Health Care Reform
Yesterday, Today and Tomorrow

Daryl Chapman, in conjunction with the good folks of ARM
Disclaimers and Truth in Speaking

I am:

- Am in the healthcare profession --- this is about my job!

- Am strongly in favor of drastic healthcare reform
  - The good news is reform is easy

- Spent 3 years in a role as lobbyist for the DoD

- I still have several moles on Capitol Hill

- Track closely our industry lobbyists
The cynics view of government

- Capitol Hill specifically and the process in general is broken
  - There is truly only one party
    - The incumbent party
The cynics view of government

• Capitol Hill specifically and the process in general is broken
  – The coin of the realm  The 3 P’s
    • Perks, power and privilege.
  – Rule of the Day
    • Raise Money
  – When all else fails
    • Amend, EarMark, Reconcile.
  – When faced with a tough decision
Overview - Committees and Floor Debate

**HOUSE**
- Energy & Commerce
- Ways & Means
- Education & Commerce

**COMMITTEE PROCEEDINGS**
- Hearings
- Legislation
- Cost estimate
- Mark-Up

- Three Bills combined into One

**FLOOR CONSIDERATION**
- Rules Committee sets terms for debate; confirmed by full House
- Debate
- Full House vote on Bill (simple majority to pass)

**SENATE**
- Finance
- HELP

**COMMITTEE PROCEEDINGS**
- Hearings
- Legislation
- Cost estimate
- Mark-Up

- Two Bills combined into One

**FLOOR CONSIDERATION**
- Regular Order
- Reconciliation
- Debate terms negotiated
- Limited debate; no filibuster
- Debate
- Filibuster
- Cloture
- Debate
- House-Senate Conference Committee
- Full Senate vote on Bill (simple majority to pass)
Overview - Conference

House-Senate Conference Committee

Conference Report

HOUSE

Rules Committee sets terms for debate; confirmed by full House

Debate

Full House vote on Bill (simple majority to pass)

President signs or vetoes the bill

SENATE

Regular Order

Debate terms negotiated

Debate

Filibuster

Cloture

Full Senate vote on Bill (simple majority to pass)

Reconciliation

Limited debate; no filibuster

Debate

President signs or vetoes the bill
So what happened --

• First – many wanted to pass a bill but
  – Almost no one wanted to vote for the bill
• Why?
  – A lose --- lose proposition
  – We can’t afford it
• So why did they?
  – Political pressure
  – Kick the can down the road is always the first strategy
Give Nancy Credit --- SHE got it done.
So where are we.

- Elections looming
  - Dems have lost two governors, and the Kennedy throne.
  - They have 8 Senate seats at risk including the speakers seat.
  - They have over 35 house seats at grave risk (Obama-tails)
- An angry America
- A scared America
- A fiscally unsound America.
- Exploding and debilitating healthcare costs but:
  - HealthCare is still a losing proposition if you are a member of the incumbent party
HealthCare is still a losing proposition if you are a member of the incumbent party

- This bill remains broadly unpopular
  - We already have health care
  - We can’t afford it
  - Fear of the government

- Insurance Reform only
  - Popular Targets
  - Does not bend the cost curve
  - Cost will go up!
Where are we?

Legislation is simply a framework for the law
Bill frist

- Bend the cost curve
Bill Frist

• Bend the cost curve
NEW LAW BASICS

- Individual mandates to buy insurance
- Creates state based exchanges
- Mandates for employers over 50 EE’s
- Insurance market regulations
- Medicare changes
- Revenue generating provisions
Health Care Reform Timeline (selected)

**Jan 1, 2010**
Temporary Reinsurance Program for early retirees (age 55-64)

**June 21, 2010**
Acting change RDS

**1st quarter 2010**
Reinsurance

**Jan 1, 2011**
No lifetime limits
No Annual limits*
Dependents to age 26
No Pre-Ex under 19
Uniform Coverage Explanation
Cost reporting and rebates
Doughnut hole phase out
CLASS Act
W-2 reporting
OTC drugs eliminated FSA/HRA/HSA
Med Advantage reduced

**Jan 1, 2012**
Comparative effectiveness tax

**Jan 1, 2013**
FSA capped
Medicare Hosp insurance tax

**Jan 1, 2014**
Annual dollar limits prohibited
Pre Ex prohibited
Auto enrollment
90 day waiting period max
Exchanges
Individual and employer mandates
Exchange low income subsidies
Vouchers

