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Passage of an Insurance Reform Bill is Highly Likely, but a True National Health Insurance Bill is not even on the Table

I. Introduction

The objective of this report is to build the case that some form of Health Care Reform Bill will be signed by President Obama in this legislative session, to outline what we expect that bill will look like, and to anticipate the impact of the bill on health care companies. Our expectation is that some bill will pass Congress, that the bill will be more of an insurance reform bill than a national health insurance bill, that pre-existing conditions will be addressed, as will caped payments, but there will not be a single payer system, nor even a true public option that functions independently and is competitive with the insurance companies.

There however will likely be some form of government monitored consortium of insurance companies participating in the program. There will be a good deal of contention regarding subsidies for the poor, but some program will pass making this bill in essence an extension of Medicaid and insurance reform, and not a true health care reform bill. The impact on health care insurers including HMO's will be minimal to positive, the pharmaceutical companies will be more vulnerable, but they will also have a larger client base, so we expect to see a wash to a slight negative here.

II. Magic Number is 60

We have already indicated that we believed that some bill will pass the Congress and that President Obama will sign it into law. We came to this realization only last week when the cash for clunkers bill passed the Senate, as needed without amendments, because the House was already at recess with the minimum necessary 60 votes for closure. If a single amendment was added it would require calling the House back from recession and everyone believes that would not happened, so the cash for clunkers bill would have died in the Senate.

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When we at SISR saw the vote tally at 60 to 37 we realized that some Health bill will pass the Senate, the House is a certainty, and without question President Obama will sign some Health bill into law sometime in the autumn. A simply view of the contentious bill that have passed this 111th Congress 1st Session with limited Republican support, enforces our contention that the Democrats will not embarrass President Obama and themselves, and will make sure that some bill actually passes. The lip service that is given to the Republican Party is simply that and to some extent cover for Collins and Snowe of Maine. Sixty votes are required in the Senate to end debate on a bill, so in essence 60 votes are required to move a bill forward for the final vote.

111th Congress 1st Session voting Record on Contentious Bills

1. Lilly Ledbetter Fair Pay Act of 2009 – Passed January 22, 2009
   - Vote: 61 – 36
   - Republicans voting with Democrats
     - Collins –ME
     - Snowe – ME
     - Specter – PA (Later in session became a Democrat)

2. American Recovery and Reinvestment Act of 2009 – Passed on February 10, 2009
   - Vote 61- 37
   - Republicans voting with Democrats
     - Collins –ME
     - Snowe – ME
     - Specter – PA (Later in session became a Democrat)

3. District of Columbia a voting seat and State of Utah an additional Seat – Passed Feb 26, 2009
   - Vote: 61 – 36
   - Republicans voting with Democrats
     - Collins –ME
     - Snowe – ME
     - Specter –PA (Later in session became a Democrat)

4. Cash for Clunkers (Consumer Assistance to Recycle and Save Program
   - Vote: 60 -37
   - Republicans voting with Democrats
     - Collins –ME
     - Snowe –ME
     - Alexander –TN
     - Bond –MO

The 111th Congress 1st Session has had between 58 and 60 Democrats in the Senate. Senator Franken from Minnesota was seated late because of a disputed election, and Senator Spector changed parties. Two Republicans both from Maine Senator Collins and Senator Snowe have voted with the Democrats in each of the several contentious votes. Since, there are now 60 Democrats and 2 voting Republicans with the Democratic Party, it appears that there will be some Health Care Bill passed. Senator Kennedy still very ill will if need be bring the Hospital to the Senate floor if Kennedy's vote was required to pass

a health bill. Somehow someway there will be agreement by the 60 Democrats and 2 voting Republicans on a health care bill. That much is virtually certain. The question that is uncertain is what kind of bill will it be?

III. Objectives of the Health Care Proposals & Key Variables

The House Ways and Means Committee, the Energy and Commerce Committee, and the Education and Labor Committee, laid out what they believed were President Obama's commitment and framework for Health Care. These committees in addition are striving to produce a bill that meets those criteria. The Tri-Committee for Health Reform in their Draft Proposal of June 9, 2009, stated that they believed there were three legislative objectives:

1. To Reduce Costs
2. To Protect current coverage and preserve choice of doctors, hospitals and health plans, and
3. Ensure affordable, quality health care for all.

From their executive summary we believe there are six central issues that they are attempting to address. These are:

1. The Single payer Option
2. The Public/Private Option
3. Small Business Subsidies
4. Low Income Subsidies
5. Require employers to offer health insurance benefits or impose a fee or tax on them
6. Health insurance changes – Requirement coverage to all applicants, irrespective of preexisting medical conditions, and Caps on Coverage.

Each of these will be discussed in turn with our assessment of the likelihood of these provisions being in the final bill.

