Holding the Line:
Protecting the Senate Health Reform Bill

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The Senate health reform bill makes great strides toward achieving a health care system that provides high-quality, affordable coverage for all Americans. Clearly, no single piece of legislation is perfect. We would like to see improvements in some elements of the bill, and there are parts of the House health reform legislation that we prefer to those in the Senate. We are working hard to ensure that these issues are addressed. However, at the same time that we are fighting for improvements, there are efforts underway to weaken several provisions of the Senate bill. We anticipate that a broad range of harmful amendments will be filed, and it is imperative that we take action to hold the line on the issues that matter the most to lower-income and middle-class families. We have outlined these issues below.

Medicaid and CHIP

- **Medicaid Expansion**

  The Senate bill would expand Medicaid eligibility to 133 percent of the federal poverty level for people under the age of 65 who are not eligible for Medicare. States would receive a full federal match for newly-eligible people from 2014 to 2016. After 2016, the matching rates will differ by state, but they will average 90 percent. The expansion, while not quite as far-reaching as the House's expansion to 150 percent of poverty, is still historic.

  We anticipate that numerous detrimental amendments will be offered, possibly including a reduction in the eligibility level; an effort to allow people to choose between Medicaid and the exchange subsidies; more burdensome citizenship verification procedures; new "wellness" requirements that impose penalties on Medicaid enrollees; and, perhaps, an effort to give states an opportunity to take their Medicaid funding and design new programs for covering the lowest-income people. These amendments would undermine the goal of the Medicaid expansion, which is to ensure that the lowest-income people have a guarantee of affordable, comprehensive health coverage.

- **Coverage for Children**

  The Senate bill deals with children's coverage much differently than the House bill. The Senate bill would continue CHIP through 2019 and increases the federal matching rate by 23 percentage points. However, it does not include funding for CHIP beyond September 30, 2013. By contrast, the House bill would end CHIP after December 31, 2013, and children in *separate* CHIP plans would have to transition to the exchange in 2014.

We anticipate that there will be several amendments to the Senate bill to strengthen CHIP, which could include raising eligibility levels for mandatory coverage to 300 percent of poverty, requiring separate CHIP plans to include an EPSDT benefit, funding CHIP through 2019, and requiring enrollment simplifications for children in Medicaid and CHIP. Stay tuned for more to come on CHIP and children's health coverage, since this is one area where the Senate and House bills are substantively different.

Market Reforms

- **Subsidies for Low- and Middle-Income People**

Under the Senate health reform bill, subsidies for the purchase of coverage range from 2.8 percent of income (for those with incomes at 100 percent of poverty) to 9.8 percent of income (for those with incomes at 300 percent of poverty). For people with incomes from 300 to 400 percent of poverty, the subsidy remains constant at 9.8 percent of income. A special rule for people with incomes below 133 percent of poverty layers over this, which lowers the amount that these individuals and families would have to pay to 2 percent of income.

While the subsidy levels in the House health reform bill clearly provide better income protection at the lower range of this scale (rising from 1.5 percent for those with incomes at 133 percent of poverty to 12 percent for those with incomes at 400 percent of poverty), there may be efforts on the Senate side to further trim these subsidies. It is imperative that we keep these protections in place and that we work toward improving them at the lower end of the income scale.

- **Standards for Making Plans in the Exchange Affordable**

Under the Senate bill, there would be four tiers of health insurance plans available in the exchanges—bronze, silver, gold, and platinum. Subsidies would be tied to the silver tier, in which plans cover, on average, 70 percent of medical costs, and consumers are responsible for paying 30 percent of costs out of pocket. Lower-income individuals and families would also receive subsidies that reduce the amount that they are required to pay out of pocket. For example, people with incomes between 100 and 150 percent of poverty would be eligible for subsidies that protect them from having to pay more than, 10 percent of the cost of their care, on average, while the insurance plan covers the other 90 percent. Those with incomes between 150 and 200 percent of poverty would be eligible for subsidies that require the insurer to pay 80 percent of medical costs, on average. People who are eligible for subsidies and who have incomes above 200 percent of poverty would receive a plan that covers, on average, 70 percent of medical costs.

