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## President Urges Congress to Finish Health Care Reform

In a televised speech given midday on Wednesday, March 3, President Obama urged Congress to finish health care reform within the next several weeks. In doing so, the President rejected the option of starting over with new legislation. Instead, the President made clear that Democratic leadership should be prepared to move the existing legislation forward without the votes of Republicans even though, the day before, the President sent a letter to Congressional leaders identifying four additional Republican priorities that the President was exploring for inclusion in the health reform package. While the President did not use the term "reconciliation" in his remarks on Wednesday, he called for an "up-or-down" vote on the existing health reform plan that would require only a simple majority to pass. After this past week, President Obama now has fully embraced the health reform package as his own, and has agreed to serve as its promoter-in-chief while Congress works through the legislative language and appears to be the whip-in-chief in rounding up sufficient votes to pass the reform bill.

### Republican Ideas Required; Republican Votes, Not So Much

On Tuesday, March 2, President Obama sent a letter to House Speaker Nancy Pelosi (D-Calif.), Sen. Harry Reid (D-Nev.), Representative John Boehner (R-Ohio) and Sen. Mitch McConnell (R-Ky.) thanking them for their participation in the prior week's bipartisan meeting on health insurance reform. The President acknowledged that the meeting underscored important areas of disagreement, but indicated that he was "convinced that the Republican and Democratic approaches to health care have more in common than most people think." The President further provided that, no matter how they moved forward with health care reform, there are at least four policy priorities identified by Republican members at the bipartisan meeting that the President is exploring. The ideas which the President has taken under consideration are as follows:

- **Fraud, Waste and Abuse:** Improving the government's ability to detect health care fraud by engaging medical professionals to conduct random undercover investigations of health care providers that receive reimbursements from Medicare, Medicaid and other Federal programs.
- **Medical Malpractice Reform:** Appropriating an additional \$50 million for grants which can be made to the states to fund demonstration alternatives to resolving medical malpractice disputes, including health courts.
- **Medicaid Physician Reimbursement:** Increasing Medicaid reimbursement to physicians in a fiscally

responsible way in view of the Medicaid expansion under his health reform plan.

- **HSAs and High Deductible Health Plans:** Clarifying that high deductible health plans could be offered in the exchanges with health savings accounts.

The day after President Obama identified specific Republican ideas that should be addressed in a health reform package, he announced to the Nation that Congress should move forward with comprehensive health reform – consistent with the existing legislation – which could be finalized using the reconciliation process requiring the vote of a simple majority in the Senate. Although the President did not retract his earlier offers to consider further Republican ideas, he has now made clear that he is willing to pass health reform without Republican support.

### The Process by Any Other Name is Still Reconciliation

In his Wednesday speech, the President exhorted Congress to allow for an *up-or-down* vote on his health reform package. The President further admonished that Congress owed the American people a *final* vote on health reform. The President then left no doubt that he was endorsing passage of health reform by the budget reconciliation process when he reasoned that the reform package already had passed the Senate by a 60-vote supermajority. Since the President's speech, both Democrats and Republicans have more openly and forcefully debated the appropriateness of using reconciliation as a means for achieving a final health reform package and the specifics by which a package would be achieved.

The first step would be for the House of Representatives to pass the Patient Protection and Affordable Care Act passed by the Senate on Christmas Eve. Assuming that the House passes the Senate bill, a corrections bill to change measures impacting the federal budget which the House finds objectionable then would need to be passed by both chambers of Congress through budget reconciliation. Reports indicate that House and Senate Democrats are close to agreement on the contents of a formal reconciliation bill which they may be able to send to the Congressional Budget Office for scoring in the coming week.

In the meantime, the House is busy counting votes to determine if it actually can pass the Senate bill and, subsequently, the corrections bill. It is widely assumed that there will be sufficient Democratic votes in the Senate to pass a corrections bill through reconciliation. Certain centrist Democratic Senators who opposed using reconciliation to approve the entire health reform package have voiced their support for the use of

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## President Urges Congress to Finish Health Care Reform (cont'd.)

reconciliation to pass a corrections bill. Notably, Sen. Robert Byrd (D-W.Va.) wrote in an editorial appearing on March 4, in the *Charlestown Daily Mail* that a corrections bill “structured to reduce deficits by, for example, finding savings in Medicare or lowering health care costs, may be consistent with the Budget Act, and appropriately considered under reconciliation.” Other centrists Democrats are more circumspect but indicate that they remain open to using reconciliation to change appropriate provisions of the Senate health reform bill. Only Sens. Blanche Lincoln (D-Ark.) and Evan Bayh (D-Ind.) have publicly announced that they will not support passage of a corrections bill by reconciliation.

