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 **CALENDAR**

It's been a whirlwind week in the U.S. Senate regarding health reform developments. On Tuesday, Senate Majority Leader Harry Reid (D-NV) **announced** that he, along with five more liberal senators (Schumer-NY, Feingold-WI, Rockefeller-WV, Harkin-IA) and five moderate Democrats (Ben Nelson-NE, Carper-DE, Pryor-AR, Landrieu-LA and Lincoln-AR) had come to terms on a plan that would replace the public option in the current Senate bill with a new national insurance plan offered by private insurers, and provide a chance for older Americans to buy in to Medicare.

Much like last month when Reid announced he and key moderates and progressives had come to terms on the inclusion of a public option with a state opt-out provision (an idea that is now apparently off the table), no real details or legislative language on the "deal" have been released—even to other senators. However, the group did agree to send information over to the Congressional Budget Office for scoring—a process that is expected to take the weekend and perhaps be completed by next Monday or Tuesday. Reid has told reporters and his caucus that the final details of the proposal, which could be offered as a "Manager's Amendment" to H.R. 3590 as early as the middle of next week (depending on its cost) will not be released until the CBO has completed its work. Some of the consensus details that are known include:

- The creation of a national insurance plan to be administered by the federal Office of Personnel Management, which is the same agency that oversees the Federal Employees Health Benefits Program (FEHBP). Like FEHBP (which is really just the nation's largest employer-sponsored health plan offering), the insurance options within the new plan would be offered by private carriers. And while the new plan would have many similarities to FEHBP, it would not be an opening of the FEHBP pool to the general public.
- A trigger option for a government-run plan if private carriers fail to participate in the new program.
- Expanded access to Medicare allowing people age 55 to 64 to purchase coverage in the program. Details of who would be eligible within that age group are unclear, as is if the rating and pricing for this population would be separate from the rest of the Medicare population. Some of the Senate negotiators have indicated that the buy-in period could start in 2011 (three years earlier than most other market reforms and the exchanges would take effect), but that no subsidies would be available for such coverage until 2014.
- A medical loss ratio requirement for insurers to spend at least 90% of premium money on medical care, rather than on administrative costs or profits. It is unclear at this time if this requirement would apply to

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or profits. It is unclear at this time if this requirement would apply to just the new national insurance program or to other markets/the exchanges as well.

- A reauthorization of the Children's Health Insurance Program, which was set to expire on October 1, 2013. It is unclear at this time how the program would be impacted, whether or not this population would eventually move to the exchange, as is proposed in H.R. 3590 and if the mandatory premium assistance provisions in H.R. 3590 (which NAHU strongly supports) will be impacted.

While we are waiting for actual legislative details to emerge, NAHU is opposed to all of the components of the compromise deal in concept. A new national insurance option is both unnecessary and a new government expense, and we believe the other significant market reforms under consideration should be given a chance to work before any type of new government-run plan is considered. A buy-in to Medicare would create an enormous adverse selection problem for an already financially troubled program and it would further exacerbate the existing Medicare/private insurance cost-shift, which already costs privately insured American families almost \$1800 a year. We believe that it could represent a gateway to the full government takeover of American health care. Furthermore, it is unnecessary, as the new market reforms and high-risk pool provisions in the current bill will provide immediate access to coverage to anyone in this population who does not have it currently.

Finally, the 90% MLR idea is completely unworkable and unprecedented—no state insurance market has anything remotely similar, and we have seen the negative impact in state markets that have tried to set MLR levels at lower levels than those proposed. It will result in higher premiums and the loss of necessary consumer services that are not considered direct medical care costs, like claims processing, fraud protections, disease management, and more, not to mention its potential impact on the role of health insurance agents and brokers and the education and service they provide to consumers.

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★ **What's Going On With the Actual Bill on the Table—Amendment Process And Timeframe To-Date**

Beyond the compromise discussions, the Senate has continued its work this week on amendments to the original bill, H.R. 3590. Earlier this week, a bipartisan amendment proposed by Senators Ben Nelson (D-NE) and Orrin Hatch (R-UT), which would have prohibited public financing of abortion-related services through the subsidies offered in the exchange (and was very similar to the Stupak amendment which ensured the passage of the House-passed health reform bill) was tabled by a 54-45 vote, which effectively killed it from further consideration. Nelson has repeatedly warned the Senate leadership that without the amendment he could vote against ending debate on the overall bill.

