

NEWSSTAND

Healthcare Update: Last Week in D.C.: The Healthcare Reform Debate

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After another week of fine tuning and vote counting, House leaders released the final text of their healthcare bill on Thursday, in addition to official cost estimates from the Congressional Budget Office (CBO). These steps set the wheels in motion for a weekend vote on the measure, and after a frenzied race to secure the necessary 216 votes for passage, the House approved its final healthcare reform efforts in a historic Sunday night vote.

FINAL BILL UNVEILED:

Democrats introduced their reconciliation bill (H.R. 4872) on Thursday, following a week-long flurry of activity to tweak and finalize its provisions. As previously discussed, the reconciliation process gives the House the opportunity to make changes to the Senate-passed healthcare reform bill (H.R. 3590), without having to send H.R. 3590 back to the Senate for another vote – something Democratic leaders have needed to avoid now that they no longer hold the 60 vote supermajority needed to avoid a Republican led filibuster.

The CBO estimates that the legislation will cost \$940 billion over 10 years, and will reduce the deficit by \$138 billion during that same time period, and by an astonishing \$1.2 trillion during the second decade. H.R. 4872 is expected to extend health insurance coverage to approximately 32 million individuals, amounting to coverage of up to 95 percent of the population.

As expected, the reconciliation measure strikes controversial Medicaid provisions in the Senate bill that would provide special treatment for individual states such as Nebraska, and would provide enhanced federal Medicaid payments to all states – including additional aid to states that have already expanded their coverage. H.R. 4872 also takes steps to close the so-called “donut hole” in the Medicare prescription drug benefit, and would mitigate the impact of the Senate bill’s excise tax on high-cost “Cadillac” health insurance plans.

Unrelated to health insurance, the reconciliation bill makes changes to the federal student loan program – a step that was also included in the Fiscal Year 2010 budget instructions that allowed for healthcare reform to be approved in this manner.

HOUSE APPROVES FINAL LEGISLATION:

Following the release of H.R. 4872, House leaders ramped up their efforts to secure the 216 votes necessary for passage of the reconciliation legislation. Democrats steadily picked up

support throughout the week, but suffered setbacks as well, as several Representatives announced their opposition to the bill after having voted for the House's initial healthcare reform efforts last fall.

Heading into the weekend, House Speaker Nancy Pelosi (D-CA) remained a handful of votes shy of victory, and President Obama again delayed his upcoming trip overseas in order to be in Washington, DC during the critical final hours leading up to the planned vote on H.R. 4872. Together, House leaders and the President worked in tandem to secure the final votes needed to push healthcare reform across the finish line.

Most notably, top Democrats spent time negotiating with the group of anti-abortion Members who voted in favor of the original House bill but who opposed the Senate bill due to its less robust abortion language. After early weekend talks appeared to end in a stalemate, the needed breakthrough was reached on Sunday when Congressman Bart Stupak (D-MI) – the anti-abortion block's leader – announced that his group would support the final healthcare reform bills after President Obama agreed to issue an Executive Order explicitly ensuring that no taxpayer dollars would be used to fund abortions. This agreement gave healthcare reform its winning margin, as the House teed up both H.R. 3590 and H.R. 4872 for votes later that evening.

The hours leading up to Sunday's landmark votes were filled with dramatic moments both in the House chamber and on the Capitol grounds. However, the House approved the Senate-passed healthcare bill just before 11:00 p.m. on Sunday evening by vote of 219-212, with 34 Democrats joining all 178 Republicans in opposition of the measure. Shortly thereafter, the House passed the package of fixes to the Senate bill – H.R. 4872 – by a similar vote of 220-211, with 33 Democrats joining the minority party in opposition.

NEXT STEPS:

Immediately following the House vote to approve the Senate's healthcare bill, H.R. 3590 was sent to President Obama's desk to be signed into law. Upon passage of the reconciliation legislation, H.R. 4872 was sent to the Senate for consideration, where it is protected from a filibuster and needs only a simple majority to pass, and where the Democratic majority has vowed to approve the bill expeditiously. Senate Republicans have made known they will try to use the complex procedural rules surrounding the reconciliation process to attempt to pare back or kill the legislation, but it is largely expected that such efforts will be dilatory at best and that the Senate will approve H.R. 4872 as early as this week, bringing Congress' year-plus quest to enact healthcare reform to a close.

The Healthcare Reform Legislation ultimately adopted may affect many segments of the healthcare industry, including providers and suppliers, insurers, educational institutions, pharmaceutical and medical device companies, as well as employers and other constituencies within the healthcare industry at large. We will be releasing further advisories addressing the impact of the legislation on specific practice areas and industries when it becomes final.

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Should you have any questions on the content of this advisory, or wish to discuss any other healthcare related issue, please contact those listed below or call the Edwards Angell Palmer & Dodge LLP attorney responsible for your affairs.

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