



Health Care Reform: Final Chapter and Epilogue



Timeline - 2009



- In May, Obama brokers deal with healthcare industry to cut \$2 trillion in spending over a decade.
- AMA and others, which historically opposed reform, indicates in June that it will back legislation.
- In July, House Democrats unveil their reform proposal, called America's Affordable Health Choices Act. The measure—estimated to cost \$871 billion—is soon approved by Democrats on three House committees. Approved on party-line votes.
- Congress adjourns for August recess and anti-reform protesters flock to lawmakers' "town hall" constituent meetings.
- Obama addresses a joint session of Congress in September to argue in favor of reform. He tells lawmakers: "I am not the first president to take up this cause, but I am determined to be the last." He denounces what he terms a "partisan spectacle" and "scare tactics."
- In October, the CBO estimates the \$829 billion Senate Finance bill would meet spending targets. The committee approves the legislation, with one Republican's, Olympia Snowe of Maine, support.

Timeline - 2009



- Later in October, House Democrats unveil a compromise \$894 billion reform package with provide additional coverage by expanding Medicaid and offering subsidies to moderate-income Americans to buy insurance. House narrowly passes with a vote of 220-215 (only one Republican joining Democrats).
- Senate Majority Leader Harry Reid unveils a 10-year, \$848 billion overhaul package that melds components of two previously approved Senate bills.
- The Senate in late November votes 60-39 along party lines to begin debate on the bill.
- Senior Senate Democrats reach a deal to drop the government-run insurance plan from their reform package. Instead, people 55 and older would be permitted to buy into Medicare. That deal is torpedoed when Sen. Lieberman threatens to filibuster any legislation with a Medicare expansion.
- The Senate rejects Republican filibuster attempts and 60 Democrats vote to approve that chamber's health reform package on Christmas Eve. The vote marks the first time in history that both chambers of Congress had approved comprehensive health reform legislation.



Timeline - 2010

- Republican Scott Brown on Jan. 19 wins the special election in Massachusetts to fill Kennedy's long-held seat. The victory sends shock waves through the ranks of Democratic lawmakers
 - Deprives them of the 60th vote needed to break Senate filibusters.
- Obama on Jan. 27 again touts healthcare reform in his State of the Union address.
- Anthem Blue Cross, a unit of WellPoint, tells subscribers on Feb. 13 that it intends to raise premiums for individual insurance plans by an average of 25%.
- The Obama administration on Feb. 22 issues its own reform proposal, which mirrors the Senate-approved package with some changes designed to appeal to House Democrats.



Timeline - 2010

- Obama hosts a bipartisan televised healthcare summit on Feb. 25.
- On March 20 final debate on the reform legislation opens in the House. Obama comes to Capitol Hill to encourage skittish House lawmakers to vote for the bills. Quoting Abraham Lincoln, who said, “I am not bound to win, but I am bound to be true. I am not bound to succeed, but I am bound to live by the light that I have.”
- Tensions soar on March 21 as the House nears final votes on two pieces of legislation to enact reform. Protesters outside the Capitol taunt members of Congress. A small group of anti-abortion Democrats win a statement from the White House affirming that no public money under the reform bill will be used to fund abortions. The House finally votes on the bill passed by the Senate and a second bill to make corrections in the Senate measure. Both pass narrowly, with no Republican support.
- March 23, Obama signs the Senate bill into law during a White House ceremony.





House Passes Health Reform

- House passes Senate bill in exact form
(219-212) (34 Ds Vote No)
- House then passes Reconciliation Package
("corrections" bill) (220-211) (33 Ds Vote No)
- Did not use controversial "deem and pass"
procedure



One Last Step - Reconciliation

- Majority Leader Reid overcomes procedural hurdles on reconciliation bill.
- March bill passes 56-43, with no Republican support.
- Senators cast their votes standing individually at their desks, a ceremonial gesture reserved for historic occasions.
- Three Democrats opposed the measure: Senators Blanche Lincoln and Mark Pryor of Arkansas and Ben Nelson of Nebraska. Senator Johnny Isakson, Republican of Georgia, was ill and did not vote.
- Moment of silence was offered in tribute to Senator Kennedy.
- Power of the Parliamentarian: bill did have to be sent back for one final vote in the House. (Technical Correction)



New Law of the Land

- Both health reform bills signed by President and become law. (March 21 and March 30)
 - HR 3590 (Senate Bill) – **Public Law 111-148**
 - HR 4872 (House Reconciliation Package) - **Public Law 111-152**





Health Care Reform: Epilogue





Insurance Mandate: Constitutional?

- Some state attorney generals file suit claiming mandate is unconstitutional.
 - 15 state attorneys general filed suit against federal government.
 - Claims health care overhaul is unconstitutional because federal government does not have constitutional authority to mandate coverage
 - Additionally claims it mandates unfunded requirements on states.



Insurance Mandate: Constitutional?



- 10th Amendment – “powers not delegated to the United States by the Constitution...are reserved to the states respectively, or to the people.”
- 14th Amendment – Commerce Clause, grants authority to regulates interstate commerce has been enshrined in court decisions since New Deal and broadly interpreted.
- Likely to be decided by Supreme Court.





