

A M E R I C A N C O L L E G E O F



P H Y S I C I A N S[®]

President Obama Signs Health-Care Reform Legislation*

On March 23, 2010, President Obama signed sweeping health-care reform legislation into law following more than a year of contentious debate in the House of Representatives and Senate over its development and passage. On Sunday, March 21, 2010, the House passed the Senate health reform bill, H.R. 3590, the "Patient Protection and Affordable Care Act," by a vote of 219 to 212, with all Republicans and 34 Democrats voting against the bill. This legislation was passed by the Senate on December 24, 2009, on a straight party line vote of 60-39. This occurred prior to the special election of Senator Scott Brown (R-MA) which gave the Republicans their 41st member – enough to sustain a filibuster.

Following this special election, numerous bipartisan discussions took place, including a Health Reform Summit convened by the White House. It was apparent to congressional leadership that Democrats and Republicans were at an impasse and that bipartisan support for the legislation was not possible. In order to complete this health reform legislation, the House would need to pass the Senate's bill and later pass a package of "fixes" using the Budget Reconciliation Process, which is not subject to a filibuster under Senate Rules.

On March 21, 2010, the House also passed H.R.4872 the "Health Care and Education Reconciliation Act of 2010" making changes to the Senate health reform bill with a vote of 220-211, with all Republicans and 33 Democrats voting against the bill. The Senate took the reconciliation measure up on March 23, 2010, and passed the bill March 25, 2010, with a vote of 56 to 43. Republicans offered over 30 amendments to the bill – all of which failed. Senate Republicans were successful in raising two points of order regarding provisions relating to Pell grants for low-income students which violate Senate rules for reconciliation bills. As a result, the revised legislation was sent back to the House for a final vote. The revised bill passed the House the evening of March 25, 2010 by a vote of 220-207. President Obama is expected to sign the legislation into law in the coming days.

Key Provisions of Senate Bill as amended by Reconciliation Bill include:

Insurance Exchanges – Creates state-based exchanges and co-ops to provide insurance in the individual and small business markets. There is no public option.

Individual Mandate – All individuals are required to have health insurance and will be penalized (fined), if they do not. Individuals below the tax filing income threshold are exempted. Federal subsidies are provided to individuals that do not qualify for Medicaid and have incomes below 400% of Federal Poverty Level.

Employer Mandate – Employers with more than 50 full-time employees must provide insurance and pay penalties if any of their employees receive a federal subsidy.

Private Insurance Market Reforms – Immediately prohibits or restricts private insurers from rescinding policies, setting lifetime or annual limits, setting excessive waiting periods and requires plans to cover dependents up to age 26. Additional requirements starting in 2014 include: the elimination of pre-existing conditions exclusions, implementation of modified community rating and guaranteed issue and renewal and institution of minimum benefit requirements to ensure that plans are adequate.

Taxes and Industry Fees – To raise revenues to cover the costs of expanding public and providing subsidies for individuals to purchase private insurance the bill expands the Medicare payroll tax for individuals earning more than \$200,000 and couples earning more than \$250,000 and as of 2018 establishes an excise tax on high-valued insurance plans. In addition, several industries – pharmaceutical manufacturers, medical device manufacturers, and health plans – will have to pay annual fees/taxes.

Medicaid Expansions and Reforms – Requires states to cover individuals with incomes up to 133% of the Federal Poverty Level and provides for 100% federal funding for this expansion. Increases rebates for brand drugs and expands rebates to drugs provided by managed care organizations.

Medicare Reforms

- Medicare Advantage – Reduces payments to Medicare managed care plans bringing them more in line with fee-for-service payments.
- Part D – Drug Coverage – Eliminates the Part D donut hole by 2020 by requiring manufacturers to contribute 50% discounts while beneficiaries are in the gap and reducing co-insurance.
- Payments to Hospitals and other Facilities – Reduces the annual update in fees for hospitals, skilled nursing facilities, long-term care and rehab facilities, hospices, and home health. Reduces disproportionate-share payments to hospitals.
- Delivery Reforms –
 - Creates the Center for Medicare and Medicaid Innovation. The purpose of the Center will be to research, develop, test, and expand innovative payment and delivery arrangements to improve quality and reduce the costs for patients in the two programs. Funding is provided to allow for testing of models that require benefits not currently covered by Medicare. Successful models can be expanded nationally.
 - In particular, the Center will fund demonstration projects, create Accountable Care Organizations and other shared savings programs, and provide state grants for community-based delivery systems such as patient-centered medical homes.
 - The Center will also include telemedicine projects designed to facilitate inpatient care through the use of electronic monitoring by specialists, **including intensivists and critical care specialists**, based at integrated health systems (Conrad Amendment supported by the ACCP – emphasis supplied).
 - Creates an independent advisory board which will recommend changes to limit spending under federal insurance programs. In particular, the CMS Innovation

Center will including projects

- Imaging Payment Reductions – Reduces payments for MR and CT diagnostic tests.
- Physician-owned Hospitals- Prohibits the establishment of such hospitals as of December 31, 2010.

Prevention and Wellness – Provides coverage of annual wellness visits, waives co-insurance and allows Secretary of HHS to expand coverage of preventive services covered by Medicare and Medicaid. Provides funding to state and local health departments as well as funds for research and numerous prevention and wellness oriented programs.

Comparative Effectiveness Research - Creates an independent corporation to set priorities and assess comparative effectiveness research funded by NIH and AHRQ.

Follow-on Biologics – Establishes an FDA approval process for follow-on (generic biologicals) and provides 12 years of market exclusivity.

*This health-care reform summary was prepared by Holland & Knight for the ACCP.