

# Health Reform from the Actuarial Perspective

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# Upcoming Health Reform Audiocast Series

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- Co-sponsored by the Conference of Consulting Actuaries, Society of Actuaries and American Academy of Actuaries
- In-depth discussion of the key provisions of the legislation with focus on—
  - Employer-sponsored health plans
  - Health plans
  - Medicare programs including Medicare Advantage and the prescription drug program
- First audiocast planned for February 9



# Agenda

- Current status of health reform legislation
- Key differences in the House and Senate bills, from an actuarial perspective
- Academy involvement during the health reform process

[http://www.actuary.org/issues/health\\_reform.asp](http://www.actuary.org/issues/health_reform.asp)



The screenshot shows the homepage of the American Academy of Actuaries. The header includes the organization's name and a navigation menu with categories: CASUALTY, HEALTH, LIFE, PENSION, PROFESSIONALISM, and RISK MNGT & FINANCIAL RPTG. A search bar and a 'Member log-in' link are also present. The main content area features a large graphic of the U.S. Capitol dome with the text 'Health Reform NOW'. Below this is a section titled 'Critical Issues in Health Reform: Actuarial Perspectives from the Academy's Health Practice Council'. The text discusses the high cost of health care, the number of uninsured Americans, and the role of actuaries in the reform process. A sidebar on the left contains links to various sections like 'About us', 'Membership', and 'Publications'. A 'Related links' section on the right includes 'Health issues', 'Medicare', and 'Actuaries in the news'. There are also banners for 'WEB REDESIGN' and 'TRACE tracking your CE'.



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# Current Status of Health Reform Legislation



# House- and Senate-Passed Health Reform Legislation

- Affordable Health Care for America Act (H.R. 3962)
  - Passed the House on November 7, 2009
  - Cost (2010-2019): \$891 billion
  - Net cost (2010-2019): \$129 billion deficit reduction
  - Decrease in number uninsured in 2019 (compared to current law): 36 million
  
- Patient Protection and Affordable Care Act (H.R. 3590)
  - Passed the Senate on December 24, 2009
  - Cost (2010-2019): \$614 billion
  - Net cost (2010-2019): \$132 billion deficit reduction
  - Decrease in number uninsured in 2019 (compared to current law): 31 million

Source: Cost and coverage estimates are from the Congressional Budget Office.



# General Approach of Reform Legislation

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- Market reforms
  - Guaranteed issue, no pre-ex condition limitations, rating limitations, minimum benefit requirements, etc.
- Individual mandate
- Subsidies for low-income individuals and families
- Medicaid expansions
- Creation of insurance exchanges
- Some degree of employer responsibility
- Cost containment and quality provisions



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# Key Differences from an Actuarial Perspective



# Key Differences from an Actuarial Perspective

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- Issue and rating restrictions / individual mandate
- Grandfathering provisions
- Medical loss ratio
- Risk-sharing provisions
- Medical necessity
- Excise tax on high-cost plans
- Creation of new health insurance plans
- CLASS Act
- Repeal of antitrust exemption



# Issue and Rating Restrictions / Individual Mandate

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- House
  - Guaranteed issue/renewal; no pre-existing condition exclusions
  - Allow premium variation based only on age (2:1), area, and single/family status
  - Individual mandate penalty: 2.5% tax on AGI above filing threshold
- Senate
  - Guaranteed issue/renewal; no pre-existing condition exclusions
  - Allow premium variation based only on age (3:1), area, tobacco use (1.5:1) and single/family status
  - Individual mandate penalty: greater of flat dollar amount (\$95 in 2014, \$495 in 2015, \$750 in 2016, indexed thereafter) and a percentage of household income (0.5% in 2014, 1.0% in 2015, 2.0% thereafter)



# Issue and Rating Restrictions / Individual Mandate (cont.)

- Academy HPC perspective
  - For insurance markets to be viable, they must attract a broad cross section of risks
  - The individual mandate is an integral component of both bills—needed to minimize adverse selection associated with guaranteed issue and limits on premium variations
  - The premium subsidies and annual open enrollment period will help bring low-risk individuals into the insurance pool
  - However, the financial penalties associated with the mandate are fairly weak compared to coverage costs, especially in first years of the Senate bill and for young and healthy individuals.
  - Wider premium variations by age, higher financial penalties, and non-financial incentives would help increase the value of obtaining coverage for young and healthy individuals.



