win bipartisan support in Congress.

Key elements of the President's proposal call for legislation that:

- **Closes the Medicare Prescription Drug "Donut Hole":** Similar to the health reform bill adopted by the House in November ([H.R. 3962](#)), the President's plan closes the Medicare Part D donut hole by 2020.
- **Establishes State-Based Insurance Exchanges:** In contrast to the House-passed bill's creation of a national insurance exchange, the President adopts the Senate proposal of having each state develop and operate its own health insurance exchange.
- **Enhances Oversight of Insurance Premium Increases:** Health insurers would be required to submit proposed premium increases to a new regulatory body, which would have the authority to require insurers to lower premiums, provide rebates, or take other actions, if premium rate increases are too high.
- **Bolsters Consumer Protections:** Similar to the House- and Senate-passed bills, the President's proposal prohibits certain health insurance practices, including prohibitions on annual and lifetime limits and pre-existing condition exclusions. In addition, insurers would be required to adopt stronger appeals processes and states would be required to conduct annual rate reviews.
- **Modifies Health Insurance Subsidies:** The President's proposal would modify the subsidies provided under both the House- and Senate-passed bills, providing increased affordability at certain income brackets.
- **Imposes an Individual Insurance Mandate:** Uninsured Americans would be required to obtain health insurance or pay a penalty of either a flat dollar amount or a percentage of income, whichever is higher.
- **Requires Employer Contributions:** As in the Senate bill, there would be no mandate on employers to offer health insurance, though employers with more than 50 employees would have to help offset costs otherwise paid by taxpayers in order to cover uninsured workers. Small businesses would receive \$40 billion in tax credits to support coverage of their employees.

- **Creates National Insurance Plans:** The materials released by the Administration yesterday are silent on the creation of a public health insurance option, thereby presumably adopting the Senate's approach of charging the Office of Personnel Management to make at least two plans available nationally.
- **Expands Medicaid and Increases FMAP for Newly Insured:** Similar to the Senate-passed bill, the President raises the floor for Medicaid eligibility to 133% of the federal poverty level. The President's proposal would provide uniform federal financial support for the expansion to all states (eliminating the special deal the Senate provided to Nebraska), at rates that are higher than in either the Senate- or House-passed bills.
- **Reduces Medicare Advantage Payments:** The President combines provisions in both the Senate and the House bills that are aimed at reducing costs in the Medicare Advantage program, including capping Medicare Advantage premiums at the fee-for-service equivalent.
- **Proposes New Medicare and Medicaid Program Integrity Measures:** The President's proposal contains a variety of new measures to target Medicare and Medicaid waste, fraud and abuse, many of which are derived from Republican proposals and the President's Fiscal Year 2011 budget proposal.
- **Revises "Cadillac" Plan Tax:** Compared to the Senate plan, the President's proposal raises the cost of insurance plans subject to a high-cost ("Cadillac") plan excise tax—from \$8,500 for singles to \$10,200 and from \$23,000 for families to \$27,500. In contrast to the Senate tax, which would take effect in 2013, the President's proposed tax would not take effect until 2018.
- **Increases and Delays Pharmaceutical Industry Tax:** The President's proposal increases the assessment on the pharmaceutical industry for brand name drugs from \$23 billion under the Senate bill to \$33 billion over 10 years. In addition, implementation of the tax would be delayed one year, to 2011.
- **Delays Health Insurer and Medical Device Manufacturer Fees:** Similar to the Senate-passed bill, the President's plan imposes a \$67 billion excise tax on health insurers and a \$20 billion tax on medical device manufacturers. The insurer tax would take effect in 2014 (in contrast to 2010), and the medical device tax would take effect in 2013 (in contrast to 2010).
- **Delays Excise Tax on Health Insurance Providers:** Similar to the Senate bill, the President's proposal includes a \$67 billion excise tax on health insurers over 10 years, but would delay implementation of the tax until 2014.

If you have questions regarding President Obama's proposal, please contact a member of the Ropes & Gray's Health Care Practice or the Ropes & Gray attorney who normally advises you.

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