Currently, the Senate is locked up over an amendment on the reimportation of prescription drugs offered by Senator Bryon Dorgan (D-ND). This amendment, which is opposed by NAHU and many others on both economic and safety grounds, does have bipartisan support. However, the Democratic leadership is worried that it would upset the deal the White House and Senate Finance Committee reached earlier this year with PHRMA and the pharmaceutical companies to voluntarily find \$80 billion in cost-savings over time in exchange for their support of reform efforts. Yesterday, Senator Carper (D-DE) announced he had a hold on the Dorgan importation amendment, effectively blocking it from getting a roll call vote for the time

being.

The Senate also rejected a measure offered by Senator John Thune (R-SD) that would have stripped the CLASS Act provisions out of the bill to create a new long-term care insurance program, but did approve a measure that ensures premiums collected for the proposed long-term care insurance program are set aside to ensure the program's solvency.

A proposal by Senator Blanche Lincoln (D-AR) to limit the tax deduction for executive pay for health insurers who participate in Medicare to \$400,000 from \$500,000 was rejected and one to cover mammograms and other preventive health screening for women at no cost to patients was accepted. They have also accepted measures to ensure that Medicare cost savings in the bill will be used to shore up the solvency of program, lower premiums and improve the quality and to theoretically ensure that the legislation will not reduce or eliminate guaranteed benefits in Medicare.

In terms of timeframe, there continues to be a tremendous push to get something passed by the Senate before Christmas, and House leadership has sent signals that they may be amenable to adopting the Senate-passed legislation in order to truncate the conference committee process. However, it is unclear how the still-to-be finalized Senate bill, without a true public option and the Stupak public financing of abortion language, would sit with both the progressive and moderate members of the fractious House democratic caucus.

Other complicating factors include other bills on the Senate schedule, such as the *Transportation Appropriations Conference Report* and other spending bills that have been passed by the House. They also need to address the debt ceiling. Furthermore, the lengthy CBO scoring process, potential concerns with the Democratic caucus about the "compromise deal," and continued concerns about controversial issues like the abortion financing could derail the Christmas plans. It is still anyone's guess as to whether or not the Christmas deadline will happen, but it is important to note that the Senate leadership has yet to meet a deadline it has set for itself!

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Reform "Compromise" Details Seem to Please No One



The release by Senate Majority Leader Reid of some details of the "compromise" proposal on the public option and other issues agreed to by five Democratic moderates and five liberals earlier this week has ignited a firestorm of criticism from all sides of the debate. Already, confidential sources in the Democratic leadership have indicated they are tweaking the proposal as a result of member concerns.

Within the Senate, in addition to blanket opposition by the GOP leadership, several key moderates have announced varying degrees of concern about the proposal, particularly with regard to the proposed buy-in to Medicare for people age 55-64. Moderate GOP member Olympia Snowe (R-ME), who was not consulted in the most recent negotiating process but is still being courted as a potential cross-over vote, said this week that she was disturbed about the potential increase in the cost-shift to private plans, due to the low reimbursement rates Medicare already pays to providers. She explicitly noted that this provision plus others would in all likelihood ensure her final vote in opposition.

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Senator Joe Lieberman (I-CT), who caucuses with the Democrats but was not included in the recent negotiations either and has repeatedly stated that he would stand with the GOP to block any potential public option, told reporters this week that he was growing “increasingly concerned” about the proposal. “I am worried about what impact it will have on the Medicare program’s fiscal viability and also what effect it will have on the premiums paid by people benefiting from Medicare now.”

Senator Ben Nelson (D-NE), who was included in the talks but has remained decidedly independent in this whole process, is still wounded by the defeat earlier this week of his bipartisan amendment to prohibit public financing of abortion services. Nelson, who opposes a public option, noted that the Medicare buy-in has the potential to drive the country toward a single-payer system “which I do not like.” He continued by saying, “I wouldn’t be surprised if this thing does not become a viable option. I think it is going to be the lesser of the popular things, but I am keeping an open mind.”

Even much more liberal Senators whose votes are considered to be “safe” have expressed concerns about the lack of detail in the proposal and the lack of a true public option and the potential harm to Medicare. Senator Barbara Mikulski (D-MD) commented on Thursday, “What is the impact on the stability of Medicare? If we are going to expand it to 3 million people, then how are we going to pay for it? One of the ideas of health reform was to ensure the stability and solvency and benefit package of Medicare.” And even Senator Russ Feingold (D-WI), who was one of the five liberal negotiating Senators, has indicated to reporters that he hasn’t let go of the public option entirely and released a statement Tuesday indicating that he has also not signed onto the proposal.

In addition to the opinions expressed this week by members of the Senate, many other groups and news media outlets have expressed their strong concerns as well. The private health insurance community is unified in its opposition to the new “plan,” as are key business groups like the U.S. Chamber, the NFIB, the National Retail Federation, the Business Roundtable and others.

