

State Legislators for Health Reform

State Leaders Policy and Recommendations - October 13 and 14

1. **Medicaid Expansion** – Both Finance and House bills would expand program to 133% of poverty for parents, child-less adults, and children

- **House** – 100% FMAP for the expansion population. July CBO [estimate](#) of House bill(s) would reduce states spending on Medicaid and SCHIP by \$10 billion from 2010 through 2019.
- **Finance** – States that haven't already expanded Medicaid to 100% of poverty or higher for parents and child-less adults would get a larger federal match for newly eligibles than states that have already expanded Medicaid, thereby underfunding and penalizing states that have taken the initiative to expand Medicaid. State cost of Finance proposal would be \$33 billion from 2010 to 2019 (CBO estimate)

Recommendation – support House language, which calls for 100% FMAP for the expansion population

Message:

- The success of reform relies on a strong federal-state partnership. Because of continued state budget deficits, states need a robust federal investment in the Medicaid program.
- States that have already expanded Medicaid to or beyond new mandated levels ought to receive the same level of support as states that have not take similar action.
- Because of states' financial vulnerability to economic downturns, the federal government must create a system of counter-cyclical funding so that states have the necessary financial resources to ensure Medicaid is sustainable during downturns.

2. **Insurance Exchange/Gateway Administration** – a new marketplace for individuals and small businesses to purchase health insurance with guaranteed and comprehensive health benefits. Exchange would be national, regional, or state to state

- **House** – National Exchange with option for states to create their own exchange, as long as state can fulfill the same responsibilities of the national Exchange.
- **HELP** – State or regional Gateways. Gateway must serve a geographically similar area, so a state could have more than one Gateway or join a multi-state Gateway
- **Finance** – State by state, or regional, Exchange

Recommendation – Support House language, creation of a national exchange, with option to create a state exchange. Support HELP language, flexibility for multi-state Gateways and encourage creation of a national Gateway.

3. **Insurance Exchange/Gateway Eligibility** – all limit eligibility to individuals and the smallest businesses, with larger businesses joining over time. Finance specifically allows businesses up to 100 employers to participate starting in 2015, and to larger businesses starting in 2017.

Recommendation – Support inclusion of small and larger businesses in option to participate in the Exchange/Gateway

4. **Insurance Reforms** – All bills require, in and out of the exchanges, guaranteed issue, no pre-existing condition exclusions, no denials of coverage for pre-existing conditions, no health status or gender-based rating. All allow underwriting for age, geography, family size, and, in HELP and Finance, smoking status (1.5 to 1 rate band).

- **House and HELP** – 2 to 1 rate band for age
- **Finance** – 4 to 1 rate band for age. Significantly, the Finance language allows insurance companies to sell national health plans that can skirt state benefit mandates. This will weaken consumer protections and lead to a proliferation of products that lack the proper levels of coverage. Additionally, Finance’s enforcement mechanisms are weak. Although there is a brief reference to oversight by HHS if a state fails to adopt the federal model regulation, there is no provision for federal backup enforcement if a state adopts the model regulation but then fails to enforce it. High standards mean nothing without good enforcement.

Recommendation – Support House and HELP language.

5. **Affordability and the Individual Mandate** – Each bill requires all Americans to obtain health coverage – through a public program, their employer, or the individual market. Each provide subsidies to individuals up to 400% of poverty and provide for a hardship exemption.

- The sliding scale subsidies would be structured similarly across the three bills, ensuring that premiums would not exceed 1% of income for individuals just below 150% of poverty to 12.5% of income for those at 400% of poverty in the HELP bill. The Finance bill ranges from 2% to 12% and the current House language would cap premium expenses at 11% of income for individuals just below 400% of poverty. Importantly, each bill limits exposure to costly out-of-pocket expenses, with the strongest standards in the House bill at \$5,000/individual and \$10,000/family each year. In addition to support for individuals, each bill includes affordability subsidies of up to 50% of premium costs for the small employers with relatively low average wages. Finance would authorize a hardship exemption when coverage exceeds 8% of income.

