

November 6, 2009

To: HBMA Membership
From: HBMA GR Committee
Re: Healthcare Reform (HCR) Update – 11/6/09

Given the rapidly changing nature of the healthcare reform debate, the HBMA leadership felt that more frequent communications on the status of healthcare reform to the membership would be helpful to you and your clients. Therefore we will produce periodic updates to help you keep abreast of developments in Washington.

HCR Developments Week of November 2nd

House of Representatives

The week began with pronouncements by the Democratic Leadership in the House of Representatives that a vote on final passage of healthcare reform legislation was at hand.

Late last week, House Speaker Nancy Pelosi released new healthcare [reform](#) legislation H.R. 3962, the Affordable Health Care for America Act which would be brought before the House for debate and vote. The Congressional Budget Office ([CBO](#)) has estimated that the legislation will cost approximately \$1.2 Trillion dollars over the next 10 years although due to revenue increases and spending cuts in Medicare, the net impact on the total federal budget deficit would be relatively small. In addition, the CBO estimates that if the House bill is enacted, approximately 96% of all Americans will have health insurance by the end of the 10 year window. Currently, approximately 83% of all Americans have health insurance coverage.

As the week unfolded, it became increasingly clear that despite the early optimism, the House leadership did not have the 218 votes needed to pass H.R. 3962. A vote by Friday, November 6 became a vote on Saturday morning, November 7th, became a vote on Saturday evening and as this is being written; it is possible the vote will not occur until next week.

Publicly, the House Leadership is maintaining that the last remaining stumbling blocks to securing the votes necessary to pass H.R. 3962 are issues involving abortion and illegal immigrants. Privately, many Members appear to be expressing concerns about the size and scope of the bill. It is being speculated that some moderate Democrats who expressed a willingness to vote for the House bill (which includes a so-called public option) as recently as last week, may be more reluctant to cast that vote in light of the outcome of Tuesday's gubernatorial elections in New Jersey and Virginia.

Regardless of the reason, as of Friday afternoon, November 6th, there are not 218 votes in favor of H.R. 3962.

AMA and AARP Endorse H.R. 3962

The American Medical Association and the AARP both announced on Thursday, November 5 that they supported H.R. 3962. In the case of the AMA, the endorsement was linked to Congress passing separate legislation permanently addressing the Sustainable Growth Rate formula problem. Ironically, the AMA's formal endorsement occurred just days before the AMA's mid-year meeting in Houston, Texas. A resolution has been introduced in the House of Delegates to rescind the AMA's endorsement. The resolution has been sponsored by:

Alabama Delegation
Arkansas Delegation
Georgia Delegation
New Jersey Delegation
South Carolina Delegation
American Academy of Facial Plastic and Reconstructive Surgery
American Association of Neurological Surgeons
Congress of Neurological Surgeons
American Society of General Surgeons
Trilogical Society

It will be interesting to see if the AMA's House of Delegates shares the opinion of the Board or forces some change in the public stance of the organization relative to healthcare reform.

Senate

Two Senate Committees have passed healthcare reform bills. The Senate [HELP](#) Committee bill, S. 1679 and the Senate [Finance](#) Committee bill, S. 1796. Senate Majority Leader Harry Reid (D-NV) is in the process of melding those two bills into a single piece of legislation that he can take to the floor of the Senate for debate and vote.

During the week of October 26th, Senator Reid announced that he and a small group of key advisors had blended the two Committee passed bills into a single measure and sent the new proposal to the Congressional Budget Office for review and analysis. The Congressional Budget Office has indicated that it will take several more days for them to complete their review. A copy of the Reid proposal has not been released to the public although the majority leader has announced that the legislation includes a public option with a state "opt-out" provision.

Just a few weeks ago, Senator Reid indicated his goal was to have healthcare reform legislation on the Senate floor and voted on by Thanksgiving. More recently, Senator Reid has suggested that it is more likely that the Senate will not be able to vote on healthcare reform until early to mid-December.

Long-term Congressional Prospects

Presuming that each house is able to pass healthcare reform legislation, the two versions must be blended into a single bill which can then be taken back to each chamber for debate and vote.

Although we don't know what the Reid proposal will look like and how it will compare to H.R. 3962, early indications – based upon the HELP and Finance bills – are that there will be significant differences between the House approach to healthcare reform and the Senate approach to healthcare reform. As a consequence of these expected differences, most observers expect that the process of merging the House and Senate bills into a single piece of legislation will take a considerable amount of time.

Do not be surprised if healthcare reform votes slip into early 2010. If that is the case, the politics of passing healthcare reform legislation could become more complicated as reluctant Members become hesitant to pass major reform legislation in an election year.

What about the SGR fix?

The House of Representatives had originally included language fixing the SGR formula problem into the healthcare reform bill. However, once the Congressional Budget Office announced that the fix proposed by the House would increase the deficit by nearly \$250 Billion, the language was removed from the House HCR bill. The AMA had predicated its original endorsement of the House healthcare reform bill on the fact that the bill included a permanent fix to the SGR problem. Once the two issues were separated, the AMA's support became tenuous.

The Senate had previously attempted to separate the SGR issue from healthcare reform and failed in the attempt. Majority Leader Reid was unable to get a simple majority of Senators to support a motion to proceed to consideration of SGR fix legislation. The primary objection to addressing the issue separately was the failure of the stand-alone SGR bill to provide a mechanism to pay for the fix. If Congress were to pass legislation fixing the SGR problem without providing a means to pay for the fix, the effect would be to add \$210 - \$240 Billion to the deficit over the next 10 years.

The latest SGR strategy is to continue to keep the issue separate from healthcare reform. However, at some point there will be an attempt to link the two issues back together. It appears that the AMA has agreed to accept this promise of de-linkage followed by re-linkage but there are no guarantees that once the two issues are separated, they can be put back together again.

It remains likely that Congress will take the steps necessary to "fix" the SGR problem. The question that remains unanswered is whether the "fix" will be temporary (i.e. one – two years) or permanent. Given the fiscal constraints of fixing the SGR problem permanently, a temporary fix seems far more likely than a permanent fix.