

## Bazelon Center for Mental Health Law

### Conference Issues in Health Reform

Provision	Patient Protection and Affordable Care Act (H.R. 3590) Senate Bill as passed 12/24/09	Affordable Health Care for America Act (H.R. 3962) House Bill as passed 11/7/09	Comments
<b>Health Insurance Reforms</b>	Guaranteed issue and renewal No pre-existing condition exclusions No annual or lifetime limits	Same	Support
<b>Benefits</b>	4 benefit tiers (Bronze-Platinum). Mandates services: MH/SA services Rehabilitation and Habilitation services Preventive Services (no cost-sharing) Rx coverage	3 benefit tiers Mandated services: MH/SA services Rehabilitation and Habilitation services Preventive Services (no cost-sharing for services rated A & B by USPSTF). Rx coverage	Minimum benefit needs to include: MH/SA services Rehabilitation services Preventive Services with no or minimal cost-sharing Rx coverage
<b>Parity</b>	All exchange plans must cover mental health and substance abuse services at parity, in compliance with both federal and state law.	Explicitly requires all participating health plans to provide mental health and substance use at parity.	Support House bill  House language is clearer and will ensure true parity for mental health/substance abuse services.
<b>Premium Rate Variation</b>	May Vary By: Family Structure Rating Area Age (3:1) Tobacco Use (1.5:1)  May NOT Vary By: Health Status Gender Occupation	May Vary By: Family Structure Age (2:1) Rating Area  May NOT vary by: Health Status Gender Occupation	Support language that ensures premiums do not vary by health status.

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<b>Costs to Individuals of Exchange plans</b>	<p>Premium credits available on a sliding scale basis to individuals and families with incomes up to 400% FPL</p> <p>Cost-sharing subsidies for low-income individuals.</p> <p>Limits annual out of pocket spending to up to \$3,987 for an individual and \$7,973 for a family depending upon income.</p>	<p>Premium credits available on a sliding scale basis to individuals and families with incomes up to 400% FPL</p> <p>Cost-sharing credits for low-income individuals.</p> <p>Limits annual out of pocket spending to up to \$5,000 for an individual and \$10,000 for a family depending upon income.</p>	Support having annual limits on total out-of-pocket costs
<b>Young Adult Coverage</b>	<p>Dependent coverage extended to age 26</p> <p>Establishes separate "young invincible" catastrophic plans available to uninsured under age 30.</p>	<p>Dependent coverage extended to age 26</p>	Support dependent coverage up to age 26
<b>Immediate assistance available to help with health care costs</b>	<p>Establishes high-risk pools for uninsured individuals after enactment.</p>	<p>Establishes high-risk pools for uninsured individuals after enactment.</p> <p>Extends COBRA continuation of coverage for beneficiaries until Exchange is established.</p>	Support House bill
<b>Wellness Programs</b>	<p>Allows plans to vary premium by up to 30% as an incentive for participation in wellness plans.</p>	<p>Employers may offer financial rewards for participation, provided they are not tied to premiums or cost-sharing.</p>	Support House bill
<b>State plan option</b>	<p>States may elect to establish a federally funded, non-Medicaid plan for individuals with incomes above Medicaid, but below 200% FPL in lieu of Exchange.</p>	<p>No provision</p>	Support Senate bill

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<b>Interstate Sale of Insurance</b>	Allows interstate sale of insurance, provided insurers abide by laws in state in which plan is sold.	Allows interstate sale of insurance. Requires insurers to remain licensed in each State in which plan is sold, and maintains the authority of the state in which a covered individual resides to address a number of consumer protections.	Support House bill
<b>Exchange Design</b>	Exchanges set up at state level  Exchange policies available to: Initially for small groups & Individuals  Large employers eligible to purchase through Exchange in 2017.  Separate small group & individual Exchanges (states may merge).  Must be self-sustaining by 1/1/15. Secretary establishes standards; states monitor compliance.  States may enter into Interstate Health Care Choice Compacts to share Exchange.	National Health Insurance Exchange States may opt to operate a state-based Exchange. National Exchange established by Health Choices Administration (new federal entity).  Exchange policies available to:  All individuals not receiving other qualified coverage from outset. Small and large employers are phased in over a 3-year period. Medicaid-eligible individuals cannot enroll in Exchange.  States may enter into Interstate Health Care Choice Compacts to share Exchange.	Support keeping a National Exchange
<b>Public Option</b>	No public option Nonprofit, member administrated Consumer Co-operatives Multi-State Plans (OPM managed plan similar to FEHBP)	Establishes a public health insurance option as an Exchange-qualified health benefits plan. Nonprofit, member administrated Consumer Co-operatives also funded.	Support House bill

