



**Colorado Medical Society
Position on HR 3200 – America's Affordable Health Choices Act of 2009
Posted August 7, 2009**

Background

After numerous drafts were circulated in May and June, HR 3200 was formally introduced July 14. It was referred to three committees that have jurisdiction over health care legislation in the House of Representatives: Education and Labor, Ways and Means and Energy and Commerce. The bill has now passed out of all those committees (amended along the way) and will be voted upon by the full house at some point after their return from recess in September.

The American Medical Association's Board of Directors voted qualified support for HR 3200 on July 15; the CMS Board voted on July 17 to express strong support for AMA's engagement on the bill.

HR 3200 is one of three health reform bills currently in play in Congress. The other two bills are being developed by the Senate Health, Education, Labor, and Pensions committee and Senate Finance committee, respectively, and have not yet been introduced.

Accordingly, it is important to bear in mind that HR 3200 is in the very early stages of the congressional legislative process. Once the Senate passes a bill (which will itself represent a compromise between the HELP and Finance Committee bills), a House/Senate conference committee will be appointed to work out differences between the House and Senate bills.

CMS and its Physicians Congress for Health Care Reform will continue to work with AMA, county and state medical societies and individual physicians to shape recommendations for health reform legislation. We will continue to update the Colorado congressional delegation of CMS' position as the bills are amended.

CMS' guiding principles for health care reform (adopted by the House of Delegates in 2007)

These principles shape our analysis of/reaction to HR 3200:

- Require coverage and provide assistance to those that need it
- Provide essential benefits and choice of plans for consumers
- Use data to drive meaningful quality improvement and patient safety
- Retool physician payment systems to align incentives to drive value not volume and ensuring adequate reimbursement for all specialties including primary care.
- Permanently repeal the SGR
- Simplify administrative systems
- Reform medical liability
- Empower physician practices with antitrust relief and breaking down existing silos

Compelling components of HR3200 based on these principles

- Extends coverage to all Americans through health insurance market reforms
- Imposes an individual mandate and makes it possible for people to comply by providing premium subsidies and expanding and strengthening Medicaid
- Offers consumers a choice of plans and provides an essential benefits package that is created through a transparent process chaired by the Surgeon General
- Includes essential insurance reforms such as guaranteed issue and eliminating coverage denials based on pre-existing conditions
- Reduces and simplifies health insurance administration by capping medical loss ratios for health plans and adopting standards for financial and administrative transactions, including timely and transparent claims and denial management processes and use of standard electronic transactions.
- Sets the stage for repealing the SGR and recognizes that fundamental Medicare reform is essential to the success of broader health system reforms
- Encourages chronic disease management and care coordination through additional funding for primary care services, without imposing offsetting payment reductions on specialty care
- Makes investments in the workforce to address primary care needs
- Emphasizes wellness and prevention by eliminating any cost-sharing for preventive services in Medicare and increases Medicare payments for certain preventive services
- Supports continuous quality improvement through the creation of the Center for Quality Improvement to identify, develop, evaluate and disseminate data and measures of provider performance
- Initiates important delivery system and payment reforms by encouraging participation in new models such as accountable care organizations and patient-centered medical homes

Recent amendments address numerous concerns expressed by the medical profession

- Voluntary Public Plan and Medicare Rates: The Secretary of Health and Human Services is required to negotiate payment rates in the public plan so that they would not be lower than Medicare or higher than the average rates paid by private plans in the Health Insurance Exchange. Requirements for physicians and other providers to opt out of participating in the public plan are specified. Federal bailouts to subsidize the public plan will be prohibited.
- Medical Liability Reform: Financial incentives will be provided to states that enact certificate of merit and/or early offer programs in medical liability cases (this specific language was not yet available for review as of Aug. 1).
- Physician-Owned Hospitals: An amendment was debated and withdrawn that would have struck the bill's restrictions on physician-owned hospitals. After considerable discussion, Committee Chairman Henry Waxman pledged to work with Rep. Joe Barton (R-Texas) to develop compromise language for later incorporation into the legislation.

Remaining issues of concern

- Public plan. While the amendments noted above address some concerns about this option, there are still many details to be worked out. For example, physicians would like to see a viable out-of-network option in the public plan.
- Scope of practice expansions for non-physician health care professionals. CMS recognizes the crucial role that professionals such as advanced practice nurses, chiropractors and others play in extending the availability of health care services. However, it is important to recognize that no other profession receives the same extensive clinical education and training as physicians; thus, it is a matter of patient safety to define the scopes of practice for each health care profession appropriately, based upon their differing levels of training. We caution against provisions in the bill that would blur the distinctions between physicians and chiropractors, for example, and between physicians and advanced practice nurses.

- State/federal Medicaid distribution. The Medicaid expansion in the bill is crucial to giving millions more Americans the coverage that will help them get the care they need. However, when states are grappling with their worst budget deficits in generations, they cannot afford to take on an unfunded mandate. We urge Congress to retain the originally-envisioned full federal responsibility for this expansion until the economy turns around.

Analysis and Conclusion

CMS wants to be sure physicians understand and are educated on the reasons AMA's Board voted conditional support for HR 3200. It was a strategic calculation made after a well-reasoned analysis of the strengths and risks of the legislation, and in the early stages of the legislation's development. AMA took the point of view that early endorsement and working constructively with members of Congress and the Obama administration would improve medicine's positioning for the critical "end game" negotiations that will occur when the House and the Senate bills are reconciled. That is the time when most observers believe the final outcome on key issues such as Medicare physician payment and the details of any public insurance option and financing will be decided.

We encourage physicians to communicate their perspective on this legislation to their individual member of the House of Representatives and Colorado's two U.S. senators. For contact information, go to "Who's my legislator?" at www.cms.org or click on <http://capwiz.com/cms/state/main/?state=CO&view=myofficials&action=chgaddr#0>

Additional resources

"Frequently Asked Questions," AMA – <http://www.ama-assn.org/ama1/pub/upload/mm/399/hsr-hr3200-faqs.pdf>

AMA Health Systems Reform Web page –

<http://www.ama-assn.org/ama/pub/advocacy/health-system-reform.shtml>

Analysis of the bill from "Politifact" –

<http://www.politifact.com/truth-o-meter/article/2009/jul/30/e-mail-analysis-health-bill-needs-check/>

House Republican Web page–

<http://healthcare.gopleader.gov/>

Democratic Web page –

http://www.majorityleader.gov/members/health_care.cfm

For complete bill text, summary and text of all amendments, go to:

http://energycommerce.house.gov/index.php?option=com_content&view=article&id=1722:hr-3200-americas-affordable-health-choices-act-of-2009-markup-day-5&catid=141:full-committee&Itemid=85

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