**Jan 1, 2018**
High cost insurance tax

**Jan 1, 2020**
Doughnut hole filled
Individual Mandates

**Beginning in 2014**
- 2014: $95 or up to 1% of income
- 2015: $325 or up to 2% of income
- 2016: $695 or up to 2.5% of income

**Low income subsidies**
- Below 133% of Federal poverty level
  - Tax Credits
  - Expansion of Medicaid
- Between 133% and 400% of FPL
  - Premium subsidies

**Grandfather provision**
- Allows individuals to keep current coverage
- Subject to some notable exceptions
Individual Mandates

• Requires all adults to acquire “qualifying coverage” or “acceptable coverage” for themselves and dependents.

• Generally based on the Massachusetts model

• Impact on Employer
  – Creates complex administrative scheme for determination of qualifying coverage
  – Supposed to be a market driver in a good economy
Individual Mandates

• Penalties for Non-Compliance
  – Bill as Passed:
    • Penalty for failure to obtain coverage – the greater of a per-person fixed dollar amount or a percent of income amount
      – Per person fixed dollar amount starts in 2014 at $95 and increases to $695 in 2016 (indexed thereafter)
      – Percent of income amount starts at 1.0% in 2014 and phases in to 2.5% over time. Capped at the average cost for a bronze plan.
    • Individuals pay the greater of fixed dollar or percent of income penalty
Individual Mandates

• No penalty for individuals with income below the income tax filing thresholds
  – Subsidies on premiums for individuals with income below 400% of the poverty level

  – Tax credits used to make premiums more affordable.
Individual Mandates

- Penalties are not huge
- Potentially greatest on those that have insurance
- Drive to change mindset
- Tall order for government
Qualifying Coverage Mandates

• Ambulatory patient services
• Emergency Services
• Hospitalization
• Maternity and newborn care
• Mental health and substance abuse
• Rx
• Rehab and devices
• Laboratory
• Preventative and wellness services

• Pediatric services, including oral and vision
• No cost sharing permitted for preventative services
  – Except value based design
• No lifetime limits (6 months)
• No annual limits by 2014
• No waiting periods over 90 days
• OOP max limits $5000/$10,000
• Coverage of Dependent children to age 26.
Exchanges

• Four levels of coverage indexed to individuals in the non-group and small group markets
  – Bronze 60%
  – Silver 70%
  – Gold 80%
  – Platinum 90%

• Required by 2014

• HHS will operate the exchange in non-compliant states
Employer Mandates

• Pay or Play
  – Over 200 EE’s must auto enroll FTE’s in coverage
    • FTE = greater than 30 hours/week
  – Over 50 EE’s
    • Offers coverage deemed unaffordable or does not meet the standard for MEC and
      – Has at least one full time employee receiving premium subsidies because coverage is unaffordable or does not cover at least 60% of the cost will pay:
        – The lesser of $3000 for each of those employees or $750 for each FTE.
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    • Does not offer coverage pays $2000 per each FTE
      – Excludes first 30 employees
    • Part time employees are combined to FTE’s to determine employer responsibilities.
Insurance Regulations

- Guarantee Issue, no pre-x limitations
- Elimination of annual and lifetime max
- No recession of coverage
- Dependent children covered to age 26
- Imposes mandatory loss ratios
Revenue Generating Provisions

- **Cadillac Plan Tax**
  - 40% Excise Tax
  - Aggregate value over $10,200 individual/ $27,500 family
  - $11,850 individual/ $30,950 family for retirees

- **High Income Tax - $200(k)/$250(k)**
  - 0.5% increase in FICA Tax
  - 0.9% increase in Medicare tax on wages
  - 3.8% Medicare tax on unearned income

- **HSAs and MSAs**
  - 20 % for non-qualified distributions

- **FSA**
  - Contributions limited to $2,500 per year
  - OTC drugs no longer eligible

- **Healthcare Industry**
  - $2.3 billion annual fee – pharmaceutical industry
  - 2.3 excise tax on medical device manufacturers
  - $58.8 billion on all health insurers for 5 years
  - 10% sales tax on tanning services

- **Taxation of Retiree Drug Subsidy**
  - Eliminates tax-free status
  - Fees associated with filing are no longer tax deductible
Medicare Changes