The compromise is also drawing the ire of leading provider groups. The American Hospital Association, the American Medical Association, the Federation of American Hospitals and the Mayo Clinic are all significant provider organizations that have objected to the new deal as described due to Medicare buy-in provisions and the potential payment reimbursement issue. Even AARP, which has previously endorsed versions of subsidized buy-ins to Medicare and the House-passed reform bill, said it did not know enough about the new initiative to take a position.

The labor unions also stepped up their criticism of the proposed bill, with the presidents of the American Federation of Government Employees, the American Postal Workers Union and the National Association of Letter Carriers joining with the Communications Workers of America this week to express their unified opposition to the bill’s proposed excise tax on high-cost health insurance plans. The AFL-CIO also indicated its displeasure with this provision this week.

Governors and state legislators are beginning to express their serious concerns, too, particularly over the potential expansion of Medicaid and how it could financially cripple the states, most of which are already facing record budget deficits. In particular, moderate Republican New York City Mayor Michael Bloomberg and Democratic Governor David Paterson, both being previous supporters of the reform effort, sent a joint letter on Dec. 8 to New York’s two senators, Charles Schumer and Kirsten Gillibrand, asking them to address problems with the current health care reform bill. “New Yorkers will more than pay their share for increasing health coverage around the country.”

more than pay their share for increasing health coverage around the country,” reads the letter. “All of the major financing options—from Medicare cuts, to Medicare tax increases, to excise taxes on higher cost health plans—can be expected to extract more revenue/savings from New Yorkers than the per capita national average. And, yet, New York will receive far less than the national average in federal relief.”

The news media has also jumped on the compromise details as they are known. One of the most profound editorials came from the [Washington Post](#) which opined on Dec. 10, “...the last-minute introduction of this idea within the broader context of health reform raises numerous questions—not least of which is whether this proposal is a far more dramatic step toward a single-payer system than lawmakers on either side realize.”

Finally, and most significantly, the American public’s support for the Senate’s work continues to fall. According to [CNN’s](#) survey this week, just 36% favor the Senate bill while 61% oppose it. 79% of Americans surveyed also said the bill would increase the deficit and 85% said the bill would increase their taxes. [Fox](#) reports this week that their survey shows that 57% oppose health reforms and 34% favor them. Also, their poll indicates 41% want Congress to pass reform while 54% said they’d rather Congress do nothing. A [New York Times](#) survey released this week shows that 34% of the public think the current reform proposals will hurt them versus just 16% who think it will help them.

According to the [Rasmussen polling organization](#), for the second week in a row only 41% of U.S. voters favor the health care plan proposed by President Obama and Senate Democrats. These two weeks at 41% approval follow a week of 38% approval over the Thanksgiving holiday—the lowest extended period of support for the plan yet. Rasmussen reports, “With the exception of a few days following nationally televised presidential appeals for the legislation, the number of voters opposed to the plan has always exceeded the numbers who favor it.” This week’s Rasmussen survey also shows that 51% oppose the plan, including 40% who strongly oppose it, with just 23% strongly in favor.

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Wyden and Collins File Joint Amendments with the Potential to Harm the Employer-Based System

Senators Ron Wyden (D-OR) and Susan Collins (R-ME) filed [three bipartisan amendments](#) to H.R. 3590 yesterday. They include a variation on Senator Wyden’s previously proposed “Employee Free Choice Amendment,” which is strongly opposed by NAHU as it could have a devastating impact on the employer-based system of providing health insurance coverage. The amendment would require employers to give a voucher to use in the individual market or exchange to their lower-income employees who would normally be ineligible to purchase subsidized coverage through the exchange instead of participating in the employer-provided plan. These employees would be able to keep amounts of the voucher in excess of the cost of coverage elected in an exchange without being taxed on the excess amount. Under the Wyden-Collins version of the amendment, any employer offering its workers vouchers would have access to the exchange in 2015 rather than 2017, the schedule for employer access in the bill.

In addition to the employee choice amendment, the two senators have also filed an amendment to expand the exchange even further and make it possible for individuals who are not eligible for a subsidy to purchase a catastrophic plan in the exchange, regardless of age. Their third amendment would amend the \$0.7 billion annual fee on national premium tax that will be

would amend the \$6.7 billion annual fee or national premium tax that will be imposed on all health insurance carriers beginning in 2010 based on premium volume. The amendment does nothing to reduce the overall amount expected to be generated by the new insurer tax, but it does modify the fee structure to create an incentive for insurers to hold down rates. Under the amendment, starting in 2010, the fee per insurer could be varied by as much as 50% based on how aggressively they control costs.