# Grandfathering Provisions

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- House
  - Individual: Coverage can be maintained indefinitely as it exists on 12/31/12, as long as there are no changes to the plan's terms and conditions, including benefits and cost sharing; rating rules are grandfathered
  - Small group: Plans can be maintained as they exist on 12/31/12, with a five-year grace period thereafter to meet new benefit standards and rating rules
- Senate
  - Individual policies and group health plans can maintained as they exist on the day of enactment; rating rules are grandfathered



# Grandfathering Provisions (cont.)

- House (effective for plan years on or after 1/1/10)
  - Prohibits insurers from using aggregate dollar lifetime limits
  - Allowable look-back period for pre-ex condition exclusions shortened from six months to 30 days; exclusion period shortened from 12 months to three months
  - Requires all health insurers and employers to allow individuals through age 26 to remain on parents' health insurance
- Senate (effective for plan years on or after six months after enactment)
  - Lifetime limits and “unreasonable” annual limits prohibited for all group and individual health plans
  - Requires all group and individual plans to cover specified preventive services without cost sharing
  - Requires all health insurers and employers to allow unmarried dependents until age 26 to remain on parents' health insurance



# Grandfathering Provisions (cont.)

- Academy HPC perspective
  - Both bills contain provisions that aim to limit market disruption arising from moving to stricter issue, rating and benefit rules
  - However, the Senate bill would not allow grandfathering for individuals purchasing coverage after enactment but prior to when market reforms become effective in 2014.
  - These individuals may not be insulated against rate shock
  - Changing the Senate effective date for grandfathering to 12/31/13 would eliminate this concern, or it should be clarified that new plan provisions (e.g., no lifetime limits) do not void grandfathered status
  - Both bills should include a mechanism for allowing plans with minor coverage changes to retain grandfathered status



# Medical Loss Ratio

- House
  - Effective for plan years on or after 1/1/10
  - Individual, small group, large group, Medicaid, CHIP, and Med Advantage markets required to meet an MLR of 85%; rebates are required if plans fall below this level (adjustments allowed for individual market if requirement would destabilize the market)
  - Provision sunsets when health insurance is offered through the exchange
- Senate
  - Requirement to report effective 1/1/10; rebates required effective 1/1/11 or 1/1/12
  - Large group market required to meet an MLR of 85%; rebates are required



# Medical Loss Ratio (cont.)

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- Senate (cont.)
  - Small group and individual markets required to meet MLR of 80%; rebates are required (adjustments allowed for individual market if requirement would destabilize the market)
  - Costs for activities that improve health care quality are included with claims costs when calculating the MLR
  - Federal and state taxes and fees are excluded from premium when calculating the MLR
  - Three-year average used beginning in 2014



# Medical Loss Ratio (cont.)

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- Academy HPC perspective
  - It is important to recognize how medical loss ratios vary across markets when imposing such requirements
  - It would be difficult for carriers in the individual market to satisfy loss ratio minimums that are typical in the small and large group markets
  - It is important to recognize the value of cost containment expenses when calculating MLR
  - A sufficient lag time is needed between enactment and effective date since rates are filed in advance
  - Technical amendments or regulations should address elements such as credibility to minimize random fluctuations, and allow for a calendar year rather than a plan year test of MLR



# Risk-Sharing Provisions

- House
  - Requires risk adjustment for plans participating in the exchange
- Senate
  - Risk adjustment: Required in individual and small group markets (excluding grandfathered plans), after which reinsurance and risk corridors would apply
  - Reinsurance: Creates temporary program (2014 – 2016) for high-risk individuals in individual and small group markets; insurer contributions total \$25 billion over three years
  - Risk corridors: Creates temporary program (2014 – 2016) in individual and small group markets; plans bear full risk for spending within  $\pm 3\%$  of target, split 50/50 with the government if over  $\pm 3\%$  but less than  $\pm 8\%$ , government bears 80% of spending over  $\pm 8\%$ .



# Risk-Sharing Provisions (cont.)

- Academy HPC perspective
  - Since both bills would restrict premium variation across various risk classifications, risk-adjustment mechanisms will reallocate premium among plans to align payments more closely to the risks being assumed
  - No current risk-adjustment system is designed to fully account for these differences, nor do they address other financial risks borne by insurers
  - Reinsurance provides protection against high-cost claims, supplementing risk adjustment to protect against adverse selection
  - Risk corridors can mitigate pricing risk by limiting losses, in addition to minimizing windfall profits
  - Risk corridors in the Senate bill are temporary, and the timing would allow insurers to gather enough data on the newly insured to minimize pricing risk
  - They would also encourage competition in the exchange by limiting downside risk
  - Technical amendments or regulation should take into account credibility and create proper incentives for carriers to manage risks



# Medical Necessity

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- House
  - Defines an essential benefit package to include services provided “in accordance with generally accepted standards of medical or other appropriate clinical or professional practice”
  - May effectively void current definitions of “medical necessity”
- Senate
  - No equivalent provision



