

Health Reform at the Federal Level

John P. Garven, CLU, RHU
President, Benico, Ltd.
2008-2009 President,
Illinois State Association of Health Underwriters

Euclid Managers' Legislative Review Conference
Tuesday, June 23, 2009
The Drake Oak Brook, Oak Brook, Illinois

Agenda

- Progress of Reform
- GOP Response
- Reform Timeline
- “Bumps in the Road”
- Likely Components of Reform
- Grassroots Action

Progress of Reform

- Senate Health, Education Labor and Pensions (HELP) Committee activity
 - Meeting about legislation with stakeholders for months. NAHU has been the only agent/broker group at the table.
 - Released bill (Kennedy Health Bill) on June 9th.
 - Hearing on June 11th included NAHU CEO Janet Trautwein as a witness
 - Very far-reaching measure. Most controversial provisions — government run public plan, employer mandate and financing, though, were left out for discussion at the mark-up.

Progress of Reform

- Senate Health, Education Labor and Pensions (HELP) Committee activity
 - Partial score of just part of Title One of the bill was over \$1.3 TRILLION
 - Amendments were due by June 22nd — appears this deadline may be extended.
 - Mark-up began on June 17th and will last until at least June 26th.
 - Earlier bipartisanship has broken down, with the GOP deriding the bill and mark-up process so far as “a joke” (Quoting Sen. Hatch, R-Utah)

Progress of Reform

- **Senate Finance Committee Activity**

- Also held regular stakeholder meetings all winter/spring. NAHU was the only agent/broker group included in the coverage group.
- Released three papers on delivery, coverage, and finance reforms in April-May.
- Concern over bill's initial score (\$1.6 trillion+), the controversial public plan option, and employer mandate provisions has sparked delay.
- Concepts were scheduled for release on June 17th, but delayed until after the July 4th recess.
- Finance Committee viewed as the best chance for reaching a bipartisan compromise in the Senate.

Progress of Reform

- **Senate Activity**

- Eventual goal of the Senate Democrats is to combine the Finance and HELP bills when they reach the Senate floor. This had originally been planned by the Party's Leadership for mid-July.
- The recent Finance mark-up delay and the HELP mark-up chaos makes the prospects for achieving this aggressive timeline virtually impossible. Therefore, the objective of seeing a Senate-passed bill prior to the August recess almost certainly will not happen, which will push the timeframe for a Senate vote on a bill into September / October.

Progress of Reform

- Activity in the House of Representatives
 - The three committees of jurisdiction on health care – Energy and Commerce, Ways and Means, and Education and Labor – have agreed to work together to produce one health reform bill.
 - Almost completely a product of majority committee leadership.
 - No bipartisan cooperation, input from Moderate Dems or stakeholders as a group
 - Bill outline was released on June 9th

Progress of Reform

- Activity in the House of Representatives
 - Tri-Committee pledged joint bill language by last Friday, June 19th
 - Hearings scheduled for this week in each of the three committees of jurisdiction
 - NAHU CEO Janet Trautwein will testify at the Energy and Commerce Committee hearing on June 25th.
 - Speaker Pelosi has pledged that a health care reform bill will be on the floor for a vote by July 31st.

Progress of Reform

- A "self-sufficient" public option?

- Last Thursday Speaker Pelosi said a new “self-sufficient” public option would be part of House legislation.
- Quoting the Speaker: "I have every confidence that we will have a public option coming out of the House of Representatives -- that will be one that is actuarially sound, administratively self-sufficient, one that contributes as to competition, does not eliminate competition." "It may not be called public option but it will be a level playing field," she said.
- With all due respect, the Speaker either doesn't “get it” or she is simply not disclosing all of the facts.

GOP Response

- On the Senate side there has been limited bipartisan cooperation in the HELP and Finance Committees
 - Recent divide centers around government-run public plan option, a lack of cooperation since Senator Kennedy's further recent decline in his health, a flawed HELP committee mark-up process, lack of a complete budget score, and more.
- To date there has been no GOP engagement by the House Majority and hence no support from GOP House members.

GOP Response

- Caucus is allowing its members in both Chambers to release any number of alternative bills based on common principles
 - House GOP leadership announced reform outline on June 16th. Likely to see more Senate GOP alternatives in the coming days.
 - Major GOP bills thus far:
 - Patients' Choice Act (Senators Coburn (OK) and Richard Burr (NC) and House Members Paul Ryan (WI) and Devin Nunes (CA))
 - Tuesday Group (Rep. Mark Kirk)
 - Health Care Solutions Group (Reps Blunt & Camp)

Reform Timeline

- Original goal was to have bills passed in both the House and Senate before the August recess. The delay in Senate Finance certainly jeopardizes that timeline in a major way!
- Recess lasts August 7th - September 7th
- If somehow bills in both Chambers are passed before the recess, conference then could convene after recess on September 7th
- October 15th Budget Reconciliation deadline looms

Reform Timeline

- What is the likely timing?
 - The Senate Finance committee still offers the best prospects for something that could reasonably be represented as constituting a bipartisan bill.
 - The goal for final action is now expected to be closer to the end of the year. The longer it slips, the more difficult it will become to pass the sweeping reform the White House and congressional liberals envision.