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<b>Individual Mandate</b>	<p>Individuals required to purchase a qualified plan.</p> <p>Penalty of \$750 per individual.</p> <p>Exemptions for certain groups.</p>	<p>Individuals required to purchase a qualified plan.</p> <p>Penalty of 2.5% of adjusted income above filing threshold.</p> <p>Exemptions for certain groups.</p>	Support individual mandate
<b>Employer Mandate</b>	<p>Employers with 50+ employees and with one or more employees receiving premium credits subject to \$750 fine per employee.</p> <p>Waiting periods over 90 days prohibited; employers requiring waiting period subject to fee.</p> <p>Employers with 200+ employees must automatically enroll new employees in health coverage.</p>	<p>Requires employers to offer coverage and contribute 72.5 percent of an individual's premium (65% for family) of the lowest cost qualified plan.</p> <p>Penalty of 8% of payroll.</p>	Support House bill
<b>Consumer Assistance</b>	<p>Grants will be provided to states for the establishment, expansion and support of offices of health insurance consumer assistance OR health insurance ombudsman programs.</p> <p>Will assist individuals with navigating the new system and receive and reply to complaints, grievances, and requests for information.</p> <p>Federal support for states to establish a Navigator program for the Exchanges.</p>	<p>Establishes a Qualified Health Benefits Plan Ombudsman within Health Choices Administration.</p> <p>Will assist individuals with navigating the new system and receive and reply to complaints, grievances, and requests for information. Reports annually to Congress.</p> <p>A second Ombudsman's office will be established by the Secretary to specifically address the public option.</p>	

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<b>Medicaid Eligibility and Enrollment</b>	<p>Extends Medicaid eligibility to individuals with incomes up to 133% FPL.</p> <p>Includes childless adults, but with limited (benchmark plan) covered services. Provides higher match for newly eligible individuals.</p> <p>Extends coverage to former foster care children up to the age of 25. Streamlined enrollment.</p>	<p>Extends full Medicaid coverage to individuals with incomes up to 150% FPL.</p> <p>Childless adults eligible for full benefits. Maintenance of effort required of states</p> <p>Provides 100% federal match for newly eligible individuals in 2013 and 2014, and 91% in 2015 and beyond.</p>	<p>Support House provision extending eligibility to 150% of FPL.</p> <p>Oppose Senate provision for limited benchmark plans for some newly Medicaid-eligible individuals</p> <p>Support coverage of former foster care youth up to age 25.</p> <p>Support streamlined enrollment</p>
<b>Medicaid coverage of Therapeutic Foster Care</b>	No provision	Clarifies that TFC is a covered service Defines TFC (thereby establishing minimum quality standards for service)	Support House bill
<b>Medicaid Reimbursement</b>	No provision	Increases Medicaid reimbursement for primary care services to equal Medicare reimbursement rates for primary care services through a 3 year phase in.	Support House bill
<b>Infant/toddler home visitation programs</b>	Covered under Medicaid	Grants provided.	Support House and Senate provisions
<b>Tobacco Cessation</b>	Products covered under Medicaid for pregnant women with no cost sharing requirements.	Programs covered under Medicaid for all.  Products removed from exclusion under section 1927(d)(2) of Social Security Act	

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<b>Medical Homes</b>	Establishes new Medicaid state plan option allowing beneficiaries with one or more chronic conditions OR with serious mental illness to designate a health home. Community mental health centers are eligible to become health homes. Requires States to consult and coordinate with SAMHSA.  Provides \$50 million for grants for co-locating primary care on-site in community mental health agencies.	Establishes a 5-year pilot program to test the medical home concept with Medicaid beneficiaries  Expands and reorients Medicare medical home demo and establishes a medical home pilot program to test payment structures.	Support Medicaid medical homes  Mental health agency should be medical homes for persons with serious mental illnesses
<b>IMD Demo</b>	\$75 million for 3-year Medicaid demo to allow reimbursement to private psychiatric hospitals (IMDs).	\$75 million for 3-year Medicaid demo to allow reimbursement to private & state psychiatric hospitals (IMDs).	Neutral on Senate language Oppose inclusion of state hospitals in House language
<b>Medicaid Community First Choice Option</b>	Contains supportive language stating the House's opinion that States should be able to implement a Community First Choice Option under their Medicaid plan that would allow coverage of community-based attendant services and supports for certain Medicaid-eligible individuals.	Amends Medicaid to allow state Medicaid plan coverage of community-based attendant services and supports for certain Medicaid-eligible individuals.	Support Senate bill
<b>Barriers to Home and Community Based Services</b>	Instructs Secretary to develop regulations for States for the oversight of administration of home and community based services.	No provision	Support Senate bill