“Louisiana Purchase”

- Sen. Landrieu
 - Medicaid to Louisiana
 - In wake of the economic surge after Hurricane Katrina, LA was faced with inaccurately reduced Medicaid payments.
 - Therefore, original Senate bill included extra federal Medicaid funding to LA
 - Grouped in with “Cornhusker Kickback” by media, talk show hosts, etc.



Reconciliation Changes



Help to States for Medicaid Costs Added as Part of Reconciliation

- Requires that Medicaid payment rates to primary care physicians for providing primary care services be no less than 100% of Medicare payment rates in 2013 and 2014.
- 100% reimbursement for Medicaid for 2014, 2015 and 2016.

Reconciliation Changes



The Medicare Blue Dog Deal - \$800 million for doctors and hospitals:

- \$400 million in FY2010 and FY2011 for doctor payments under the practice expense GPCI
 - Changed the original Senate Language (Sen. Grassley's amendment)
- \$400 million secured to address geographic disparities for PPS hospitals in the lowest quartile of reimbursement.
 - FY2011 – \$200 million for hospitals
 - FY2012 – \$200 million for hospitals



Reconciliation Changes

- **340B Drug Program**
 - Expanded program availability to Critical Access Hospitals, Sole Community Hospitals, Rural Referral Centers
 - Original expansion was to inpatient (has always only been available for outpatient drugs) but Reconciliation changed **availability to outpatient drugs only.**



Now, on to the Bill





Specific Provisions

Coverage

- No Pre-Existing Conditions
- Insurance Mandate
- Insurance Exchanges for Uninsured
 - State Run (With opt-out provision)
 - Final bill went with Senate version
 - House version would have set up national exchange
- CO-OPs (Consumer Operated and Oriented Plans)
- Tax Credits to small employers
 - Up to 50 employees, though tiered
 - U.S. Chamber of Commerce Disagrees – “Will do little to help small firms” (Mostly talking about those with 25-50 employees)



Specific Provisions

• Medicare

- 10 Percent Bonus to Primary Care Physicians
- 10 Percent Bonus to General Surgeons Performing Major Surgeries in HPSAs
- One-Year 5 Percent Bonus to Mental Health Physicians
- Geographic Practice Cost Index (GPCI) Adjustment
- Center for Medicare and Medicaid Innovation
- Rural Medicare “Extenders”
 - Work GPCI 1.0 Floor for Rural Physician Payments
 - Outpatient Hospital Hold Harmless
 - Treatment of Certain Technical Component Physician Pathology Services
 - Section 508 Hospital Payments
 - Two Year Extension of “Super Rural” Bonus Payment for Ambulance Services
 - Three Percent Bonus Payment for Ambulance Trips in Rural Areas
 - Medicare Rural Home Health Add-On



Specific Provisions

Medicaid

- Covers up to 133 percent of federal poverty level (Currently \$29,000 for family of four)
- States must expand Medicaid to include childless adults starting in 2014
- Federal Government pays 100 % of costs for covering newly eligible Medicaid recipients through 2016. (Reconciliation Package)
- No illegal immigrant eligibility



Specific Provisions

- **Hospital Provisions**
 - CAHs
 - CAH Technical Correction for Method II Payments
 - Allows 101 percent reimbursement for qualified services regardless of billing method
 - Extension of Medicare Rural Hospital Flex Program
 - Value Based Purchasing (See Quality Provisions)
 - Bundled Payments Demonstration Project



Specific Provisions

- Quality
 - Value Based Purchasing
 - Pilot Project for CAHs
 - Accountable Care Organizations
 - Payment Bundling Program



Specific Provisions

- **Independent Payment Advisory Board (IPAB)**
 - Though not originally supported by NRHA (citing traditional under-representation on MedPAC), a few positive rural changes:
 - HRSA director must be on board
 - Hospitals carved-out of authority to implement recommendations
 - Possible technical error excluding CAHs from carve-out, but confident Congress will make change



Specific Provisions

Tax Provisions

- Health insurance sector fees
- Pharmaceutical sector manufacturing fees
- Medical device “industry fees”
- Excise tax on “Cadillac Plans” (2018)
 - High-cost plans offered to high earning employees
- Medicare payroll tax on investment income



Specific Provisions

Tax Provisions

- Closes loophole for bio-fuel production
- And probably most importantly... 10 percent tax on amount paid for indoor tanning services...





Tax Fight

- American Benefits Council (representing 300 large corporations, e.g., AT&T, Caterpillar, John Deere) seek repeal of provisions that increases their tax burden.
- MMA established subsidy and tax deduction for companies who offered drug benefits to retirees. HCR reduces deduction.

