

Health Care Overhaul Conference Issues

PROVISION	PASSED BY THE HOUSE (HR 3962)	PASSED BY THE SENATE (HR 3590)
INSURANCE EXCHANGES		
Type of exchange	Federal exchange where individuals and small businesses can purchase insurance from participating providers; states may set up their own exchanges as well. Effective Jan. 1, 2013.	Requires states to establish exchanges; if a state has no exchange by 2014, the HHS secretary would establish and run an exchange in that state. Effective Jan. 1, 2014.
INDIVIDUAL MANDATE		
Most must buy insurance	Yes.	Yes.
Hardship exemption	Yes.	Yes.
Penalty for the uninsured	2.5 percent of adjusted gross income up to the average cost of an exchange policy. Exemptions granted for those with incomes low enough to exempt them from filing income tax returns.	The greater of \$95 or 0.5 percent of income in 2014, \$495 or 1 percent of income in 2015, and \$750 or 2 percent of income in 2016, although the maximum penalty would be capped at three times the flat fee schedule. Beginning in 2017, the penalty will be indexed for inflation.
Subsidies	Provides tax credits, on a sliding scale, to individuals and families earning up to 400 percent of the federal poverty level for insurance premiums. Subsidies would average \$6,800 per year by 2019, according to the Congressional Budget Office. Cost sharing for subsidized plans would be limited to 30 percent of benefit costs but would be as low as 3 percent of costs for people under 150 percent of poverty level. Out-of-pocket spending would be capped at \$5,000 per person per year (\$10,000 for families) and would be as low as \$500/\$1,000 for people with incomes between 133 and 150 percent of the poverty level. Eliminates caps on lifetime benefits.	Provides tax credits, on a sliding scale, to individuals and families earning between 100 and 400 percent of the federal poverty level for insurance premiums. Subsidies would average \$5,600 per year by 2019, according to CBO. People earning less than 200 percent of the poverty level would receive additional subsidies to reduce their out-of-pocket costs, such as co-pays and deductibles, to 20 percent of benefit costs (between 150 and 200 percent of poverty level) or 10 percent (for those under 150 percent). Out-of-pocket spending capped at \$5,950 per person per year and \$11,900 for families. Eliminates caps on lifetime benefits.
Benefits	Establishes four tiers of insurance plans available in insurance exchange: Basic, Enhanced, Premium and Premium Plus. All would offer "essential benefits" to be determined by the government. Coverage would range from 70 percent (Basic) to 95 percent (Premium) of benefit costs. No cost sharing for preventive services.	Establishes five tiers of insurance plans in exchanges: Bronze, Silver, Gold, Platinum and Catastrophic (also known as Young Invincibles). All would offer "essential benefits" that the government would determine. Coverage would range from 60 percent (Bronze) to 90 percent (Platinum) of benefit costs.
EMPLOYER MANDATE		
Requirement	Employers must offer employees health insurance or make insurance contributions on their behalf.	Businesses with 200 or more employees must automatically enroll employees in health insurance plans.
Small-business exemption	Payrolls less than \$500,000.	50 employees or fewer.
Penalty for not following mandate	Up to 8 percent of payroll.	\$750 fee for each employee who gets a tax credit through a state exchange.
'PUBLIC OPTION'		
Public option offered in the exchange	Yes. The public option must offer at least three levels of service plans, from Basic to Premium.	No. Instead, the Office of Personnel Management would administer a system of national health insurance plans offered by private entities.
Administration	Department of Health and Human Services.	
States may opt out	No.	
COVERAGE OF CHILDREN		
Continuation of Children's Health Insurance Program (CHIP)	Repeal CHIP and require those in state programs with incomes above 150 percent of poverty level to enter the exchange. Medicaid would cover those with incomes up to 150 percent of the poverty level.	States would be required to fund CHIP through 2015. Those eligible for CHIP who are denied because of enrollment limits would be given tax credits for coverage through exchanges.

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INSURANCE REQUIREMENTS		
Pre-existing conditions	Prohibits denial of coverage based on pre-existing conditions. Citizens and legal immigrants who have been denied coverage based on pre-existing conditions would be eligible for coverage in a temporary high-risk pool.	Same.
Antitrust	Limits the health insurance industry's exemption from federal antitrust law, allowing companies to share only historical loss data and actuarial services.	No provision.
Rescission	Prohibits insurers from rescinding their customers' policies, except in cases of fraud. Effective July 1, 2010.	Same, but effective six months after enactment.
Dependent coverage	Children up to age 27 must be covered.	Children up to age 26 must be covered.
Medical loss ratio	Requires insurers to spend 85 percent of premium revenue on medical claims or rebates to customers. Effective Jan. 1, 2010.	Requires insurers in the large group market to spend 85 percent of premium revenue on medical claims or rebates; the requirement for the individual and small group markets would be 80 percent. Effective Jan. 1, 2011.
ABORTION		
Elective abortion may be covered in the public option	No.	
Abortion coverage in the exchange	Individuals may not use federal subsidies to purchase plans covering elective abortion.	Individuals who want abortion coverage must make separate premium payments to their insurer — one for abortion, another for all other medical coverage.
MEDICAL MALPRACTICE		
Malpractice provisions	Provide incentive payments to states that enact laws providing alternatives to traditional medical malpractice litigation laws if those laws do not limit attorneys' fees or impose caps on damages.	Awards demonstration grants to develop alternatives to current litigation laws. The alternatives must enhance patient safety and improve access to liability insurance.
MEDICAID		
Expanded eligibility	Those making up to 150 percent of the federal poverty level.	Those making up to 133 percent of the federal poverty level.
PRESCRIPTION DRUG COVERAGE		
"Doughnut hole" coverage gap	Would be phased out by 2019; phase-out paid for with drug manufacturer rebates.	Drug manufacturers required to give a 50 percent discount on drugs bought while in the coverage gap.
Non-compete agreements	Ends agreements between brand name and generic drug manufacturers that delay competition from generic drugs.	No provision.
Biologics	Authorizes the FDA to approve generic versions of biologic drugs. Biologic drugmakers would be given 12 years of exclusive use for a drug before a generic version would be allowed.	Same.
REVENUE		
Income tax surcharge	5.4 percent tax on adjusted gross income over \$500,000/\$1 million.	None.
Excise tax on expensive health care plans	None.	40 percent tax on insurance companies that offer plans costing more than \$8,500/\$23,000, starting in 2013.
Medicare hospital insurance payroll tax	No change.	Increased rate for those who earn more than \$200,000/\$250,000.
Tanning service tax	None.	10 percent tax on indoor tanning services (with higher thresholds for certain plans).
Taxes, fees on medical devices	2.5 percent excise tax.	Fees on manufacturers of medical devices.