# Medical Necessity (cont.)

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- Academy HPC perspective
  - House provision differs from the more comprehensive, court-approved medical necessity language commonly in effect for health plans and health care providers
  - It could reduce the ability of physicians and health insurance companies to promote sound medical practice, evidence-based medical practice, and quality of care
  - It could also hinder efforts to incorporate comparative effectiveness research



# Excise Tax on High-Cost Plans

- House
  - No provision
- Senate
  - Excise tax on high-cost employer-sponsored coverage
  - 40% of costs > \$8,900 (individual) or \$24,000 (family)\*
  - Thresholds are higher for early retirees
  - Thresholds are adjusted for age and gender
  - 3-year phase-in for the 17 highest cost states
  - Deferred to 2018 for state & local government and union plans\*

\*These provisions were reported to be part of an agreement between the administration and unions to revise the Senate-passed legislation.



# Excise Tax on High-Cost Plans (cont.)

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- Academy HPC perspective
  - Appropriate adjustments for age, gender, geography and industry are important to ensure that the tax is truly targeting the most generous benefit plans
  - Even if well targeted, the provision could discourage needed care if employers respond by increasing cost-sharing requirements



# Creating New Health Insurance Plans

## ■ House

- Public Plan: Must meet same requirements as private plans. Start-up funding of \$2 billion is available, to be recouped over 10 years.
- Health Insurance Cooperatives: Facilitates the establishment of non-profit member-run health insurance cooperatives. Start-up funding of \$5 billion is available, to be recouped over 10 years.

## ■ Senate

- Health Insurance Cooperatives: Facilitates the establishment of non-profit member-run health insurance cooperatives. Start-up loans & grants of \$6 billion is available; loans recouped over 5 years, grants recouped over 15 years.
- Multi-State Plans: OPM would contract with insurers to offer at least two multi-state plans in each exchange, which would be pooled separately from FEHBP



# Creating New Health Insurance Plans (cont.)

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- Academy HPC perspective
  - AAA/SOA report suggests the cost of establishing these plans would be substantial, and could vary significantly depending on enrollment and claim levels
  - Both the House and Senate bills limit the amount of federal start-up funding provided – these allocations may be inadequate if enrollment is higher than expected, or adverse selection results in higher than anticipated initial losses



# Community Living Assistance Services and Supports (CLASS) Act

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## ■ House

- Establishes voluntary LTC insurance program
- Automatic enrollment with “opt-out”
- Must pay premiums for 5 years before receiving benefits
- Premiums set for “75-year solvency”
- Working adults and non-working spouses eligible

## ■ Senate

- Establishes voluntary LTC insurance program
- Automatic enrollment with “opt-out”
- Must pay premiums for 5 years before receiving benefits
- Premiums set for “75-year solvency”
- Eligibility limited to working adults



# CLASS Act (cont.)

- Academy HPC perspective
  - Structure of the program is likely to result in adverse selection, very high premiums and low participation, threatening the viability and solvency of the program
  - Including non-working spouses is likely to exacerbate adverse selection
  - Congress should consider:
    - Minimum number of hours per week (e.g., 30) for enrollment
    - “Actively at work” or short-form questionnaire for spouses
    - Benefit elimination period, benefit period less than lifetime, or paying benefits on a reimbursement basis rather than on a cash basis
    - Indexing premiums to CPI or wages
    - Consistent benefit eligibility requirements based on ADLs and cognitive impairment
    - Marketing allowance in the premiums to increase outreach and enrollment



# Repeal of Antitrust Exemption

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- House

- Repeals the anti-trust exemption for health and medical malpractice insurance, but continues to allow protection for limited use of historical loss data, performance of qualified actuarial services, and information gathering and rate setting.

- Senate

- No provision



# Repeal of Antitrust Exemption (cont.)

- Academy CPC perspective
  - The broad intent of this provision (to prohibit companies from engaging in “price fixing, bid rigging, or market allocations”) is already being addressed at the state level
  - Collection, aggregation, and analyses of data is an important element of the current environment; it supports better decisions, promotes competition, and aids in protecting solvency (especially for new and/or small companies)
  - Implementation of this provision would not assure lower medical professional liability premiums; it may, in fact, increase them
  - Medical professional liability rates have been declining without this change.