HCR Immediate Changes 2010



HCR “front-loaded” so popular provisions start right away

- **High risk pools (3 months); \$5 billion funded**
- **Dependent Coverage for children up to 26**
- **Children with pre-existing conditions (6 months)**
- **Caps on coverage eliminated**
- **Preventive care benefits (6 months)**
- **\$250 for seniors in prescription “donut hole.”**
- **5% Bonus for mental health physicians**
- **GPCI Adjustments (Practice Component)**
- **Center for Medicare and Medicaid Innovation**
 - **Dual-Eligibles**
- **Rural Medicare extenders (Includes GPCI Work Component)**
- **Bans New physician-owned hospitals**

HCR Immediate Changes 2010



Workforce

- Establish Workforce Advisory Committee
 - Develop “National Workforce Strategy”
- Increase workforce supply and training of other health professionals through new scholarships and loans
- Establish Teaching Health Centers

HCR Implementation 2011 and beyond



2011

- 10 % bonus Medicare payments to primary care docs
- Reduce annual market basket updates (See IPPS hospital proposed rule below)
- Medicare bonus to low-spending counties (Reconciliation change mentioned above)

2012

- Hospital VBP Program (CAHs excluded)
- Bonus payments to high-quality MA Plans
- Reduce MA rebates
- HHS Secretary recommendations on bundling program for CAHs and small rural hospitals

HCR Implementation 2011 and beyond



2013

- CO-Ops Implemented
- Beginning of payment bundling program
- Increase Medicaid payments to primary care doctors for 2013 and 2014 (100 percent federal)
- Increase Medicare Part A tax on individuals earning over \$200,000 and married couples earning over \$250,000
- Medical device excise tax imposed (2.3 percent)

2014

- Insurance Mandate Begins
- Taxes imposed on employers not offering coverage
- State-Based Health Benefit Exchanges and Small Business Health Options Program (SHOP)
- Reduce out-of-pocket limits on individuals with up to 400 percent of FPL (tiered)
- Limit waiting periods for coverage to 90 days
- IPAB established
- Reduction of Medicare and Medicaid DSH payments (in coordination with drop in uninsured rates)
- Expansion of Medicaid

NRHA HCR Summaries



- **Implementation Timeline**
- **Independent Payment Advisory Board (Medicare Commission)**
- **Research Requirements**
- **Medicare**
- **Medicaid**
- **Workforce Commission**
- **Workforce Components**
- **Hospitals**
- **CHCs**
- **RHCs**
- **Disparities/Minority**
- **Pharmacy**
- **HIT**
- **Mental Health**
- **Preventive Care**
- **Ambulance/EMT**
- **Frontier**
- **Oral Health**
- **Coverage Components**
- **Grants**
- **Quality**

Moving Forward: What was left out?



Short answer...a lot

Long Answer...

- CAH HIT Fix (ARRA)
- 340B for RHCs
- 340B expansion to inpatient drugs
- Continued support for State Offices of Rural Health
- Reinstate "Necessary Provider" for CAH status
- CAH Bed Flexibility
- RHC Payment Cap Increase
- Improve Rural Workforce Development
- Ensure Rural Access to Anesthesia Services
- Eliminate CAH "Isolation Test" for Ambulance Reimbursement
- Ensure Rural Representation on MedPAC and newly created similar Commissions (IPAB, HIT Policy Committee, etc.)
- Implement an Occupational Safety Program for Agricultural Workers
- Protect Access to Care for the Most Geographically Remote Americans
- And many more...

Other than Health Reform?



EHR/Meaningful Use

- “The next big thing”
- First stage requirements begin this year
- Must include rural protections/considerations
- NRHA still fighting!
- NRHA Comments to CMS available online
(<http://www.ruralhealthweb.org/go/left/policy-and-advocacy/regulatory-affairs-updates>)



Other than Health Reform?

Regulations

- CMS Inpatient Prospective Payment System (IPPS) proposed rule for Acute and LTC Hospitals released last week
 - -0.1% update for hospital wage index payments (per health reform bill requirements)
 - Fixes Certified Registered Nurse Anesthetist (CRNA) reimbursement issue after 2004 hospital reclassifications
 - CAHs electing Method II (or Optional Method) payments now will not have to reapply every year



NRHA 2010

- NRHA Annual Conference - Health Reform Workshop.
- May 18, 10 – 4 p.m., Savannah Georgia
- Registration - - online
- Check out our website:

<http://www.ruralhealthweb.org/>

Continue Strong Grassroots Message



- Rural America needs health insurance reform. We need reform to be done correctly.
- Health reform contains important building blocks to help resolve the access to care crisis in rural America.



Continue Strong Grassroots Message

- Health Reform Monthly calls
 - regulatory process critical
 - Appointments for Workforce Advisory Committee
 - Appointments for IPAB
 - Grant opportunities
 - Provider shortage opportunities
- Fight for what's left out!
 - Specialized task force for rural hospitals
 - Specialized task force for RHCs
 - Democratic Rural Summit, April
- Our grassroots link must continue

Continue Strong Grassroots Message



Sign up for monthly grassroots calls:

- Please join the NRHA rapid response grassroots team by sending a blank e-mail to: join-grassroots@lists.wisc.edu.
- You will then receive an activation e-mail. Encourage others to join as well!



Last but not least...

GO SAINTS!

(Pause for audience cheers and adoration)





THANK YOU!

Danny Fernandez

Manager, Government Affairs and Public Policy

National Rural Health Association

1108 K St. NW, 2nd Floor

Washington DC 20005

fernandez@nrharural.org

202-639-0550