Based on the bipartisan nature of these amendments, and the continued hope of the Democratic leadership to convince at least one GOP moderate like Senator Collins to vote for their overall plan, there is a very good chance that these provisions will be included in any "Manager's Amendment" offered by Senate Majority Leader Reid in the coming weeks. If this is the case, expect a strong grassroots campaign from NAHU and the insurance and business communities in opposition to these specific provisions.

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NAHU and Agent/Broker Alliance Send Joint Letter on H.R. 3590 to the Senate

NAHU, along with the other members of the Agent/Broker Alliance, sent a joint [letter](#) to Senate leadership today regarding the role of licensed health insurance agents, brokers and consultants in any revised Senate comprehensive health reform legislation. The letter addresses ensuring the the role of licensed agents and brokers in any exchange, suggests modifications to the format of state-based exchanges so they more closely resemble what was included in the bill passed by the Finance Committee, asks that all potential exchange navigators be state-licensed, and addresses potential issues relative to agent and broker compensation raised by the current bill. NAHU and the other agent/broker organizations are currently working with several key moderate senators to ensure the inclusion of these provisions in any potential Manager's Amendment to H.R. 3590.

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Register Now—Capitol Conference 2010

[Registration](#) and the [hotel room block](#) are now open for NAHU's 2010 Capitol Conference to be held March 8 - 10 at the JW Marriott Hotel in Washington, D.C.

The 111th Congress has spent much of this year actively working on comprehensive health care reform and will continue its efforts into 2010. Congress has been considering many proposed ideas from both sides of the aisle and as 2010 begins we have strong reason to believe that they will be making their final push for health reform. It is vital that NAHU members visit with our lawmakers and present ideas that work, especially this year.

Capitol Conference is a unique chance to sit down and share our knowledge with the people who make the laws that affect our profession and our clients. It's also a great opportunity to connect with your fellow members about health care reform ideas and hear exciting speakers address the current state of our delivery system.

The schedule this year will feature a full day of training and information sharing on Monday, March 8, and exciting speakers and Capitol Hill visits on Tuesday, March 9 and Wednesday, March 10. We need as many NAHU

Tuesday, March 9 and Wednesday, March 10. We need as many NAHU members in Washington as possible this year to make our voices heard and so we look forward to seeing you at Capitol Conference 2010 this spring!

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NAHU Releases New Employer Resources Web Page



NAHU regularly puts together information about health reform and compliance issues that you can use with your clients. Click [here](#) to see our new page on employer-client resources, including a simplified version of the [Washington Update](#) for clients, an updated and simplified side-by-side of the House and Senate Reform bills as they pertain to employers, a PowerPoint presentation to use with clients, compliance information for the 2010 plan year and grassroots letters to use with your clients.

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NAHU Submits Comments in Support of Preserving the Role of Agents and Brokers in Medicare



NAHU submitted [comments](#) this week to the Centers for Medicare and Medicaid Services (CMS) on the proposed rule on Policy and Technical Changes to The Medicare Advantage and Medicare Prescription Drug Programs. Our comment letter expresses the association's extreme concern about the proposed regulation's solicitation for comments about ways to potentially limit the activities of professionally licensed health insurance agents and brokers relative to the sale of private Medicare products sometime in the future.

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House Passes High-Risk Pool Funding



Lest you think everything these days revolves around the Senate, yesterday the House passed the Omnibus Appropriations bill that includes funding for HHS and the State High Risk Pool Grant program. The bill includes \$55 million for the program, or \$20 million less than was appropriated last year, and much less than the \$5 billion in the House and Senate reform bills. Funding in those bills would be through 2014 (Senate) or until the exchanges are established (House).

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GRIP



Many of you have asked how you can help contribute more to the association during these momentous times. The next few months will be very important for our association's government affairs efforts. We have every reason to believe that health system reform legislation will move forward, and we need to preserve the role for agents and brokers and ensure continuance of the private market. GRIP is a voluntary donation program created some years ago for our legislative purposes at the national level that we have reinstated

ago for our legislative expenses at the national level that we have reinstated to help defray the costs of our current lobbying efforts.

We are now soliciting both individual and chapter contributions to GRIP, and would greatly appreciate any additional help as there is still much to be done on the legislative and regulatory front.

Please click [here](#) to make a donation.

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Contact NAHU's Government Affairs Staff



If you have any questions about topics covered in Washington Update (or other legislative issues), please contact NAHU's Government Affairs staff:

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