• Reinsurance Programs for early retirees
  – Subsidizes 80% of cost between $15,000 and $90,000 up to a total pool cost of $5 billion
• RDS
• Donut hole
Other Items

• Doughnut Hole Filled
  – $250 rebate in 2010 if you hit the hole
  – Uses Pharmaceutical discounts to close the hole by 2020

• Medicare Advantage payments
  – Freezes in 2011
  – Reduces benchmarks starting in 2012

• Requires MA plans to operate at an 85% mandated loss ration
Revenue Generation

- **Cadillac Tax**
  - 2018 – non-deductible tax of 40% for any plan exceeding
    - $10,200/$27,500
    - $11,850/$30,950 for retirees and high risk professions
  - Applies to premium in excess of the threshold
- No OTC reimbursements in Section 125, 105, 106 plans
  - Jan 1 2011
- Limits FSA contributions to $2500
- RDS subsidy tax deduction eliminated 2013
Revenue Generation

• Medicare tax increase on AGI over $250,000 Joint or $200,000 single
• UME deduction Threshold raised from 7.5% AGI to 10%
• Increases Medicare Part A tax rate by from 1.45% to 2.35% for same earnings levels
Other notable provisions

• Mandated loss ratios

• Health Insurance Reform Fund and allocates currently $1 billion to reform.

• Plan Tax of $2.00 per employee per month to all plan sponsors or insurers.
Other notable provisions

• CLASS Act
  – Mandated LTC
• Tanning Bed Tax
• Plan Values reported on W-2
• Increased HSA penalty
How does this impact the NAD Healthcare Plan?

• Plans are not allowed annual or lifetime limits but insurance is.

• Items that apply to self-funding
  – Recission (PY 2011)
  – Preventative health care (no cost sharing) (PY 2011)
  – Dependent coverage (marriage not a disqualifier) (P 2011)
  – No Pre-existing conditions. (PY 2011)
  – Health Status rules (PY 2014)
  – Waiting periods <90 days (PY 2014)
  – Uniform explanations and required appeals processs (PY 2011)
  – Health Information Technology
How does this impact the NAD Healthcare Plan?

- Plans are not allowed annual or lifetime limits but insurance is.
- Items that apply to self-funding
  - Young Invincibles plan options
  - Wellness discounts
  - Early Retiree re-insurance re-imbursements
How does this impact the NAD Healthcare Plan?

– Employer Mandates
  • Applies to >50 FTE’s (PT’s aggregated to determine total FTE’s)
  • $2000 penalty
  • Are you one large group or 100 small to medium groups
    – Church Parity Act
    – Cheaper to pay the penalty?
  • Employee Voucher Option
  • Employee purchasing through the exchange and meeting affordability rules
How does this impact the NAD Healthcare Plan?

- **Employer Mandates *****
  - Reporting Requirements
  - Exchange Disclosure Notice
  - Cadillac plan tax. 40% above thresholds.
    - $8500 and $23,000
  - Self Insured Fee
    - $2.00 2013 and indexed thereafter
  - HSA tax
  - Termination of RDS subsidy
  - FSA limits ($2500 per year – indexed)
How does this impact the NAD Healthcare Plan?

– Overall impact is unclear but it brings a host of considerations into play:
  
  • “insured”
  • “vouchers”
  • “no insurance”
How does this impact the NAD Healthcare Plan?

– Overall impact is unclear but it brings a host of considerations into play:
  • “increased cost almost a certainty”
    – Reinsurance cost or catastrophic exposure
    – Penalties, Vouchers and premium sharing
    – Church Parity Act Protections
      » Large versus small group
      » COBRA
    – Self insured Fee
    – More People ----- Sicker People ----Courtesy Employees
    – RDS Subsidy
    – Notification, reporting and technology.
    – Wellness
Winners
- Hospitals
- Insurance companies

Losers
- Brokers
- Taxpayers
- Our children
Who wins and Who Loses?

- In our view, every sector and stakeholder in health care is impacted by the bill – some sooner than others, some more directly than others. *While it’s popular to place bets on winners and losers, a more objective view is that within each sector there will be both. Winners will place bets based on fact-based impact analytics and forward-looking strategic flexibility. Losers will do otherwise.*

- The seven last words of a dying organization: We never did it that way before!
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