“Bumps in the Road”

There have been many bumps
in the road along the way, the
chief among them being...

“Bumps in the Road”

- Soaring costs and coverage impacts: CBO report around the Kennedy Health Bill
 - Cost of \$1 trillion over next 10 years, but there is even more spending in the bill that the CBO hasn't yet even scored
 - Net decrease in # uninsured is only 16 million, leaving 30+ million uninsured. Goal was to have virtually everyone covered with no deficit spending after accounting for the “savings” identified by the Administration.
 - 15 million would actually lose their coverage at work and 8 million would lose coverage from other sources

“Bumps in the Road”

- Public opinion:
 - Recent polling by the Kaiser Family Foundation found that the Public Plan is only popular until people understand its consequences.
 - Only 32% support it when told that the government plan will have an unfair advantage over private plans and end up “crowding out” private insurance.

“Bumps in the Road”

- The American Medical Association (AMA)
 - President Obama traveled to Chicago last week to speak at the AMA's annual meeting, hoping to sway them to support his health reform plan. He faced protest signs outside the hall, and inside there were boos when he said he wouldn't go along with their proposal to cap malpractice awards.
 - Worse, when a resolution came to the convention floor which would have endorsed Mr. Obama's idea of a new government health plan, the language he had hoped for was stripped out, and it became a mere restatement of the AMA's long-standing goals supporting "pluralism, freedom of choice, freedom of practice, and universal access for patients."

“Bumps in the Road”

- The Congressional Budget Office (CBO)
 - According to the non-partisan CBO, congressional plans to rein in federal spending through public plans could end up shifting more of the costs to private insurers, employers, and people with private medical coverage. While there are many efficient providers currently practicing, experts don't yet know how to spread that efficiency throughout the system, and policy makers won't be able to do so "through fiat or good intentions," the CBO stated.

“Bumps in the Road”

- The Congressional Budget Office (CBO)
 - The CBO also says that it can't give credit for most of the \$2 trillion in savings that were announced with great fanfare in May. One will recall the brouhaha between the White House and six industry groups over whether they had or had not pledged to reduce health spending by 1.5% a year over 10 years through disease management, information technology, coordinated care, etc.

“Bumps in the Road”

● CBO Director Doug Elmendorf

- On January 22nd Speaker Pelosi issued a statement regarding Dr. Elmendorf's appointment as the new Director of the CBO which said, "Congress and the nation will be well-served by the enormous intellectual capacity Dr. Elmendorf brings to the Congressional Budget Office. With a broad range of legislative and executive branch experience, he will serve as the Congress' non-partisan guardian of responsible budgeting and fiscal discipline."
- On June 18th the Speaker offered a very different perspective about the CBO and, de facto, its director by complaining in a news conference about the CBO's scoring of congressional health reform proposals.

“Bumps in the Road”

- Tom Daschle and The Bipartisan Policy Center
 - Last Wednesday Tom Daschle, the former Senate Majority Leader and one-time Administration appointment to head HHS, said that the White House would likely have to scrap a federal public option for health insurance coverage if it wanted to get the votes needed to pass systemic change.

"We've come too far and gained too much momentum for our efforts to fail over disagreement on one single issue," the Senator and one-time HHS Secretary nominee said, according to ABC News.

Likely Components of Reform

- **Individual Mandate**

- Needs to be enforceable to be effective
- Standard of creditable of coverage must not be overly complicated/rigid
- Kennedy bill contains weak enforcement (unspecified federal tax penalty) and many exceptions

- **Government-Run Public Plan Option**

- We oppose. Cost-shifting, decline of private market.
- Government cannot be both a regulator and a competitor
- Resources should be used for subsidies instead

Likely Components of Reform

- Government-Run Public Plan Option – cont'd
 - Kennedy bill has removed this section as TBD for discussion at the Member level
 - Original draft included public plan that reimbursed at Medicare plus 10%
 - House bill will include a public plan—possibly with a “trigger”
 - Finance Committee currently looking to exclude but may include “cooperative plans” proposed by Senator Conrad and/or triggers
 - Senator Daschle Bipartisan Leaders Project calls for optional state-based public options

Likely Components of Reform

- Government-Run Public Plan Option – cont'd
 - In April more than 70 Democrats in the House and 15 in the Senate indicated that they will not support a broad health reform bill unless it contains a government-sponsored public option. *However*, support for such is cracking (AMA, AHA/FAH, Blue Dog Democrats, Chamber of Commerce, NFIB, AHIP, and many other business groups).