IV. Analysis of the Central Issues with the SISR Assessment of the Likely Outcome

A. Program Payment Structure

1. **Single Payer Option** – The single payer system is conventionally understood as having a centralized payment structure to doctors, hospitals, and other health care providers, usually run by the government. Thus the concept of national health insurance, with health insurance being provided to all citizens and permanent residents, centralized under the government which is the sole payer to the above entities being the government. Canada and Australia have single payer systems.

   In the United States House of Representatives H.R. 676 is being floated as a single payer insurance system, a bill that has 87 co-sponsors. We have every expectation that this bill will be voted down not in the house and will not even be considered in the Senate. We have no

expectation that the House and the Senate will pass a single payer bill in the 111th Congress 1st Session, or any time in the foreseeable future.

2. **Public/Private Option** - Strong version– The Public/Private Option similarly appears to have a limited likelihood of success. The public/Private Option in the most unlikely version would create a competitive private insurance agency much like Medicare which would be one of the choices that individual have when choosing their health care provider. It would be much like a fully functioning insurance company, competing with the traditional health insurance providers. This provision is included in HR 3200.

   President Obama fueled this debate with an open letter to Senators Kennedy and Baucus stating that: "I strongly believe that Americans should have the choice of a public health insurance option operating alongside private plans. This will give them a better range of choices, make the health care market more competitive, and keep insurance companies honest."

   We at SISR believe that a pure competitive entity competing with other health providers as a public health option has very little chance of passing. There is the risk of this turning into a single payer option by bankrupting the traditional health insurance providers. True or not this is a dominant expectation and we believe there is no appetite for such a measure and inherent risk associated with it.

3. **Public/Private Option** – Weak version – Health Insurance Exchange (HIE) – The HIE would in essence form an alliance of current several insurers who are willing to participate to provide a competitive priced plan run by this consortium of insurance companies, with oversight by the Health Choices Administration. This provision is included within HR 3200 sponsored by Rep. John Dingell.

   This proposal has a better chance of passing and we would expect that some variation of this program will likely pass. The new entrants will have a choice between the traditional insurance companies and this consortium program. This program is different from the strong version of the public option because the consortium will be a for profit entity, and will likely have a similar cost structure to the traditional health insurance companies, so it will not be able to drive them out of business.

   This will create some competition for the other insurers, but since this subset may not be as selective as the traditional insurance option (see below for comments on actuarial selection), it likely will not have that much of competitive impact, as the strong version may have. The traditional insurance option will be able to increase their client base with the new entrants and that will be enough benefit for them. Also if they become a part of the consortium they can profit from that business, in addition to their traditional business which will likely have different enrollment options and conditions.

B. Enrollment Options

4. **Small Business Options and Subsidies & Program Requirement**- The primary gain to small business and/or individuals not associated with an employer benefit program are the pooled rates

from the HIE consortium of insurers. A provision like this is likely to pass. The HR 3200 provision would require employers with a payroll cost of over $250,000 to provide health insurance to their employees, will likely pass, but the minimum will be closer to the range of $1 Million and or some number of employees from 25 to 50 employees, maybe even 10 but not a 250K salary base.

5. **Low Income Subsidies and High Income Taxes Surcharge** – Some form of subsidies will be provided to the low income individuals. HR 3200 has tax credits, which makes little sense because one needs to be making nearly 50K per year before they even pay 10K in taxes. That would effectively reduce all taxes on couples making less than 50K in income. This is not likely to happen. How these subsidies will be structured somehow and will be very contentious.

   It is likely if for no other reason based on prior voting patterns that few Republicans will subscribe to this program. Only seven Republicans including Spector, so really six Republicans given that Spector is now a Democrat, voted for the much less contentious HR 2 Children's Health Insurance Program Reauthorization Act of 2009. This portion of the bill will be considered a new welfare program for the poor and there will be resistance particularly given their costs. We expect that even some Democrats will object but this measure will pass, but in what form and how limited it will be are interesting questions, but not critical questions for our concerns, except for issues of the Federal Budget Deficit, but not related to the impact on health care companies.

   Without question this is one of the real cost centers and where most of the fight will be. This is why President Obama has moved from a discussion of national health insurance to a discussion of "insurance reform." There will be no "national health insurance" that will come out of this 111th congress. The Congressional Budget Office in fact argued that:

   > "Effects on Insurance Coverage: Under current law, the number of nonelderly residents (those under age 65) with health insurance coverage will grow from about 217 million in 2010 to about 228 million in 2019, according to the CBO's estimates. Over that same period, the number of nonelderly residents without health insurance at any given point in time will grow from approximately 50 million people to about 54 million people – constituting about 19 percent of the nonelderly population" (CBO letter to Senator Kennedy).

