

National Health Care Reform: Dream or Reality?

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Millions of Americans currently do not have health care benefits. In response to this overwhelming need, Congress is working to reform the health care system. This discussion summarizes the key provisions of health care bills that were passed in the House of Representatives and the Senate late in 2009.

INTRODUCTION

According to National Health Interview Survey statistics, 45.4 million Americans of all ages, or approximately 15.1 percent of the population, did not have health care coverage during the first six months of 2009. According to the U.S. Centers for Disease Control and Prevention National Center for Health Statistics, 31.9 million Americans had been uninsured for more than a year in 2009. The recession, which began in 2008 and resulted in millions of Americans losing their jobs and health coverage, has highlighted the need to implement a national health care plan.

For 75 years, Democratic presidents and members of Congress have fought to create a comprehensive national system of health insurance. Comprehensive health reform legislation is currently being debated in Congress. On November 7, 2009, the U.S. House of Representatives (the “House”) passed the Affordable Health Care for America Act (the “AHCA Act”). On November 18, 2009, the U.S. Senate (the “Senate”) introduced the Patient Protection and Affordable Care Act (the “PPAC Act”). This discussion summarizes the key provisions of each act.

AFFORDABLE HEALTH CARE FOR AMERICA ACT (AHCA ACT)

Introduced in the House on October 29, 2009, the AHCA Act will require all individuals (with some exceptions) to have health insurance beginning in 2013. The AHCA Act will create a Health

Insurance Exchange (the “Insurance Exchange”) through which individuals and smaller employers can purchase health coverage.

Through the Insurance Exchange, individuals and families will receive premium and cost-sharing credits up to 400 percent of the federal poverty level (in 2009, the poverty level was \$18,310 for a family of three). These premium subsidies will be offered on a sliding scale basis and will limit the cost of the premium to between (a) 3 percent of income for those at 150 percent of the poverty level to (b) 12 percent of income for those at 400 percent of the poverty level.

The AHCA Act will allow most individuals to have health insurance by requiring employers to provide coverage to employees or pay into a Health Insurance Exchange Trust Fund (the “Exchange Trust”). Small employers that employ lower-wage workers (1) will be exempt from this requirement and (2) will be eligible to receive a tax credit to offset the costs of providing health care coverage.

If employers elect to provide health coverage, they must contribute a least 72.5 percent of the premium cost for single coverage and 65 percent of the premium cost for family coverage for the lowest cost plan. Employers electing to pay into the Exchange Trust that have an annual payroll greater than \$750,000 will pay 8 percent of payroll. Employers maintaining an annual payroll of less than \$750,000 will pay into the Exchange Trust based on the following schedule:

- Annual payroll less than \$500,000: exempt
- Annual payroll between \$500,000 and \$585,000: pay 2 percent of payroll

- Annual payroll between \$585,000 and \$670,000: pay 4 percent of payroll
- Annual payroll between \$670,000 and \$750,000: pay 6 percent of payroll

If the premium paid by individuals for coverage offered by an employer exceeds 12 percent of their family income, they also can purchase coverage through the Insurance Exchange.

If the employee does not sign up for employer coverage or does not opt out of coverage, employers that offer coverage will be required to automatically enroll him or her into the employer's lowest cost premium plan.

An individual who elects to forgo health coverage will pay a penalty of 2.5 percent of his/her adjusted income above the filing threshold, with a cap at the cost of the average national premium for self-only or family coverage under a basic plan in the Insurance Exchange. Those individuals who (1) earn incomes below the filing threshold, (2) object on religious grounds, or (3) suffer from financial hardship are exempt from paying this penalty. For 2009, the threshold established for taxpayers under age 65 is \$9,350 for singles and \$18,700 for couples.

The AHCA Act also will expand public programs such as Medicaid. Medicaid coverage will be offered to all individuals under age 65 with incomes up to 150 percent of the federal poverty level (\$16,245 for an individual and \$33,075 for a family of four in 2009). Optional Medicaid coverage will be offered to low-income HIV-infected individuals until 2013 and for family planning services to low-income women. Medicaid coverage will be provided to all uninsured newborns until they obtain other coverage.

The AHCA Act will repeal the Children's Health Insurance Program (CHIP) in 2014. Children with family incomes below 150 percent of the poverty level will be covered by Medicaid, while those with family incomes above that level will obtain subsidized coverage through the Insurance Exchange.

The costs of the Medicaid expansion will be financed jointly by the federal government and the states. The federal government will fund 100 percent of the cost of those who become newly eligible for the program for two years (2013 and 2014). Beginning in 2015, federal funding for these costs will decrease to 91 percent.

The AHCA Act also will impose new regulations on health insurance companies. Insurance companies will be prohibited from denying coverage to people for any reason, including their health status, and from charging people more based on their health status, gender, or occupation. The new rules will require that health plans (1) provide at least a minimum set of services, (2) cap annual out-of-pocket spending, and (3) impose no annual or lifetime limits on coverage.

The Congressional Budget Office (CBO) estimates that the AHCA Act will reduce the number of uninsured Americans by 36 million in 2019 at a net cost of \$894 billion over 10 years. According to the CBO, 21 million people will obtain coverage through the Insurance Exchange. In addition, 15 million more people will enroll in Medicaid, and 6 million will obtain health coverage through their employers.

PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPAC ACT)

After the AHCA Act passed in the House, the Senate introduced its own version of a health care bill in the PPAC Act. The PPAC Act was passed by the Senate on December 24, 2009.