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# Academy Involvement



# Publications

- *Critical Issues in Health Reform*—a series of 2-4 page papers providing an actuarial perspective on various health reform topics:
  - Actuarial equivalence
  - Administrative expenses
  - Community Living Assistance Services and Supports (CLASS) Act
  - Gender considerations in a voluntary individual health insurance market
  - Health insurance cooperatives
  - Individual mandate
  - Market reform principles
  - Merging the small group and individual markets
  - Minimum loss ratios
  - Public plan option
  - Risk pooling
  - State-level impact and state characteristics
  - Transitioning into new markets



# Publications (cont.)

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- Issue briefs and monographs
  - Risk classification in the voluntary health insurance market
  - A primer on the individual market
  - Drivers of and options to address health spending growth
  - Impact of consumer-directed health plans
  - Value-based insurance design
  - Comparative effectiveness research
  - Medicare Advantage payment reform



# Collaborative Projects with the SOA

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- Excise tax on high-cost employer plans
  - Provided insights on how to better target and administer the tax
  - Projected revenue from an excise tax
- Start-up capital costs for health care co-ops and a public plan
  - Highlighted the range of potential capital needs using different scenarios
- Implications of the CLASS Act
  - Projected premiums under the CLASS Act
  - Warned of the threat to plan solvency and provided insights on how to reduce this threat



# Input to Congress

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- Capitol Hill visits
- Responded to inquiries from majority and minority staff on the following committees:
  - Senate HELP
  - Senate Finance
  - Senate Budget
  - Senate Small Business and Entrepreneurship
  - House Energy and Commerce
  - House Small Business
- Responded to requests from congressional staff in personal offices
- Meetings and discussions with CMS, CBO, HHS, CRS, GAO



# Input to Congress (cont.)

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- Written testimony to congressional hearings regarding the keys to viable reform
- Comment letters to congressional leadership
  - Letter to House/Senate leadership outlining three criteria to viable reform and discussing whether/how the House/Senate bill conforms with these criteria
  - Letter to House and Senate leadership reconciling aspects of House- and Senate-passed legislation
  - Letter to Senators Harkin and Baucus regarding grandfathering provisions in the Senate bill
- Academy hill briefings and webcasts for congressional staff
- Presentations at “off the record” forums for congressional staff
- Meetings with congressional staff/response to congressional requests



# Outreach to and Collaboration with Other Organizations

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- Presentations and testimony at meetings of other organizations
  - National Association of Insurance Commissioners (NAIC)
  - National Conference of Insurance Legislators (NCOIL)
  - National Conference of State Legislatures (NCSL)
- Presentations at briefings for congressional staff organized by other organizations
  - Alliance for Health Reform
  - National Health Policy Forum
- Outreach to other health policy organizations (e.g., Kaiser Family Foundation, AARP, Concord Coalition)



# Media Outreach

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Academy work on health reform-related issues has been featured in numerous media outlets, including:

- Newspapers—New York Times, Washington Post, USA Today, Wall Street Journal, Investor's Business Daily, Los Angeles Times, San Francisco Chronicle, Chicago Tribune
- Magazines—Time, Newsweek, Kiplinger's Personal Finance, Fortune, The New Republic
- Television and radio—Fox Business, PBS Nightly Business Report, National Public Radio
- Trade publications—National Underwriter, Health Plan Week, BNA, The Hill
- Blogs and other on-line media



# For Future Reference

The screenshot shows the homepage of the American Academy of Actuaries. The header features the organization's logo and name, along with a navigation menu for various fields: CASUALTY, HEALTH, LIFE, PENSION, PROFESSIONALISM, and RISK MNGT & FINANCIAL RPTG. A search bar and a 'Member log-in' link are also present. The main content area is titled 'Health Reform NOW' and features a large graphic of a dome. Below the graphic, the article title is 'Critical Issues in Health Reform: Actuarial Perspectives from the Academy's Health Practice Council'. The article text discusses the challenges of health care reform, including high costs and uninsured individuals. A sidebar on the left contains a list of links such as 'About us', 'Membership', and 'Publications'. A sidebar on the right includes 'Related links' for 'Health issues', 'Medicare', and 'Actuaries in the news', along with a 'WEB REDESIGN' banner and a 'TRACE tracking your CE' logo.

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**Critical Issues in Health Reform:  
Actuarial Perspectives from the Academy's  
Health Practice Council**

More than 45 million Americans are uninsured; health spending is at 17 percent of GDP and rising; and there is mounting evidence that the money being spent for health care is not providing enough value. These problems have pushed health care reform to the forefront of the domestic policy agenda.

As policymakers grapple with developing comprehensive reform proposals to slow the increase in health care costs, provide affordable and accessible coverage for the uninsured, and promote quality care, it's important to understand the implications of the various proposals being considered, and their potential impact on the current health insurance market.

Actuaries bring a crucial and unique perspective to the health care reform dialogue. The role of the Academy's Health Practice Council is

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Questions?

