

HOUSE PREPARES FOR HEALTH CARE REFORM VOTE

The House has released its proposed changes to the Senate health care reform bill and is moving towards a possible vote on the measure this Sunday. The vote is part of a much discussed and complicated process which will allow the President to sign the Senate bill into law and then have the Senate pass the House changes by a simple majority through the budget reconciliation process.

The House bill, the Health Care and Education Affordability Reconciliation Act of 2010 (H.R. 4872), serves as a Sidecar to the Senate's health care reform bill, the Patient Protection and Affordable Care Act, which was passed on December 24, 2009. It contains significant changes to the Senate reform bill as identified during the President's health reform summit and contained in his recent proposals. The Congressional Budget Office (CBO) has scored the cost of health care reform (Senate bill + Sidecar) around \$940 billion over ten years, and estimates that it will reduce the Federal deficit by some \$138 billion over that same time period. While the changes offered by the Sidecar are intended to soften objections to the Senate bill by House members, it is not clear going into the weekend that the Democratic leadership in the House has the votes for passage.

Key Provisions under the Sidecar Bill

The original House health care reform measure differed from the Senate passed version in several important respects. It offered a public plan option, provided greater subsidies for individuals, gave access to health care to more people and sought more direct funding from taxes on the wealthy. It was also more expensive. While the public plan option did not survive, many of the changes in the Sidecar bill are aimed at modifying the Senate bill to bring it more in line with the bill passed by the House.

These changes include:

- A reduction of the penalties imposed on individuals who do not purchase health insurance coverage – from \$750 to \$695 annually, when fully phased in by 2016;
- A significant increase in the employer penalty (from \$750 to \$2,000 per full-time employee) if an employer with 50 or more employees does not provide health insurance coverage and an employee receives a government subsidy to buy coverage. Employers subject to this requirement are permitted to subtract the first 30 employees for purposes of this calculation;
- An exclusion from gross income for employer-provided health coverage for adult children up to age 26;

- An increase in premium subsidies and cost-sharing credits for lower income individuals purchasing coverage;
- An increase of the threshold for the application of the Cadillac Tax on high cost plans to \$10,200/single and \$27,500/family and a delay in the effective date to January 1, 2018;
- A delay in the implementation of a \$2,500 health FSA cap until January 1, 2013;
- A new Medicare tax on investment income on high-income individuals;
- Provisions to close the Medicare Part D “donut hole”, including an immediate \$250 rebate; and
- Elimination of some, but not all, of the special deals offered to certain states in regard to the costs of Medicaid expansion – but with concessions to all of the states that will soften the increased cost. The so-called “Cornhusker Kickback” for Nebraska has been removed, but other special deals remain.

Interestingly, the Sidecar bill did not contain a highly touted provision that would provide Federal oversight of insurer rating practices. While this idea was supported by the President and Democratic leaders, it is believed to have been removed from the final bill because it dealt with issues outside the scope of budgetary matters and may not have been approved under the Senate’s rules.

Next Steps to Enacting Health Care Reform Legislation

The goal of the Democratic leadership is to pass the Sidecar bill in the House and move it through the Senate under the Senate’s budget reconciliation rules. Under those rules, there is limited debate and the bill can be passed with a simple majority and cannot be subject to filibuster. It appears, however, that the House must pass the Senate bill in order to accomplish passage of the Sidecar bill in the Senate, since budget reconciliation in the Senate apparently requires changes to an already enacted law.

This technicality has given rise to consideration of some interesting procedural tactics in the House. Many House members are concerned about voting in favor of the Senate bill as they have issues with some key provisions (cost increases, lack of a public plan, abortion language) and are concerned about the political ramifications as they head into the mid-term elections. The House is therefore considering a procedure called “deeming”, where, by voting to pass the Sidecar bill as a budget measure, the House will have “deemed” the Senate health care reform bill passed.

This procedure will then allow the Senate bill to be sent to the President for signature and signed into law. The Sidecar will then be sent to the Senate as a budget reconciliation measure that can be passed with limited debate and by a simple majority. Republicans are sure to oppose the reconciliation attempt and utilize whatever procedural measures they can to alter or block the Sidecar bill. If there are changes, the bill will have to go back to the House for further consideration.

Some House members are concerned with the process because a delay in the passage of the Sidecar bill will leave the Senate bill as the law of the land.

We are closely monitoring developments and will keep you posted as information develops.

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