RSC Info Alert: Look Who Received Special Deals in the Senate Bill...Surprised? We Aren't.

Just when you thought secret deals with the industry, closed-door meetings and Chicago-style backroom politics couldn't get any worse… they did. According to Reid, "A number of states are treated differently than other states. That's what legislation's all about: compromise". *Really?* Rather than thoughtful policy, H.R. 3590 is the result of Democrat desperation and includes countless political handouts. In an effort to meet an artificial holiday deadline, the bill itself has come to look like a Christmas tree with goodies for all Democrat holdouts.

While over 10 states receive special deals, Senators from neglected states should be appalled, as their home state constituents will wind up paying for those "sweetheart deals" in other states, resulting in higher costs for their already-strapped Medicaid programs.

Below are highlights of the new special deals or earmarks bartered away to win Senate votes:

- The bill contains unfunded mandates to states through the expansion of Medicaid but this time with new special treatment for the states of **Nebraska, Vermont, and Massachusetts**. These states will receive Federal Matching Assistance Percentages (FMAP) bonuses such that:
    1. Nebraska will receive 100% FMAP for newly eligibles *indefinitely*, making it the only state where the federal government will pay for all new enrollees. CBO estimated the cost to the federal government (additional funds to Nebraska) would be $100 million, which may look small compared to the other deals negotiated, yet over the long-term will cost far more, since funding continues indefinitely.
    2. Vermont will receive a 2.2% FMAP increase for 6 years for their entire program, thus receiving an additional $600 million over ten years.
    3. Massachusetts will receive a 0.5% FMAP increase for three years for the entire program, thus receiving an additional $500 million over ten years.
- Despite $120 billion in Medicare Advantage cuts, the Manager's Amendment found a way for **Florida** residents, as well as some individuals in **Pennsylvania and New York,** and potentially **Oregon**, to be grandfathered out of receiving the cuts.
- **Dorgan and Conrad's** "protections for frontier states" provision would, starting in 2011, establish a 1.0 hospital wage index and geographic practice expense floors for hospitals and physicians located in states where at least 50% of the counties in the state are "frontier". Not surprisingly, states that qualify and benefit from this increase in Medicare payments to hospitals and doctors are **Montana, South Dakota, North Dakota, Utah, and Wyoming.**

Of the many problems with these "sweetheart" deals, is the door it leaves wide open for more federal involvement and financing of state-based entitlement programs. Sen. Harkin said it best when he stated "In 2017, as you know, when we have to start phasing back from 100%, and going down to 98%, they are going to say, 'Wait, there is one state that stays at 100?' And every governor in the country is going to say, 'Why doesn't our state stay there?'…When you look at it, I thought well, god, good, it is going to be the impetus for all the states to stay at 100%. So he [Nelson] might have done all of us a favor."

Changes for Sen. Ben Nelson (Nebraska)

- Nelson secured more than just 100% federal funding for Nebraska's Medicaid expansion, the list of "sweeteners" (also called the "Cornhusker kickback" by Senate Republicans) includes:
    - An exemption from the insurance tax for Nebraska non-profit insurers, with language written in a way that only applies to Mutual of Omaha Insurance Company and Blue Cross Blue Shield Plans (BCBS) of Nebraska (and Michigan). According to news reports, Nelson's office states that BCBS "would pay between $15 million and $20 million less in fees under the Senate bill than it would have without a change."
    - An exemption from taxes for Medicare supplemental ("Medigap") insurance providers. Specifically, Mutual of Omaha, will not have to pay taxes on Medigap insurance, while reports also indicate that this tax break will be extended to other companies.
- Some changes requested by Nelson would benefit people across the country, such as the inflation adjustment to the $2,500 cap on tax-exempt contributions to Flexible Savings Accounts (FSAs) and exemptions for nearly 55 physician-owned hospitals that have a provider agreement to participate in Medicare by August 1, 2010 (pushed back from February 1, 2010).

Changes for Sen. Levin (Michigan)

- According to reports, Like Nelson, Levin sought an exemption from the $6 billion annual fee for non-profits, as non-profit insurers make up 76% of industry profits, but drew opposition from liberals. Ultimately, Levin got an exemption from the insurance tax for Michigan non-profit insurers, with language written in a way that applies to Blue Cross Blue Shield Plans (BCBS) of Michigan (and Nebraska).
- Furthermore, the amendment changes the extension of section 508 hospital provisions so that hospitals in Michigan (as well as Connecticut) have the option to benefit under them if it means higher payments.

Changes for Sen. Landrieu (Louisiana):

- Landrieu was one of the first Senators to secure a sweetheart deal, aptly nicknamed the "Louisiana Purchase"; she traded her support for bringing the bill to the floor for a $300 million increase in Medicaid funding for Louisiana**.** The underlying bill was cryptically written to increase federal Medicaid subsidies for "certain states recovering from a major disaster" during the past 7 years that have been declared a "major disaster area" -- and is meant to replenish the decrease in federal money resulting from an "abnormally inflated" per capita income in Louisiana following Hurricane Katrina. This was due to an influx of insurance dollars, federal grants and increased labor wages.

Changes for Sen. Sanders (Vermont):

- In addition the Vermont FMAP increase, the amendment includes a provision pushed by Sanders to provide an additional $10 billion in funding for community health centers and the National Health Services Corps which he argues would provide primary care to 25 million more people.

Changes for Sen. Bill Nelson (Florida)

- As noted above, Nelson was able to secure a deal to keep Medicare Advantage plans enrollees in Florida grandfathered in. Notably, when McCain tried to offer an amendment to allow all enrollees to be grandfathered in, 57 Democrats voted against it.

Changes for Hawaii: The Manager's Amendment singles out Hawaii as the only state to receive a Disproportionate Share Hospital (DSH) extension.

Changes for Sen. Lieberman (Connecticut): It amends the extension of section 508 hospital provisions so that hospitals in Connecticut (as well as Michigan) have the option to benefit under them if it means higher payments.

Changes for Sen. Dodd (Connecticut): It was a mystery until just revealed that Chris Dodd's state will benefit from a cryptically awarded $100 million for a "Health Care Facility" at a public research university that contains a state's sole public academic medical and dental school—criteria designed to apply to the University of Connecticut.

Changes for Sen. Baucus (Montana):

- Baucus secured a pilot program in the amendment to "provide innovative approaches to furnishing comprehensive, coordinated, and cost-effective care" to certain qualified individuals. A qualified individual "is an environmental exposure affected individual…who resides in or around the geographic area subject to an emergency declaration made as of June 17, 2009." And who might these select few individuals be? Well, according to EPA, "On June 17, 2009, EPA Administrator Lisa Jackson issued a Public Health Emergency (PHE) finding at the Libby Asbestos Superfund site in northwest Montana." This provision would help residents of Libby by allowing them to sign up for Medicare benefits.

It is likely that this list of buy-offs is not exhaustive. The RSC will send further updates upon the availability of additional information.

This email is being sent to all RSC Members and staff.