NEWSSTAND

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

November 23, 2009 Leslie J. Levinson, Edward Eynon

Healthcare reform efforts headed into another weekend showdown, as the Senate kicked-off consideration of its legislation with a key procedural vote on Saturday evening. The timing of that vote was solidified once Democratic leaders released their merged healthcare reform bill last Wednesday – ending weeks of negotiations and speculation over what shape the bill would take.

SENATE HEALTHCARE BILL SURVIVES FIRST PROCEDURAL TEST:

On Thursday, Senate Majority Leader Harry Reid (D-NV) officially set the wheels in motion by filing for cloture on the bill he will use as a vehicle for healthcare reform. This marked the procedural step that allowed the Senate to vote on a motion to proceed on its healthcare reform debate – a vote that occurred at 8:00 p.m. on Saturday evening and required 60 votes to pass.

Majority Leader Reid and his fellow Democratic leaders spent the week securing all 60 members of their caucus, given the correct assumption that all 40 Republicans would vote against the measure. By the end of the week, all indications pointed to the Majority Leader being on the verge of securing the necessary votes, even though serious policy concerns remained among moderate Democrats over specific provisions of the legislation, such as abortion language and the government-run public insurance option.

On Friday, one of the moderate hold-outs – Senator Ben Nelson (D-NE) – announced that he would vote in favor of the motion to proceed despite his misgivings, explaining that Saturday's vote is "only to begin debate and an opportunity to make improvements. If you don't like a bill why block your own opportunity to amend it?" Eventually, that rationale was also employed by the two other moderates who had yet to commit their support to the vote on the motion to proceed – Senator Mary Landrieu (D-LA) and Senator Blanche Lincoln (D-AR) – and gave Majority Leader Reid the 60 votes he needed.

The procedural vote to begin debate on the Senate healthcare reform bill passed by a party-line tally of 60-39 on Saturday evening. Senator George Voinovich (R-OH), who is retiring, was the only Senator not to vote on the measure.

SENATE BILL HIGHLIGHTS:

Unveiled by Majority Leader Reid on Wednesday, the Senate healthcare reform bill is estimated by the Congressional Budget Office (CBO) to cost \$849 billion over 10 years, and would provide insurance to 94 percent of the population (an additional 31 million individuals). The legislation

includes the controversial government-run insurance option to compete with private insurers, with a provision to allow states to opt out of the public program. It also would increase Medicaid eligibility to include those with incomes below 133 percent of the federal poverty level.

The reforms contained in the massive, 2,000+ page bill would be paid for in part by tax increases, including a surtax on high cost, so-called "Cadillac" health insurance plans, as well as an increase to the Medicare payroll tax for individuals earning more than \$200,000 (\$250,000 for couples). In addition, more than \$400 billion in cuts to the Medicare program would also be used to pay for the legislation.

The bill also contains provisions to prevent federal funding from being used to pay for abortions, though these restrictions are viewed by pro-life Senators as being weaker than the tough antiabortion language that was added to the House-passed healthcare reform bill.

NEXT STEPS:

Congress is in recess this week for the Thanksgiving holiday. Action on healthcare reform will continue when the Senate returns to session the week of November 30. At that time, debate on the legislation will resume in earnest, as Senators begin offering a slew of amendments that are expected to consume considerable floor time in December. Senate Democrats still hope to complete consideration of their healthcare reform bill before Christmas, but it remains unclear whether that goal will be met, particularly given that several moderate and independent Democrats have indicated that they may vote with Republicans to filibuster a final bill should specific changes not be made.

Due to the congressional recess, our next weekly update will be published on Monday, December 7, 2009.

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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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