In contrast to optimism expressed by most Congressional Democrats, on March 4, *Roll Call* was among the first to report that Senate Republicans are warning that there is no guarantee that a corrections bill would survive a Senate floor fight. *Roll Call* further reported that Senate Republicans would try to defeat or delay a reconciliation package by raising budget points of order and numerous amendments. The *Christian Science Monitor* reported on March 7, that both retiring Democratic Sen. Evan Bayh and centrist Republican Sen. Lindsey Graham (S.C.) conceded that, if Democrats used reconciliation to modify the Senate reform bill, “Republicans would pull out every stop to bring work in the Senate to a halt between now and the November elections.” Sen. Graham went further in pleading that reconciliation not be used to pass health care reform and indicated on Sunday talk shows that such would be “catastrophic.” Graham warned that using reconciliation to pass health care reform would circumvent the bipartisan consensus building and collaborative process that makes the Senate unique. Although reconciliation has been used by both parties before, Sen. Graham and other Republicans are pointing out that these legislative measures ultimately won bipartisan support, when health care will not.

### Courting a Fractious Democratic Caucus

President Obama appears to be willing to assume the political risks associated with employing the reconciliation process to pass health care reform, but he cannot get there without the House approving the Senate bill first. In an effort to win passage of *his* health reform plan, President Obama has begun lobbying House Members directly to secure the additional votes which are needed to pass the Senate bill in the House of Representatives. Last week, President Obama met separately with a faction of progressive House Democrats and the moderate, pro-growth New Democrat Coalition. The President also met with House members who voted against the House health reform bill last November.

House progressives indicated their willingness to accept the compromises in the current Obama health care plan, including the loss of the public option, in exchange for

the opportunity to achieve health reform now. It is unclear yet whether the centrist House Democrats have been convinced to vote for the President’s plan. Then there are a group of approximately 12 House members whose votes appear to be controlled by Representative Bart Stupak (D-Mich.) who is leading the fight to obtain more stringent language in the final health reform package to prohibit federal subsidies from being paid to health insurers offering policies through the exchanges which cover abortion procedures. Representative Stupak and his block of House Members are generally proponents of health care reform and so is the U.S. Conference of Catholic Bishops with whose views the Stupak group ally. Even if an acceptable resolution could be reached with Representative Stupak and other Members of the House and Senate over abortion coverage provisions, the compromise language would likely be outside the scope of a reconciliation bill. Consequently, reports are surfacing that there may be a third bill, which is part of the overall health care package, that will be necessary to address abortion coverage and the availability of health care coverage to undocumented immigrants.

Despite President Obama’s entreaties and lobbying efforts of the past week to pass his health reform plan and the coming week’s engagement directly with the American public in speeches and media interviews, there are still significant political and procedural obstacles to his ability to deliver on health reform, whether in three weeks or three months. Perhaps the best tactic the President has in his arsenal is the Administration’s unrelenting focus on health insurers and their premium increases and profits, despite the stated desires of health insurers to see health reform and medical cost containment achieved. Last week, U.S. Health and Human Services Secretary Kathleen Sebelius held a White House meeting with CEOs of the nation’s top health insurers and officials from the National Association of Insurance Commissioners to ask for insurers’ cooperation in being more transparent with the public about their costs associated with premium increases – asking, among other things, that this cost and rate information be posted on the Internet. Over the weekend, the Administration seized a Goldman Sachs report recommending that investors purchase stock in two particular national health insurers because of their unfettered ability to raise premiums in certain geographic markets and increase profits. In view of this spotlight on a sector of the health care industry which has lost favor with many ordinary Americans, it will be of interest in the coming weeks to see if President Obama can create a significant shift in public support for his comprehensive overhaul of the health care system and whether this shift, if such occurs, will translate into House votes for the Senate reform bill.