



# Center for Policy Analysis

*Equitable Quality Universal Affordable Health Care (EQUAL)*

## HR 3200

### House Energy and Commerce Committee - Key Amendments

The following are key amendments that were adopted by the House Energy and Commerce Committee during its markup of HR 3200, which concluded on July 31, 2009.

#### **Ross (Blue Dog Amendment)**

[http://energycommerce.house.gov/Press\\_111/20090731/hr3200\\_ross\\_2.pdf](http://energycommerce.house.gov/Press_111/20090731/hr3200_ross_2.pdf)

- Increases small business exemption so that:
  - Firms with payrolls less than \$500,000 are not subject to the pay-or-play rules; and
  - Full 8% of payroll penalty only kicks in when payroll exceeds \$750,000
  - [Note: Prior version numbers were \$250,000 and \$400,000]
- Requires Public Option to negotiate rates with providers (delinks provider rates from Medicare). Minimum rate must equal or exceed Medicare rate; maximum aggregate rate may not exceed the average of private insurance plans participating in Exchange.
- Reduces subsidies to lower income individuals; thus raising their premium costs.
- Requires states, beginning in 2015, to contribute 10% of the cost of Medicaid expansions under the bill. [Note: In prior version, federal government paid 100%]
- Requires GAO study on federal medical assistance percentage (FMAP) including possible revision of the current FMAP formula “to better reflect State fiscal capacity and state effort to pay for health and long-term care services . . .”
- Requires various rules (e.g. insurance rating, non-discrimination, plan disclosure, HIPPA) that apply to private insurers to also apply to the Public Option.
- States that this bill does not affect the roll of agents and brokers under state law.
- States that a state-operated exchange in existence before 2010 is presumed to meet the standards required by the bill for state exchanges.
- Makes Medicare providers (including physicians and hospitals) participating providers in the Public Option unless they opt out. Gives providers at least one year before the Public Option goes into effect to opt out.
- Creates a Consumer Operated and Oriented Plan (CO-OP) program that can act as a Qualified Health Benefits Plan (QHBP). Requires CO-OPs be not-for-profit; prohibits them from being sponsored by a State government. Authorizes a 2010-2014 appropriation of \$5 billion for loans and grants to CO-OPs. It appears that when a CO-OP is included in an Exchange, the CO-OP would be in addition to the Public Option, not in place of it.

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- Establishes a Center for Medicare and Medicaid Payment Innovation.
- End-of-life planning – Requires QHBPs to disseminate end-of-life planning information. Prohibits references to assisted suicide, except in states that currently require the inclusion of such information.

### **Baldwin & Schakowsky (Progressive Amendments)**

[http://energycommerce.house.gov/Press\\_111/20090731/hr3200\\_baldwin\\_1.pdf](http://energycommerce.house.gov/Press_111/20090731/hr3200_baldwin_1.pdf)

[http://energycommerce.house.gov/Press\\_111/20090731/hr3200\\_schakowsky\\_1.pdf](http://energycommerce.house.gov/Press_111/20090731/hr3200_schakowsky_1.pdf)

- Attempt to increase subsidies to lower and middle income individuals, which were decreased by the Blue Dog amendment, by capturing cost savings from the following provisions:
  - Require the Public Option to have a drug formulary
  - Require transparency clauses in all PBM contracts with QHBPs
  - Establish a Medicaid Accountable Care Organization pilot program (similar to the Medicare pilot)
  - Institute various administrative simplifications
  - Limit premium increases in the Exchange to no more than 150% of annual rate of medical inflation.
  - Require HHS Secretary to negotiate Medicare Part D prescription drug prices with drug manufacturers.
- Requires the CMS Chief Actuary to estimate the savings from the above provisions in the prior year and the Health Choices Commissioner to provide for “an appropriate increase” in the affordability credits available to lower and middle income individuals and families.

### **Capps (Abortion amendment)**

[http://energycommerce.house.gov/Press\\_111/20090730/hr3200\\_capps\\_1.pdf](http://energycommerce.house.gov/Press_111/20090730/hr3200_capps_1.pdf)

- Allows health plans to choose whether or not to cover abortion services
- Requires the public option to cover abortions for which federal funding is now allowed (restricted to cases involving rape, incest or danger to the health of the mother).
- States that nothing in the bill prevents the public option from providing or prohibiting coverage of services for which federal funding is now prohibited.
- Requires at least one health plan in each premium rating area of the HI Exchange to cover abortion services (including those services for which federal funding is now prohibited.)
- Prohibits abortion services for which federal funding is now prohibited from being paid by any affordability credits; requires such services be paid from premium amounts attributable to the actuarial value of offering such services.

NOTE: The URL to access all of the amendments considered in the Energy and Commerce markup of HR 3200 is:

[http://energycommerce.house.gov/index.php?option=com\\_content&view=section&id=10&layout=blog&Itemid=57](http://energycommerce.house.gov/index.php?option=com_content&view=section&id=10&layout=blog&Itemid=57)

Click on “Read more . . .” on each of the dates to see amendments considered on that date.

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