While these protections are not as strong as those in the House bill, they are still likely to be targeted for reduction. Preventing the erosion of the proposed cost-sharing protections in the Senate bill is vital.

- **Out-of-Pocket Spending Limits**

  The Senate bill would establish protections against excessive out-of-pocket spending. Under the bill, no plan that is offered through an exchange can include an out-of-pocket cap that exceeds those that are currently permitted for Health Savings Accounts ($5,950 for an individual and $11,900 for a family in 2010). Middle- and lower-income families who are eligible for subsidies will have additional out-of-pocket protections. Out-of-pocket limits will be reduced to the following levels: one-third of HSA limits ($1,983 for an individual and $3,967 for a family in 2010) for those with incomes between 100 and 200 percent of poverty; one-half of HSA limits ($2,975 for an individual and $5,950 for a family) for people with incomes between 200 and 300 percent of poverty; and two-thirds of HSA limits ($3,967 for an individual and $7,933 for a family) for people with incomes between 300 and 400 percent of poverty. These limits will play a vital role in protecting families from the devastating effects of high medical costs—it is imperative that they remain in place.

- **The Public Plan Option**

  The Senate bill creates a public plan option that would be sold through state exchanges. States that do not wish to have a public option in their exchange can “opt out.” The creation of a public insurance option has been a contentious issue in the Senate, and opponents will likely continue to push for its removal from the bill entirely, even with an opt-out provision. A strong and concerted advocacy effort is necessary to keep the public option in the final bill.

- **Regulating Exchanges and Insurance Markets**

  The Senate bill proposes critical reforms to the small group and individual insurance markets, both inside and outside of the exchanges. Work may be required to ensure that the scope of such reforms is not narrowed in the final bill. For example, ensuring that minimum benefit standards apply to plans sold both inside and outside of the exchange is crucial. In addition, an effort may be needed to maintain funding in the Senate bill that supports consumer assistance programs, which help people navigate coverage options and address disputes with insurers. The Senate bill could also be strengthened by including several provisions from the House bill, such as those that allow the Secretary of Health and Human Services to select and negotiate with participating insurance plans in the exchanges. The Senate bill could also be improved by including House provisions that would eventually apply new consumer protections, such as benefit standards, to the large group market, as well as to the small group and individual markets.

- **Coverage for Legal Immigrants**

  Provisions that make legal immigrants eligible to both purchase coverage through the exchanges and to receive income-based subsidies are likely to face many threats in debate over the Senate bill. Protecting access to subsidies and coverage through the exchanges for this population will be a critical endeavor as Congress moves toward the final bill.

Medicare

- **Medicare Advantage**

  The Senate bill rolls back overpayments to the private insurance companies that run Medicare Advantage (MA) plans. Currently, these plans cost an average of 14 percent more per enrollee than traditional Medicare, and there is no evidence that the private plans produce better outcomes. These overpayments will cost the federal government more than $150 billion over the next 10 years, which will result in higher Medicare Part B premiums for beneficiaries and further draining of the Medicare trust fund. The Senate bill changes the way that MA plans are paid, which will save about $118 billion over 10 years. This is not as large a reduction as the House bill calls for, but it is a major step in the right direction.

  Defenders of private insurers are likely to introduce amendments to protect MA plans. These amendments will be harmful for two reasons: 1) They would shrink an important source of funding for health reform, including funding for other Medicare improvements; and 2) they would perpetuate the failed experiment in privatizing Medicare that has resulted in billions in subsidies and profits for private insurers.

- **Other Improvements for Low-Income Beneficiaries**

  The Senate bill makes several modest improvements to programs for low-income beneficiaries, including 1) eliminating Part D prescription drug copayments for many people who receive care under home- and community-based care waivers, and 2) reducing the number of people who must change prescription drug plans each year to avoid paying a premium. But the bill does not go nearly as far as its House counterpart in increasing asset limits for the Part D low-income subsidy and programs that help with other Medicare cost-sharing.

  There is a possibility that the protections for low-income Medicare beneficiaries could be improved during the Senate debate, and advocates should stand ready to support amendments to that effect. Even if an amendment is not introduced, we expect to work during the conference process to see that the final bill adopts the provisions from the House version.

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