The PPAC Act mandates that most U.S. citizens and legal residents have health insurance beginning in 2014. The PPAC Act will create state-based American Health Benefit Exchanges (the "Exchanges") through which individuals can purchase coverage. The Exchanges will be administered by a governmental agency or nonprofit organization.

Under the PPAC Act, states will create Exchanges where individuals can purchase insurance and separate exchanges for small employers to purchase insurance. Only U.S. citizens and legal immigrants will have access to the Exchanges, with the exception of incarcerated individuals. Small businesses with up to 100 employees also can purchase coverage through the Small Business Health Options Program Exchanges.

Premium subsidies will be provided to families with incomes between 100 percent and 400 percent of the federal poverty level (\$88,200 for a family of four in 2009) to help them purchase insurance through the Exchanges. These subsidies will limit the cost of the premium to 2.8 percent of income for those at 100 percent of the federal poverty level to 9.8 percent of income for those between 300 percent to 400 percent of the federal poverty level. Individuals will not be eligible to receive federal premium credits until both income and citizenship status have been verified.

The PPAC Act will ensure that federal premium or cost-sharing subsidies are not used to fund abortion if coverage extends beyond saving the life of the woman or in cases of rape or incest.

Those who do not have coverage will be required to pay an annual penalty of \$750 per person, up to a maximum of \$2,250 per family. The penalty will have a phase-in schedule: \$95 in 2014, \$350 in 2015, and \$750 in 2016. After 2016, the penalty will increase annually by the cost-of-living.

Those exempt from paying the penalty include individuals who (1) are suffering from financial hardship, (2) have religious objections, (3) are American Indians, (4) are undocumented immigrants and incarcerated individuals, (5) have been uninsured for less than 3 months, and (6) earn an income below the poverty level. Additionally, if the lowest cost health care plan exceeds 8 percent of a person's income, that person will be exempt from paying the penalty.

Under the PPAC Act, employers will pay a \$750 per full-time employee fee if:

1. they employ more than 50 employees and do not offer health coverage and
2. they employ more than 50 employees and have at least one full-time employee who receives a premium tax credit.

Employers with more than 50 employees that offer coverage—but employ at least one full-time employee receiving a tax credit also—will pay the lesser of \$3,000 for each employee receiving a credit or \$750 for each full-time employee.

Employers that impose a waiting period before employees can enroll in coverage will be required to pay \$400 for any full-time employee in a 30-to-60 day waiting period and \$600 for any employee in a 60-to-90 day waiting period. Employers with fewer than 50 employees will be exempt from these penalties.

Employers with more than 200 employees must automatically enroll their employees in health insurance plans offered by the employer. Employees may opt out of coverage.

Like the AHCA Act, the PPAC Act will expand Medicaid coverage, up to 133 percent of the federal poverty level (\$14,404 for an individual and \$29,327 for a family of four in 2009). The goal of this expansion is to create a uniform minimum Medicaid eligibility threshold across states and eliminate the current requirement that only adults with dependent children are allowed to enroll in Medicaid.

Eligibility for Medicaid and CHIP for children will continue at their current levels until 2019. People with incomes above 133 percent of the federal poverty level will obtain coverage through the state Exchanges.

The federal government will fund 100 percent of the Medicaid expansion for 2014 through 2016. In 2017, states and the federal government will share the cost. The federal government will increase the federal medical assistance percentage (FMAP) based on the following percentages for states that already cover adults with incomes above 100 percent of the federal poverty level: 30.3 percent in 2017 and 31.3

percent in 2018. For all other states, the percentage increase will be 34.3 percent in 2017 and 33.3 percent in 2018. In 2019, all states will receive a FMAP increase of 32.3 percent.

Similar to the AHCA Act, the PPAC Act will impose new regulations on health insurance companies and make it more difficult for them to deny coverage to people for any reason, including their health status. The PPAC Act also will prevent health insurance companies from charging people more based on their health status, gender or occupation.

The CBO estimates that the PPAC Act will reduce the number of uninsured Americans by 31 million in 2019 at a net cost of \$848 billion over 10 years. According to the CBO, an estimated 25 million people will obtain coverage through the state Exchanges. In addition, some 15 million more people will enroll in Medicaid. The number of people enrolled in an employer plan and individual coverage is estimated to decline by five million.

It is uncertain whether the PPAC Act will become law, especially after the victory of Republican Scott Brown in Massachusetts. In January 2010, Scott Brown won the Senate seat (replacing Democrat Ted Kennedy), thereby stripping the Democrats of the 60 votes needed in the Senate to pass the PPAC Act.

The federal government can still reform the U.S. health care system if the House passes the PPAC Act already approved by the Senate. Then, the House could pass a separate measure amending parts of the PPAC Act that it disliked through the budget reconciliation process. The other alternative is for the government to start from scratch, introducing new legislation in both the House and the Senate.

CONCLUSION

For many decades, American leaders have attempted to overhaul the health care system and have failed. In November 2009, the House of Representatives successfully passed the Affordable Health Care for America Act. If the Patient Protection and Affordable Care Act proposed by the Senate becomes law, this will signify the biggest expansion of health care coverage since Medicare was created more than 40 years ago.

While a new health care bill likely will result in an increase in taxes, the expected benefit will be health coverage for almost every American, deemed by many to represent a basic right to which every American is entitled.

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