



# Assembly Minority Ways & Means Committee

## MEMORANDUM

March 26, 2010

**TO:** Hon. James P. Hayes

**FROM:** Charles Vaas, Senior Budget Analyst  
Erin Garlock, Esq., Associate Counsel  
Gideon Lamb, Legislative Analyst

**RE:** The Patient Protection and Affordable Care Act and Reconciliation Act

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The purpose of this memo is to provide an update on the current information on health care reform that passed the House of Representatives March 21, 2010. This information is subject to revision as more facts become known and any potential legal or other actions take place.

### Legislative Actions

On March 21, 2010 the House of Representatives passed the Senate version of the Patient Protection and Affordable Care Act by a vote of 219-212. This is the legislation that was previously passed by the Senate on December 24, 2010. This legislation was sent directly to the President and did not require further Senate approval. The President signed this legislation March 23, 2010. The House of Representatives separately approved a package of changes to the Patient Protection and Affordable Care Act, the Health Care and Education Reconciliation Act (Reconciliation Act). The Reconciliation Act was approved by a vote of 220-211. The Reconciliation Act was then sent to the Senate to be voted upon using the parliamentary procedure of reconciliation, which only requires a simple majority to pass the bill, negating the possibility of a Republican filibuster. The Reconciliation Act was taken up by the Senate on March 24, at which time parliamentary problems were found with two provisions in the education section of the bill, including a provision related to Pell Grants. It does not appear that corrections to the parliamentary problems will result in any substantial changes to the Reconciliation Act. There are no changes to health care reform. The Senate took up an amended version of the Reconciliation Act with corrections early in the afternoon of March 25. There were no further challenges before the Senate Parliamentarian and all twenty-nine Republican amendments have been rejected. After the Senate vote, the bill was sent back to the House, where it was not challenged. The legislation has been sent to the President, and will likely be signed into law at some point early next week.

### Overview

- Up to 32 million current uninsured will be provided coverage, but this still leaves 23 million uninsured in 2019. One-third of those remaining uninsured would be illegal immigrants.
- The cost is estimated to be \$938 billion over the next ten years. Revenues will be realized immediately from taxes imposed by the legislation, but the costs for services do not begin for several years.
- The Congressional Budget Office estimates that the legislation will reduce the deficit by \$143 billion over the next ten years, resulting from revenues exceeding the initial cost of the program. Over the decade following those ten years, the CBO estimates that the deficit is only reduced by \$1.2 billion.

## Funding

- \$400 billion in higher taxes will be raised over the next decade by:
  - Adding an additional surtax of 3.8 percent on investment income for taxpayers with an Adjusted Gross Income in excess of \$200,000 for single filers and \$250,000 for married filers.
  - The most expensive insurance policies will be subject to a new tax; this will be on insurance companies but passed on to policy holders (Similar to the Covered Lives Assessment). The bill imposes a new 40 percent excise tax on health coverage in excess of \$10,200 for single filers and \$27,500 for married couples (Cadillac plans).
  - Increasing the tax on health savings account distributions not used for qualified for medical expenses to 20 percent.
  - Imposing an annual fee on manufacturers and importers of brand name drugs, generating \$8 billion in 2014, \$11.3 billion in 2015 and 2016, \$13.9 billion in 2017, \$14.3 billion in 2018 and \$2.8 billion in 2019 and thereafter.
  - Imposing a 10 percent excise tax on indoor tanning services.
  - Imposing an annual fee on health insurance providers.
  - Broadening the Medicare hospital insurance tax base for high-income tax payers and imposing an additional surtax of .9 percent on earned income of \$200,000 for single filers and \$250,000 married filers.
- \$500 billion in cuts from planned payments from Medicare over the next decade. These planned payments include payments to hospitals, nursing homes, hospices and other Medicare providers.

## Medicare

- Closes the deductible (“doughnut hole”) in Medicare Part D, a gap in coverage that potentially costs Medicare Part D beneficiaries thousands of dollars per year. This would gradually phase out and will be completely gone in 2020.
- Gives a rebate of \$250 to seniors this year, who have reached their deductible in the Part D plan.
- Starting in 2011, there will be a 50 percent discount of brand name drugs for those who are in the doughnut hole.

## Medicaid

- Adds 16 million new enrollees nationally to Medicaid.
- The part of the legislation that would alleviate costs in NY must go to the Senate for reconciliation. This would amount to \$1 billion in assistance per year for the State, by requiring the Federal government to pay a greater share of Medicaid services. This would go into effect in 2014 and be fully effective by 2019.
- Expands coverage to 133 percent of the Federal Poverty Level (\$19,378 for a family of two). In New York, only single adults and childless couples are below this level. Also, there is the possibility of expansion of eligibility for HIV positive individuals. It is unknown if New York will have to pay for assistance given to individuals who are above these guidelines.
- Streamlines eligibility coverage; however New York has already implemented most of these changes. This includes the elimination of asset tests, face to face interviews and instituting continuous eligibility.
- Illegal immigrants would not be eligible for Medicaid.

## Insurance

- Parents would be able to keep children on their family insurance plans up to age 26.
- New York would be in charge of creating and administering its new insurance exchange. Individuals and families above 133 percent of the FPL and under 400 percent will be eligible for premium subsidies (for a family of four these amount would be between \$29,327 and \$88,200). Federal funding will be available for the State.
- Subsidies will be offered on a sliding scale. Exchanges will offer one-stop shopping to individuals, the self-employed and small businesses to compare and purchase health insurance policies. Exchanges for individuals will be available over the next four years, and exchanges for small businesses (fewer than 100 employees) will be available in 2014.
- Premiums for policies offered by the exchange shall be capped at a percentage of income.
- Starting in 2014, individuals can be fined \$95 or one percent of household income, whichever is greater, if they don't have insurance. In 2016, this amount increases to \$695 annually or 2.5 percent of income, whichever is greater. This amount is capped at \$2,085 for a family.
- Employers with more than 50 employees must provide health insurance or pay a fine of \$2,000 per worker annually if any worker receives Federal subsidies to purchase insurance.
- Beginning in 2010, small business owners will be offered tax credits of up to 35 percent of premiums to help insure their employees.
- Retroactive cancellations of policies will be illegal.
- Coverage of children with pre-existing conditions is mandatory, and eventually this will apply to everyone.
- There will be no lifetime limits on coverage.
- Illegal immigrants would not be allowed to buy health insurance through exchanges.

## Higher Education Service Corporation

- The Health Care Reform Reconciliation bill includes the Student Aid and Fiscal Responsibility Act (SAFRA). This legislation was one of President Obama's top priorities and was added to the Reconciliation bill late last week.
- SAFRA overhauls the Federal student loan programs by shifting all lending from bank and state agency based lending of the Federal Family Education Loan Program (FFELP), to the Federal Direct Loan program. The Direct Loan program will now control **all** Federal student loans. Savings, amounting to \$61 billion from this move, will be used to increase Pell Grants as well as fund the President's higher education initiatives.
- As a result, Higher Education Services Corporation (HESC) will no longer guarantee new Federal student loans. They will still be responsible for their existing student loan portfolio.
- HESC could become a contractor for the Direct Loan program, in which case there will be a minimal effect on HESC. However, if they are not granted the contract, the staff that handles the new Federal loans within HESC could be laid off, reassigned or relocated. This division is estimated to be staffed by 80-100 people.