

# The Baucus Framework: Why it must be fixed.

## Health Care for America Now Talking Points on Senator Baucus' Framework

### ***Key messages to deliver:***

- **The Baucus Framework violates the most basic promise of health care reform -- a guarantee of good, affordable coverage.** It could actually make health care worse for many people.
- **The Baucus Framework violates the President's proposals.** The President promised: affordable coverage; good benefits; an end to medical bankruptcy; employer responsibility; a public option to compete with insurers.
- **The Baucus Framework must be repaired.** The Senate Finance Committee must pass legislation that at a minimum addresses the most egregious problems with the Baucus Framework.

### ***The biggest problems with the Baucus Framework:***

- No employer responsibility. Unlike the House and Senate HELP bills, under the Baucus Framework employers do not have to pay a dime for health care. The plan creates incentives for employers to:
  - offer barebones coverage that would continue to subject people to medical bankruptcy;
  - discriminate in the hiring of older workers, poor and minority workers and workers with children.
- Not affordable. High premiums and out of pocket costs to people in Exchange with much higher rates for older people and people with families.
- Poor coverage. Barebones benefits at work; high costs in the Exchange.
- Unfair taxation. High excise tax on high cost plans forces higher costs and lower benefits on businesses and workers that: have good benefits; live in high cost states; or have older work forces.
- No public option. State co-ops designed to fail. Insurance companies keep their monopoly.
- Increases state Medicaid costs. Unlike House bill, makes states pay their share of increased Medicaid eligibility.
- No early retiree coverage. "No program to encourage employers to continue coverage for early retirees; as a result, employers could dump early retirees into the Exchange, where they would face the highest premiums for bare bones benefits."
- Weakens state insurance regulations. Allows insurance companies to shop around for states with weakest consumer protections.

### ***Senate Finance Committee members should insist on passing a bill that:***

- Establishes employer responsibility;
- Guarantees good benefits that are affordable; protects people from medical bankruptcy; and does not levy high fines on people who can't afford coverage;
- Includes a public health insurance option;
- Does not tax high cost health plans;
- Protects state taxpayers;
- Protects early retirees;

- Protects state regulation of health insurance.

## **Issue Concerns with Baucus Framework**

### **No Employer Responsibility – dangerous proposals**

*“Free rider” Employer responsibility* provisions (no employer responsibility but payments if employees are in the Exchange) would provide financial incentives to employers to offer coverage and either: 1) contribute little or nothing to the coverage or 2) offer barebones plans with lousy benefits and high-deductibles. By offering such plans the employer would avoid having to pay a fine for uninsured employees. If an employee refused to enroll in the plan – and there is no requirement that employers contribute to coverage – they would be faced with paying a fine of as much as \$3,800 per family, which is more than the average family pays for good insurance at work. In only two days the \$3,800 fine became such a political target of the right that Speaker Pelosi had to issue a release denying that the fine was in the House bill. In addition, the free rider provision would discourage employers from hiring people who would get bigger tax credits in the exchange: families with children; low-income people; people who are older.

### **More on No Employer Responsibility**

- The proposal has no employer mandate. An employer mandate is necessary both to reduce the inequities placed on current responsible employers and to limit the taxpayer costs of providing coverage to the uninsured. Instead, companies pay a “free-rider” penalty only for low-income employees receiving subsidies. This is likely to discourage hiring of low income workers and lead to discrimination against women, minorities, and single parents.
- A true employer responsibility requirement must be enacted. At a minimum, this should include:
  - A penalty that represents a meaningful contribution toward the cost of care for those employers not providing coverage. The current \$400 token penalty under the free-rider proposal would not apply to many employers (those whose employees would not qualify for subsidies) and it would leave taxpayers on the hook for a greater portion of the subsidies needed to make insurance affordable. Moreover, low-income families who don’t comply with the mandate to purchase insurance will face a penalty two to four times higher than the penalty that employers would face as a free-rider (\$750 to \$1,500 for an individual or family vs. \$400 for an employer).
  - A floor on benefits, so employer coverage meets minimum benefit and affordability standards. The proposal does not require employers to provide good benefits or even to meet minimum benefit standards, doing little to increase affordable coverage for those currently insured, or stop the rise in medical bankruptcy.

### **Not Affordable**

- The proposal must strengthen all affordability protections, not just premium credits, to families with incomes below 400% FPL. The proposal should also contain out-of-pocket protections for families with incomes above 400% FPL.
- Subsidies should be tied to a higher level of coverage. Subsidies are currently tied to the silver level of coverage, which represents only 73% of expected health costs, whereas the most popular plan for Members of Congress covers 83% of expenses and the typical large employer covers 85% of the total cost.
- The variation in insurance rates is too great, at a maximum of 7.5 to 1. Age variation rules, in particular, should be tightened to a ratio no greater than 2 to 1.

### **Poor Benefits**

- As stated above, there is no benefit level set for employer coverage.
- The lowest benefit category (bronze level, covering only 65% of health care costs) is too low and should be eliminated.
- Benefits should be further defined by the Secretary or an independent body – not by insurance companies.

### **No Public Option**

- A public option should be created to provide true choice to consumers. A robust public option will be national, available on day one, publicly accountable, and have the authority, like Medicare, to establish rates that pay providers fairly. The co-op proposal does none of these things and would not establish a real competitor for monopolistic insurance companies.

### **Regressive Taxation**

- The 35% insurance excise tax is a tax on working families and will discriminate against older and unionized workers and workers in more hazardous jobs.
- Taxing the value of benefits above \$21,000 will result directly in benefit cuts. In many industries and parts of the country, a \$21,000 health plan is not extravagant; it's a direct result of older workforces, risky occupations and uncompetitive market conditions. Employer plans have worked hard to cut costs to the bone – their response will be to cut employee benefits to get under the tax cap.
- This tax will be passed on from insurer to consumers and have the same or similar effect as McCain's proposed benefit tax during his presidential campaign. For

example, the proposal would be a direct tax on workers enrolled in Taft-Hartley plans, VEBA's and other such plans sponsored in whole or in part by workers.

- The tax on various health services will be passed on to employers and consumers.
- Progressive financing should be found. For instance, taxing the highest-income Americans, limiting itemized deductions, or extending the Medicare tax to unearned income can all generate substantial revenue.

#### **Increases State Medicaid Costs**

- Requires states to pick up their share of increased Medicaid eligibility. By contrast, H.R. 3200 has federal government pay for newly eligibles.

#### **No Provision for Early Retirees**

- Unlike the HELP bill, the Baucus framework does not contain a temporary catastrophic reinsurance program to encourage employers to continue coverage for early retirees age 55-64. The lack of such a fund is likely to encourage employers with early retirees to push them into the Exchange where they will face the highest premiums (5:1 age rating) and end up forced to pay for barebones plans with high out-of-pocket costs.

#### **Weakens State Insurance Regs**

- The anti-consumer provision on the interstate sale of insurance is straight from Republican health reform plans and would leave insured families stranded with no standing to enforce their insurance contracts with out-of-state regulators.