

This Week in Health Reform: Jan. 7, 2010

While still technically in recess, Members of Congress returned to Washington D.C. this week to get a jump start on reconciling the health care reform bills passed by the House and Senate last year. On Tuesday, [Democratic leaders](#) began conversations regarding the final package, pledging to overcome differences, and aiming to have a [bill on the President's desk](#) by the time of his State of the Union Address in early February. Members of the news media, however, have highlighted the difficult negotiations ahead given some major differences in the proposed packages and the time pressure being imposed by President Obama.

We continue to encourage you and others to engage Members of Congress during this debate by visiting the [Health Action Network](#).

### **Health Reform Negotiations:**

***Senate Passes Reform Bill:*** At 7:05 a.m. on Christmas Eve, Senate Majority Leader Harry Reid, D-Nev., along with 59 other Senate members, voted to [pass](#) reform legislation that would expand health coverage to approximately 31 million people at a cost of \$871 billion over 10 years, according to the Congressional Budget Office (CBO). The bill passed on party-lines ([60-39](#)), without a single Republican vote. Republicans believe the bill would impose many regulatory and financial burdens on taxpayers and businesses and would swell government debt.

***Reconciliation Poses Difficult Road Ahead:*** Before lawmakers can present a final health care reform bill to President Obama, the approved Senate bill needs to be [merged](#) with the House version passed in Nov. 2009, which extends coverage to 36 million Americans for a cost of about \$1 trillion. However, [the bills](#) have some [major differences](#) that will need to be [addressed](#) as lawmakers shape the final package, including:

- *Insurance market reform and Exchanges* – Both bills would bar insurers from denying coverage to those with pre-existing conditions and from dropping coverage for those who get sick. They both would also create insurance exchanges that would allow small businesses and individuals to shop for insurance. However, the Senate bill would create state-based exchanges, whereas the House bill would create a national exchange with an option for states to run their own programs if they meet certain requirements.
- *The government-run plan* – A government-run plan was a central component of the House bill. The Senate bill would instead direct the U.S. Office of Personnel Management to contract with private insurance companies to offer policies on the exchanges. Despite much commotion over the need to include the public option, [House leaders conceded Tuesday](#) that they may be willing to agree to a bill without a public option if other parts of the bill fulfill the same goals, and they hope to expand available subsidies.

- *Reform financing* – With a price tag of approximately \$1 trillion, Members of the House would pay for the reform effort through a 5.4 percent surtax on individuals making more than \$500,000 a year and couples making more than \$1 million and by imposing a 2.5 percent excise tax on medical devices. Members of the Senate, on the other hand, plan to pay for their \$871 billion plan through a 40 percent excise tax on high-cost health insurance plans; an increase in payroll taxes for Medicare on individuals making more than \$200,000 a year and couples making more than \$250,000 per year; fees on insurers, medical device manufacturers, and drug companies; and, a 10 percent tax on indoor tanning. On Wednesday, [President Obama](#) expressed his [preference](#) for the insurance tax contained in the Senate bill; however this provision is strongly [opposed by labor unions](#).
- *Coverage Mandates* – Both bills require that individuals obtain health insurance and would impose a penalty on those who do not. The House bill also includes an employer mandate for companies with payrolls above \$750,000. The Senate bill, however, does not include this mandate and would require companies with more than 50 employees to pay a fine if employees obtain federally subsidized coverage on the insurance exchange.
- *Medicaid expansion* – Both bills expand Medicaid. The Senate bill makes Medicaid available to those with incomes up to 133 percent of the poverty level, whereas the House allows for coverage for those with incomes up to 150 percent of the poverty level.
- *Abortion* – Both bills bar the use of federal funds for abortions; however, the House bill includes stricter language requiring anyone seeking abortion coverage to buy separate insurance riders. The Senate bill would allow states to choose whether or not to include plans with abortion coverage in the insurance exchange and would require those with abortion coverage to write a separate check for this insurance.

***President Obama Pushes Swift Action:*** In a [meeting](#) at the White House Tuesday, President Obama encouraged House Speaker Nancy Pelosi, D-Calif., House Majority Leader Steny Hoyer, D-Md., as well as Senate Majority Leader Harry Reid and Sen. Dick Durbin, D-Ill., who participated via phone, to [bypass](#) the traditional conference committee used to negotiate reconciliation in the interest of time. The move creates a three-way negotiating construct involving top Democrats in the House and Senate and the White House and will exclude Republican lawmakers from the debate and [reduce](#) their ability to delay the voting.

Further, President Obama indicated that he would be taking a hands-on approach to the final stages of the negotiations. The President held another meeting with leading Democrats on Wednesday to help iron out the differences between the House and Senate bills. Democrats also held a meeting and conference call on Thursday to discuss how reconciliation will proceed and some of the priorities for the final bill.

### **Additional Activities:**

***C-SPAN Calls for Transparency:*** Noting that President Obama mentioned several times during his campaign that health care negotiations would be [transparent](#) and broadcasted on C-SPAN, Brian Lamb, C-SPAN founder and CEO, sent a [letter](#) to House and Senate leaders on Dec. 30 asking for negotiations to be opened up for public viewing. Republicans pointed out that the most critical discussions on health reform have taken place behind closed doors so far. Top House Democrats [deflected the C-SPAN request](#), saying the process has been highly transparent through more than 100 public hearings held by the House. They pledged to make the final stages transparent in part via the Internet.

***Opponents Question Constitutionality:*** On Wednesday, Dec. 30, Republican attorneys general in 13 states, including Colorado, Florida, Idaho, Michigan, and Virginia, sent a [letter](#) to Nancy Pelosi and Harry Reid stating that Congressional leaders must remove the amendment exempting [Nebraska](#) from having to pay for the state's Medicaid expansion. The prosecutors are calling the deal unconstitutional and threatened legal action. Members of the news media report that South Carolina Attorney General Henry McMaster and Oklahoma top prosecutor Drew Edmondson are asking attorney generals across the country [to call on](#) Sen. Pelosi and Sen. Reid to remove the provision.

In addition, a contingency of legal scholars as well as many Republican lawmakers are calling the measures passed by both the House and the Senate [unconstitutional](#), primarily due to the inclusion of an individual mandate. "In the history of this country, the federal government has never required every American to enter into a contract with a private company," said Randy Barnett, a professor of constitutional law at Georgetown University Law Center.

### **Looking Ahead:**

Formal sessions in Congress are scheduled to begin Jan. 19, 2010. However, Sen. Pelosi plans to continue to work with key committee chairmen and other Democratic leaders prior to the official sessions.