

## Senate Finance Committee Releases Policy Proposals to Provide Affordable Coverage to All Americans

In anticipation of a formal markup of comprehensive health reform legislation in June, the Senate Finance Committee has released a set of policy proposals to provide affordable health care coverage to all Americans. (A copy of the 61-page document is available on the Ropes & Gray [Health Reform Resource Center](#) and by clicking [here](#).) The Committee has laid out a sweeping menu of proposed changes—some highly controversial—that would revamp health care coverage as we know it in the United States. The coverage reforms include variations on a public plan, an individual mandate, the establishment of insurance market reforms, Medicaid and Children's Health Insurance Program (CHIP) expansions, an employer "pay-or-play" option, and individual and small business tax credits. According to the Committee, these options are for discussion purposes, and not all of them have the support of Committee Chairman Max Baucus (D-MT) or Ranking Member Charles Grassley (R-IA).

Highlights of the Committee's proposals include:

### Individual Market Reforms and the Health Insurance Exchange

The Finance Committee proposes to create a Health Insurance Exchange, similar to the Massachusetts Connector, to assist individuals in acquiring health insurance through private and possibly a public plan. Federal rating rules would be imposed, including guaranteed issue and guaranteed renewal, a prohibition on pre-existing condition exclusions and community rating.

### Making Coverage Affordable: Benefit Options & Tax Credits

All plans in the non-group and small group markets would be required to offer four benefit options ranked from high to low based on the actuarial value of the benefits. Premium subsidies would be available to those under 400 percent of poverty, and small businesses would be eligible for a sliding scale tax credit.

### Public Health Insurance Option

Reflecting the partisan divide on whether to establish a public plan, the Committee offers two options—create a public plan or use only private plans. Three approaches to structuring the public plan option are discussed: (1) an HHS-administered Medicare-like plan with provider rates equal to Medicare rates plus 0-10 percent; (2) multiple regional third-party administrators, each of which would establish provider networks and negotiate provider payments; and (3) a mandatory or optional state-run plan in which the details of administration would be left to the states.

### Role of Public Programs

States would be required to raise or maintain Medicaid eligibility for pregnant women, children and parents up to a specified level (e.g., 150 percent of poverty), financed initially by the federal government with states gradually assuming their share of the costs thereafter. Expanded coverage could be provided through the normal state-run Medicaid program, through the Exchange or through a combination. CHIP coverage would be expanded to 275 percent of poverty, and would eventually be provided primarily through the Exchange, with CHIP as a secondary payer for additional services. The Medicaid disproportionate share hospital program

would be federalized, with funds disbursed directly by HHS to qualifying hospitals for specified services based on Medicaid and uncompensated care claims data.

### Shared Responsibility: Individuals and Employers

All individuals would be required to purchase coverage in a plan meeting specified criteria, with the mandate enforced through the federal tax system, and a penalty for non-compliance that would eventually equal 75 percent of the premium for the lowest cost plan. A “pay or play” option is also proposed for employers.

### Other Proposals

The Committee also discusses a range of proposals to improve preventive care, expand home and community-based long-term care services and address health disparities.

\* \* \*

Ropes & Gray’s analysis of the Committee’s first set of policy proposals on health delivery reform is available by clicking [here](#). For further information, contact your regular Ropes & Gray attorney or any of the attorneys listed below.

[Barabara Eyman](#)

[Stephen Warnke](#)

*This alert should not be construed as legal advice or a legal opinion on any specific facts or circumstances. This alert is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer concerning your own situation and any specific legal questions you may have.*