

# MEMORANDUM

To: Interested Parties

From: U.S. Senators Mark Udall, Tom Udall, Jeanne Shaheen, Mark Warner, Kay Hagan , Jeff Merkley, Mark Begich, Roland Burris, Ted Kaufman, Michael Bennet, Al Franken, and Paul Kirk

Re: Draft Cost Containment Amendment

Date: Thursday, December 3, 2009

---

The attached memo describes a cost containment package as drafted by the Senate Democratic Freshmen. We plan to offer this cost containment package an amendment to the Patient Protection and Affordable Care Act. Our amendment focuses on delivery system reforms we feel are critical to improving health outcomes and lowering health care costs in the long term. The attached is a DRAFT. We hope to have final legislative language soon.

## **DRAFT Freshman Cost Containment Amendment**

Meaningful health care reform is urgently needed and entirely within our reach. Health care reform can guarantee Americans the health care coverage they expect and deserve, can lower the cost of medical care for families, businesses, and governments, and can give doctors the tools to practice the best medicine all the time.

The Patient Protection and Affordable Care Act addresses the major areas in need of reform, it reduces the deficit in the next decade, and it significantly expands health insurance coverage. It begins to fix what is broken in our present health care system. But we believe that we can go further. Our amendment plants the seeds for an innovative 21<sup>st</sup> Century health care system that is more efficient, costs less and holds providers and insurers accountable.

Our goal is to strengthen the PPACA's ability to deliver affordable, quality healthcare for the American people. The foundation for successful health reform is slowing the growth of healthcare costs. Otherwise, we will never be able to afford the coverage that we need nor the quality of care Americans' deserve.

Our package addresses high and rising medical costs head on. We do so in three ways:

- First, we make sure that Medicare actually becomes a leader in moving away from inefficient models of care and into high value, lower cost models.
- Second, we establish public-private arrangements to harmonize system changes across medicine and to prevent cost shifting.
- Third, we eliminate the red tape plaguing the health care system in both the public and private sectors.

Each of the Amendments to this package is designed to push the envelope of what is feasible. The solution is neither public nor private; it is uniquely American. And it will promote the goal of a more transparent, lower cost, and higher quality health care system.

### **Delivery System Reforms – *Making Medicare an Aggressive Leader***

PPACA leverages the Medicare program to transform the way patients receive care. The bill sends a powerful signal that fee-for-service medicine – that is, paying hospitals and doctors according to how many items or services they provide – should be a thing of the past. Under this bill, Medicare will reward high-quality care, rather than high-volume care – with the belief that private payors will follow suit. Medicare will also be able to experiment with promising new models to further lower costs, improve quality and improve patient health.

Our amendments would take Medicare further by replacing studies with action, recognizing success stories already underway, modernizing Medicare's tools to evaluate and implement delivery system

reforms that work, and broadening the scope of the Secretary's authority to put effective cost containment in place. Provisions include:

- **Value-Based Purchasing:** Under the current bill, only selected types of hospitals and physicians would transition to true pay-for-performance models under Medicare. We require Medicare to implement true pay-for-performance for more providers – including hospices, ambulatory surgical centers, psychiatric hospitals and others – by 2018.
- **Broader Payment Innovation:** Under the current bill, payment models are limited for Accountable Care Organizations and some demonstrations are limited in scope and number. We allow greater flexibility in payment methods, the ability for ACOs to include private payers and for physician group practice demonstrations to become ACOs.
- **Medicare System Upgrades:** Medicare data can be a valuable tool to help providers better coordinate care and participate in the payment and delivery system reforms included in this bill. We require HHS to modernize Medicare's data systems so that this data can be shared in a reliable, complete and timely manner with providers and beneficiaries.
- **Good Quality Everywhere:** We promote greater access to telehealth, strengthen the provider workforce and availability of high-quality hospital services so that people in rural areas have access to the best of medical care. We would also ensure that beneficiaries with complex prescription drug needs can benefit from greater coordination and management of their medication plan.

#### **Cost Containment – Collaborating with the Private Sector**

As a major payer for health care services, Medicare has often led the way in transforming payment systems and improving quality. But real change will depend on Medicare and the private sector purposefully working together towards the shared goals of cost containment and delivery system reform.

Our amendments will explicitly connect Medicare's payment reform efforts with private sector initiatives. Provisions include:

- **CMS Innovation Center:** We give the new Innovation Center explicit authority to work with private plans to align Medicare, Medicaid and private sector strategies for improving care. Doing so will maximize the effectiveness of quality improvement and reform initiatives and help ensure that all Americans receive high quality care, no matter how they are insured.
- **Independent Medicare Advisory Board:** We broaden the scope of the new Independent Medicare Advisory Board to look at total health system spending and make system-wide recommendations to assure that we are lowering costs not shifting them. Recommendations for the non-Medicare sector would be advisory and non-binding.
- **Quality and Value in Private Insurance:** We require health plans in the exchange to share information on health plan quality and cost. Access to clear, apple-to-apples comparisons on health plan value will help businesses and consumers make better choices and could ultimately lower their health care costs.

#### **Ending Administrative Excess, Curbing Fraud and Eliminating Regulatory Barriers – Streamlining our health care system—public and private—for the Future**

Unnecessary administrative costs top the list of waste we must eliminate from our health care system. Collaborating across the public and private sectors means addressing the administrative hurdles and bad practices in the public or private sectors should impede our efforts to control health care costs and reform the delivery system.

Our amendments require the Secretary to aggressively pursue administrative simplification and take other actions to ensure that all sectors of the health care system work together to improve value in health care. Provisions include:

- **Administrative Simplification:** We require the Secretary of HHS to identify and address aspects of the health care system—across the public and private sector—that need standards to allow efficient electronic exchange and streamlining of information among providers, insurers, patients and other parties.
- **Health Care Fraud Enforcement:** We direct HHS and the Justice Department to utilize technology to prevent fraudulent, abusive or improper payments prior to payment of claims.
- **Eliminating Legal Barriers to Care Improvement:** We would require GAO to study current law and regulation to identify barriers that may impede providers' ability to improve the quality of care and the ability to aggressively implement the innovative delivery system reforms PPACA makes possible.