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<b>Money Follows the Person</b>	Demonstration extended through 2016.  Amends minimum time of residence to 90 days.	No provision	Support Senate bill
<b>Children's Health Insurance Program (CHIP)</b>	Enhanced match & maintenance of effort requirements through 2019. States must either continue program or establish procedure to provide eligible children with coverage through the Exchange.	Maintenance of effort requirement through 2013.  Elimination of program in 2014.	Support House bill
<b>Medicaid for Incarcerated Youth</b>	No provision	Medicaid programs must suspend, not terminate, eligibility for youth under the age of 19 while incarcerated.	Support House bill
<b>Cost-sharing for Preventive services</b>	Waives cost-sharing for preventive services under Medicare and Medicaid.	Waives cost-sharing for preventive services under Medicare and Medicaid.	Support House bill
<b>Medicare Part D</b>	Provides discounts for beneficiaries who have reached the donut hole. Requires all drugs in certain classes to be included in Part D formularies.	Eliminates Part D donut hole, beginning with a \$500 reduction in 2010, and completing phase-out by 2019	Support House bill
<b>Inclusion of mental health agencies under 340B Program</b>	No provision	Expands list of providers eligible to participate in the Medicaid 340 B drug discount program to include public addiction and mental health programs	Support House bill

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<b>CLASS Act</b>	Yes.	Yes.	Support.
<b>Creation of category of Federally-Qualified Behavioral Health Centers</b>	No provision.	Amends the Public Health Service Act to define an FQBHC and establishes criteria that must be met.	Support House bill
<b>School Based Health Clinics</b>	Provides grants for establishment of school-based health clinics offering mental health services and referrals.	Provides grants for establishment of school-based health clinics offering mental health services and referrals.	
<b>Prevention Strategy</b>	<p>Sets up a National Prevention, Health Promotion, and Public Health Council.</p> <p>Requires development of a National Prevention Strategy</p> <p>Authorizes a Community Transformation Grant Program</p> <p>Authorizes a Healthy Aging, Living Well Grant Program</p>	<p>Requires development of a National Prevention Strategy</p> <p>Authorizes a Community Prevention and Wellness Services Grant Program</p> <p>Community Prevention and Wellness Research Grants</p>	
<b>Public Health (funds/TFs)</b>	<p>Establishes a Community Preventive Services Task Force</p> <p>Creates a Clinical Services Task Force</p> <p>Sets up a Prevention and Wellness Fund</p>	<p>Establishes a Community Preventive Services Task Force</p> <p>Creates a Clinical Preventive Services Task</p> <p>Sets up a Prevention and Wellness Trust</p> <p>Increases funding for Community Health Centers</p> <p>Authorizes a Grant program to enhance Public Health System.</p>	

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<b>Comparative Effectiveness Research</b>	<p>Establishes Patient Centered Outcome Research Institute governed by a Board of Governors and advised by advisory councils.</p> <p>Establishes Patient Centered Outcomes Research Trust Fund (10,000,000 in FY 2010 to \$150,000,000 in FY 2012)</p>	<p>Establishes Center for Comparative Effectiveness Research</p> <p>Establishes Comparative Effectiveness Research Commission</p> <p>Creates Comparative Effectiveness Research Trust Fund (\$90,000,000 in FY 2010 to \$110,000,000 in FY 2012)</p>	Support
<b>Quality Improvement and Performance</b>	<p>Requires a National Strategy for Quality Improvement.</p> <p>Authorizes Patient-Centered Outcomes Research.</p> <p>Authorizes grants for innovative payment models.</p> <p>Requires enhanced data collection.</p>	<p>Establishes a Center for Quality Improvement</p> <p>Sets up a Bureau of Health Improvement Requires enhanced data collection</p>	
<b>Health IT</b>	<p>Requires development of standards for use of HIT in enrolling individuals in public programs</p> <p>Provides grants to providers for the implementation of HIT</p>	<p>Requires analysis and development of standards for use of HIT in enrolling individuals in public programs</p> <p>Provides grants to providers for the implementation of HIT</p>	
<b>Mental Health Training</b>	<p>Authorizes mental health and behavioral health education and training grants</p>	<p>Authorizes mental health and behavioral health education and training grants</p>	Support
<b>Centers for Excellence</b>	<p>Establishes National Centers for Excellence in Depression</p>	<p>No provision</p>	Support House bill