   What is clear from this letter by the CBO is that even the most liberal of programs that came from Senator Kennedy's proposal, recognizes that this program will be far from a "universal health insurance program." This is why yesterday when President Obama held a town hall meeting billed the visit to Portsmouth NH as a "Health Insurance Reform Town Hall." This is in stark contrast from the March billings of the health initiative as "White House Forum on Health Reform." It is clear that the subsidies to the poor will be limited, and the programs objectives are much more limited than a national health insurance program. Nevertheless a possible first step to real health reform will be taken. It will likely turn out to be an expansion of Medicaid, include more individuals through this program, and have some insurance reform, but will not be a national health insurance program.

If we wanted to be presumptive we would call this health initiative an extension of Medicaid, with some insurance initiatives, but certainly not a national health insurance program. These subsidies however small they may be, will likely be a nonstarter for many Republicans, and again this is why this will be a Democratic caucus passed Bill, with support from the Maine Republicans.

6. **Actuary Premium Variances Structures, Pre-existing Conditions, and Caps on coverage**
Would an insurance company insure an employee in a radiation plant where there is a higher than expected incidence of cancer, or a coal mining facility with the same premium structure as elementary school teachers. This makes no sense economically and as a consequence this provision appears also to be a nonstarter, except within the insurance consortium, and perhaps not even there. We simply do not see how this provision in HR 3200 which prohibits premium variances, except for age, geographic area or family vs. individual enrollment can pass Congress. There is a goal to have larger pools with pooled coverage but there are limits to that goal. This provision still needs a good deal of work before something of this nature can pass.

   Pre-existing conditions are a real problem and some compromise will be reached within the Democratic caucus. This is why the bill that will pass was dubbed the expansion of Medicaid with some insurance modifications. This is an area that will have some change. How it may be accomplished, with co sharing of former insurance company, separate pools for preexisting conditions, or some other method, but we strongly believe that some Democratic compromise will occur, and there will be changes to the pre-existing conditions regulations.

   The elimination of Caps on coverage we expect will also be part of this bill. How it is done is not clear but there will be some pool much like the catastrophic health option. Some pool will be created for these individual, and they will be required to add this coverage or it will be option.

V. Conclusion

There is one point that comes across very clearly is that ultimately this program will be a health insurance reform bill and not in any sense a national health insurance bill. There is nothing radical here and there will be limited Government running of this actual program. The Government will not be involved with the insurance companies and the most radical component will be the level of Government involvement in the Consortium Company that is the alternative to the traditional insurance company. But this will be a for profit entity of traditional insurance structure.

The liberal component of this bill will come from the subsidies that will go to the poor. This will mean that few Republicans will vote for this except for possibly Snowe and perhaps Collins. It is likely that all the mumbo jumbo regarding a bipartisan bill is to give Snowe and Collins cover. There is no expectation from anyone that there will be many Republican votes for this bill. So the only rational reason for that dialogue must be to protect the two Main Republicans.

We expect that an expanded Medicaid and insurance reform bill will pass with 60 to 62 votes depending on if everyone votes which we expect they will (Kennedy will vote for the final Health Bill if it is humanly possible. If he cannot make it to the Senate floor and if he is the 61th vote, we would expect that there would be a rule suspension allowing him to vote in some other form, video conference or

whatever, he will vote on this bill, if he has any degree of health to do so). He has worked for nearly a half century on health issues, and if humanly possible he will vote on this bill.

Pre-existing conditions will be part of the bill, and how that compromise is worked out will be important, but some changes will be made with this provision. Caps will be eliminated but there will be some pool created to address these costs. Some actuarial provision will be restricted, but this will come more from the private consortium option and less for the traditional health insurance companies.

The bill will impact some pharmaceutical compromises with respect to generic drugs and these companies we believe may be most vulnerable in this round. There may be some drug patent protection changes as well as cost reduction compromises from negotiations with the government sponsored program.

The insurance companies likely will benefit from larger enrollments, some enrollees subsidized by the government. They may also be helped from the lower drug costs, but they will also incur some additional costs from the compromise on pre-existing conditions and caps. For the insurance companies we would expect that net net they will fare better rather than worse from this program. This we do not believe will be the case for the pharmaceutical companies. They will have greater volumes but at a slightly lower price for their drugs, and consequently slightly lower margins. We expect it to be a slight loss for the Pharmaceutical companies.

The final bill will have the effect of not significantly impact the major health insurance providers, will likely incrementally help some of them, some individual will get additional coverage, but not all. We believe the net effect of this bill will be an expansion of Medicaid with some insurance reforms, but nothing more radical than that.

There certainly will not be anything radical in this bill, and nothing beyond what would be considered the traditional Democratic Party bias toward helping the lower to middle classes. If one is looking for the Socialist option, I believe they are in the wrong ballpark. If they expect that this bill will fail, they are similarly not realizing that this will be a Democratic bill, excluding the Republican Party, but giving lip service to them for protection of Snowe and Collins who likely will vote with the Democratic.

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