Likely Components of Reform

- **Exchange/Connector**
 - If enacted, these should be state-based, with options for multiple competing arrangements
 - Online portal model, not bricks and mortar, not purchasing pool
 - Must include access to agents and brokers
 - Subsidies must be available inside and outside of the Exchange
 - No mixing of individual and small group markets

Likely Components of Reform

- **Kennedy Bill/Gateways**
 - Mandates that the states create Gateways with a federal fallback of an HHS-created Gateway.
 - The purpose of the Gateways will be to facilitate the purchase of health insurance coverage and related insurance products at an affordable price by qualified individuals and qualified employer groups (including self-employed individuals).
 - Gateways would be based on a purchasing pool/bricks and mortar model rather than solely a web-based portal.
 - They would be financed by federal grants at first and then by assessments on the carriers providing coverage through the Gateways.

Likely Components of Reform

- **Kennedy Bill/Gateways**
 - Tax credits/subsidies would only be available inside the Gateway.
 - While the legislation does not in any way prohibit or restrict the ability of state-licensed health insurance agents, brokers and consultants to market and service health insurance policies either inside or outside the Gateways, the measure does allow states to enter into contracts with “navigators” and provides them with federal support to do so. Similar to SHIPS (Senior Health Insurance Programs) for Medicare beneficiaries

Likely Components of Reform

- **Subsidies/Tax Credits**
 - Subsidies for low-income and small businesses
 - Ability to use in any market
 - Premium assistance when ESI (employment-sponsored insurance) is available
 - Kennedy bill contains subsidies up to 500% of the federal poverty level (FPL), subsidies only in the Gateways and Medicaid for all up to 150% FPL with no premium assistance outside the Gateways
 - Finance committee scaling back their subsidies

Likely Components of Reform

- Employer Mandate

- This would be very detrimental to job growth and the economy, and is particularly bad for small employers which is the principal economic growth engine in the US.
- The Kennedy bill has removed this section as TBD for discussion at the Member level
- Kennedy bill originally had a strict pay or play mandate with a carve out for small employers with the definition of small employer TBD.

Likely Components of Reform

- **Wellness**
 - Wellness incentives in public programs
 - Wellness as a rating factor
 - Wellness program creation tax credits for employers
 - Legal protections and improvements to bona fide wellness plans
 - Kennedy bill does not address these incentives and bans their use as a rating factor
 - Finance bill likely will include wellness incentives

Likely Components of Reform

- Other Means of Cost Containment
 - Comparative effectiveness
 - No coverage determinations
 - Kennedy bill creates Medical Advisory council to make determinations for subsidies
 - Health IT
 - Interoperable technology
 - Kennedy bill requires it
 - System efficiencies
 - Pay for performance, transparency, evidence-based medicine
 - Efficiencies should apply to public programs and private payers and providers
 - Kennedy bill does include some of these reforms, but mostly left to Finance Committee

Likely Components of Reform

- Financing
 - Lifestyle taxes
 - Alcohol, Sugar and High Fructose Corn Syrup-Based Beverages, and Trans-fats
 - VAT Tax being considered in the House
 - Status of Tax Advantages of Account-Based Plans
 - Eliminating the employer exclusion could also eliminate HRAs and FSAs
 - Finance looking to include these plans
 - Preservation of the Employer Exclusion
 - Cap proposals being discussed everywhere
 - Finance Committee considering cap variation
 - Kennedy Bill did not address financing
 - Jurisdiction of the Senate Finance Committee

Grassroots Action

- Obama grassroots meetings
- July 15th NAHU / NAIFA / CIAB / Big I Fly-In
- Operation Shout Requests
 - Email, phone calls, letters, faxes, letters/emails from clients
- In-District meetings next week, particularly with moderate Democrats on key congressional committees
- Attendance at Congressional Town Hall Meetings scheduled during Congressional breaks
- Brokers Making a Difference Resources
 - White Paper on the Value of An Agent and a 100-page collection of agent value stories and client testimonials, all found at www.brokersmakingadifference.com

For More Information

- Federal Health Care Reform Action Center that's linked from the Illinois State Association of Health Underwriters' website – www.isahu.com.
- The National Health Reform Resources link that is found on the front page of my firm's website – www.benico.com.
- I may be contacted at 847-669-4800, ext. 202. My email address is john.garven@benico.com.

Thank you!