Recommendation – Support House language. Although the level of the hardship exemption is not clear, the cap on out of pocket costs and limit of premiums to 11% of income for those closest to 400% of poverty is strong.

6. **Shared Responsibility** – All bills require businesses to participate in paying for health care, with exceptions for smaller firms.

- **House** – require employers to cover at least 72.5% of premiums for an individual employee and 65% for family coverage. Require all employers that offer coverage to automatically enroll employees into the lowest premium costs and employee that doesn't elect the employer's coverage or choose to opt out. Employers that do not meet coverage requirements would pay a penalty of up to 8% of payroll, with lesser amounts on a sliding scale for small employers with annual payrolls less than \$400,000. Exempt employers with annual payroll less than \$250,000.
- **HELP** – require employers to cover at least 60% of employee premium costs or pay \$750 per uninsured full-time employee. Exempt employers with 25 or fewer employees.
- **Finance** – assess employers that do not offer coverage a fee of \$400 per employee who receives a tax credit for insurance in an exchange. Exempt employers with 50 or fewer employees. Require firms with 200 or more employees to automatically enroll employees into plans offered by the employer. Employees may opt out if they have coverage elsewhere.

Recommendation – Support House language, and establish a process for states to require higher levels that better fit their needs and market conditions.

7. **Public Option**

- **House and HELP** – Create a public option to compete with private offerings in the exchange. The public option would be subject to the same rules and regulations of private plans approved to participate in the exchange, but it would not be motivated by profits, as private plans are. Significantly, the public option enhances consumer choice, a particularly important priority within the context of the individual mandate. States would have the choice to create a public option or have the federal government create it.
- **Finance** – Create member-owned and operated co-ops. Concern is that these would not be strong enough to provide consumers with greater choice.

Recommendation – Support the House language, as it would foster the creation of a national public option. As currently written, House would use Medicare rates plus a 5% bonus for primary care doctors and providers that participate in both the public option and Medicare. After 5 years, program would establish a new system for setting rates.

Message:

- States recognize the need for infusing the insurance market with competition and creating new options for families and small businesses. States are increasingly considering or creating public options – CT, NY, ME, WA, OR, AZ, NM, and more
- The public option will help reduce costs by incentivizing quality of care

- We need the option now. We can't wait for the private market to show us once again that it can't achieve quality and affordable options for all Americans.
- If reform includes an individual mandate, then it must include a public option. Private insurance has failed to, on its own, provide affordable and quality options for all families and small businesses and their needs. The public option will create choice and a more competitive market.

8. Financing Reform – Both House and Finance proposals will fund half of their plans with quality improvements and cost efficiency initiatives in Medicare and Medicaid. The largest other source of funding comes from a tax on costly insurance premiums (Finance) or a health care surcharge on the wealthiest 1.2% of Americans (House).

- **House** – The surcharge would be paid by families with incomes above \$350,000 and equals, on a sliding scale, from 1% to 5.4% of modified adjusted gross income. Significantly, the surcharge will not impact 98.8% of households or 96% of small business owners. The House will also eliminate over-payments to private Medicare Advantage plans, saving \$156 billion over ten years.
- **Finance** – Levy an excise tax on high cost insurance plans, or so-called "Cadillac" plans, equal to 40% of the aggregate value of coverage that exceeds a threshold amount. The threshold is \$8,000 for single and \$21,000 for family coverage. The tax would be paid by the issuer of the policy, either the insurer or, in the case of large self-insured businesses, the employer.

Recommendation – Support House financing proposal. The Finance excise tax is highly objectionable to workers and unions as the cost would likely get passed on to workers. While proponents of the tax have cited lavish insurance policies owned by Wall Street executives, the vast majority of people impacted by the excise tax would be workers who have foregone pay raisers in recent years in exchange for quality health benefits, as is the case with many state workers.

Message – For those who balk at the cost of reform, remind them that former President Bush's 2001 tax cuts for the wealthiest of Americans will leave us all with ten-year debt swelling cost of \$2.5 trillion (Citizens for Tax Justice). Health care reform is a worthy and necessary investment, one that will pay dividends over time in the form of better health for all Americans and a more efficient and less costly health care system.