

NEWSSTAND

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

March 1, 2010

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The White House released its own healthcare reform bill last week, in preparation for Thursday's marathon healthcare summit. Despite its bipartisan billing, that six hour session did not yield tangible progress, leaving Democrats exactly where they were before the summit – faced with the question of how to move comprehensive healthcare reform forward without any help from the minority party.

WHITE HOUSE HEALTHCARE BILL:

As expected, the legislative language released by the White House last week largely resembles the healthcare bill passed by the Senate on Christmas Eve (H.R. 3590), with notable exceptions aimed at appeasing the House. Such key changes include the following:

- The bill eliminates the Nebraska Medicaid provision (the infamous "Cornhusker Kickback") and provides additional federal funding to all states for the expansion of Medicaid programs;
- It closes the Medicare prescription drug "donut hole" gap in coverage;
- It increases the Senate bill's affordability provisions by increasing federal assistance levels for low and middle income individuals and families;
- The bill includes more stringent provisions to fight fraud, waste, and abuse in Medicare and Medicaid;
- It raises the threshold for the excise tax on the most expensive health plans (the so-called "Cadillac" plans) from \$23,000 for a family plan to \$27,500 and starting it in 2018 for all plans -- mirroring an agreement struck with labor unions before conference negotiations broke down following the Massachusetts special election in January; and
- The White House bill ramps up insurance protections and creates a new Health Insurance Rate Authority that would provide federal oversight and assistance to states in conducting reviews of seemingly unfair insurance plan practices such as exorbitant rate increases.

The legislation's price tag is \$950 billion over 10 years – more than the Senate bill and more than the \$900 billion limit that President Obama originally set for Congress in 2009. The White House stated that the changes mentioned above would cost about \$75 billion, and in order to pay for these increases and make sure the legislation is fully offset, the President's bill contains revenue provisions such as raising the Medicare payroll for higher-earning individuals and families, and increasing a new fee aimed at brand-name pharmaceutical companies.

BIPARTISAN HEALTHCARE SUMMIT:

It was all politics, not policy, as President Obama kicked off his bipartisan healthcare summit on February 25 with a plea to attendees to not to let the day's discussion devolve into partisan bickering. But partisanship was already evident minutes later when Senate Republican Conference Chairman Lamar Alexander (R-TN), warned Democrats in his introductory remarks that it would not be "appropriate" if they were to try to use reconciliation to push their healthcare bill through the Senate.

This tone and similar moments of terse exchanges continued throughout the day, as the group of 40 Republicans and Democrats from the Senate and House joined with key Administration members at Blair House – located across the street from the White House – to hash out the policies surrounding healthcare reform efforts. The discussion and debate largely revolved around the healthcare policy talking points that both parties have been using for months, and even included a heated exchange between the President and his former campaign rival, Senator John McCain (R-AZ), that brought up old campaign politics and ended with sharp words from the President when he said "We're not campaigning anymore. The election is over."

The White House structured the six hour summit to focus on four issues – controlling costs, overhauling insurance regulations, reducing the deficit and expanding health coverage. Should participants prove unable to bridge their differences, the President said, it would be necessary to "proceed from there." While the White House and Congressional leaders would not focus on strategy during the summit, the President's statement was a sign that decisions on how to proceed – namely, whether to use the complicated budget reconciliation process – will be made in the near future.

The summit ended without any new progress or agreements between the two parties, but the day-long session did appear to give new momentum to Democrats as they seek to move forward on their long-stalled promise to deliver a comprehensive healthcare reform bill to the President's desk this year.

NEXT STEPS:

No timelines were officially set during Thursday's summit, but the White House and Congressional leaders appear ready to make strategic decisions on a path forward in coming days and weeks. In fact, the White House announced on Friday that President Obama would announce a plan this week for completing action on healthcare reform legislation, complete with detailed next steps in the process.

This announcement, coupled with House and Senate leaders' vows to continue taking their party's temperature on moving a final healthcare proposal through Congress by using the controversial budget reconciliation process – which will allow for Senate passage with only 51 votes, as opposed to the 60 votes needed under normal circumstances – is a clear indication that Democrats' end game strategy is beginning to take shape.

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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