



A Responsible Health Care Step: Put the “Docfix” Issue to Bed

e21 Staff Editorial | February 5, 2010

As Scott Brown takes his seat in the Senate, the Obama administration and its allies on Capitol Hill are still searching for a way to save their health reform legislation. Thus far, there is no consensus on how to proceed, with ideas ranging from keeping the Senate bill intact to abandoning a comprehensive effort in favor of a more modest bipartisan effort. What we do know, however, is that Congress must fix the so-called "doc-fix."

“Docfix” is the euphemism attached to legislation to increase payments to physicians under Medicare. Under current law, those payments will be cut by 21% this year. Physicians understandably don’t want this to happen, nor do many legislators. The problem is that it costs money to restore those higher physician payments, and lots of it: hundreds of billions of dollars over the next decade alone. If the White House and Congress want to restore their credibility and lay the groundwork for comprehensive health reform, they must put the “docfix” issue to bed once and for all. Specifically, the President should assure the public that the budget-busting “docfix bill” will either be fully offset, or won’t pass at all.

The Administration and Congressional Democrats first got into trouble on this issue when they tried to pull a fast one, inserting higher physician payments into the early drafts of health care reform bills without offsetting the costs. The Congressional Budget Office (CBO) blew the whistle on this maneuver, finding that it would result in health care “reform” adding enormously to the federal government’s already-unsustainable deficits.

Proponents then tried what can only be described as a cynical gimmick: they simply split the bills into two parts: a “docfix” bill that would add to the deficit, and a separate health care bill that would be advertised as lowering the deficit. Taken together, it was always the case that the bills would worsen the fiscal outlook. But by pointing only to the “deficit-reducing” bill and ignoring the companion “docfix” bill moving through the Congress, disingenuous claims that health care reform would reduce the deficit continued to be made on both ends of Pennsylvania Avenue.

Incredibly, in a budget that claims to make responsible progress on the deficit, the Administration has chosen to double down on the “docfix” budget gimmick.

The House of Representatives played its dutiful role in this charade, separately passing both the health care legislation and the deficit-worsening docfix bill. The Senate, however, balked. When Senate Majority Leader Harry Reid attempted the same maneuver there, several Democrats as well as Republicans refused to play along with the game. Reid’s “docfix” bill – which would have added \$247 billion to the debt over ten years – failed on a 47-53 cloture vote last October. No doubt the Senate was influenced by rising public concern about skyrocketing deficits and irresponsible budgeting. But the Senate vote didn’t end the “docfix” issue; it merely left it unresolved. Just how unresolved was revealed again this week with the release of the Administration’s budget.

Incredibly, in a budget that claims to make responsible progress on the deficit, the Administration has chosen



A Responsible Health Care Step: Put the “Docfix” Issue to Bed

to double down on the “docfix” budget gimmick. On Table S-2 in the Administration’s budget, the claim is made that health care reform will reduce the deficit by \$150 billion over the next ten years.

We’ll set aside the question of whether or not the health care bill will actually pass. More relevantly here, the claim that health care reform will reduce the deficit assumes that the 21% cut in physician payments will actually take place. CBO has already stated their skepticism about this: “The legislation would maintain and put into effect a number of procedures that might be difficult to sustain over a long period of time. Under current law and under the proposal, payment rates for physicians’ services in Medicare would be reduced by about 21 percent in 2010 and then decline further in subsequent years.”

A full “docfix” now costs \$371 billion over ten years.

“Difficult to sustain” doesn’t tell the half of it. If one looks a mere 11 pages forward in the Administration budget, on Table S-7, one finds the higher physician payments magically restored – adding \$371 billion to the deficit over ten years, or more than twice the advertised savings of health care reform. The Administration accepts no responsibility for this policy choice, describing it as an “adjustment to reflect current policies.”

But of course “current policies” is not an accurate characterization. These higher physician payments are not current law. Nor are they the policy of the United States Senate, which refused to add these higher payments to the deficit just last October. This is instead an Administration maneuver to surreptitiously add \$371 billion in further deficit-spending without shouldering the mantle of responsibility so lavishly extolled throughout the budget’s text.

The public, meanwhile, is expressing its concern about runaway spending and budgetary games in progressively stronger terms. Accordingly, it is high time to implement a responsible resolution to the “docfix” issue.

Obviously, the most responsible course would be for the Administration to return to its original promise that health care reform would embody true entitlement reform – in other words, that health care reform dramatically *improve* the dire deficit outlook. This, of course, would require the Administration to give up on its massive coverage expansion, costing nearly a trillion dollars over the next decade, and to enact only the cost-saving provisions of the draft reform bills.

Unfortunately, however, the Administration has made clear that it no longer wants any part of this fiscally responsible version of comprehensive reform. This leaves available two smaller steps that could be taken in the direction of fiscal prudence.

The first such option would be for the Administration to require that health care reform not add to the deficit, mean it, and enforce it. No more tricks; no bill-splitting; no shell games in which hundreds of billions in docfix spending are to be restored with the other hand. The docfix provisions would either be included and paid for within comprehensive health care reform, or the 21% cuts would go forward. In this scenario, the Administration would pledge to veto any separate docfix bill.

This option would spark fierce opposition from physicians, but it would help to repair some of the credibility of Administration claims for the fiscal benefits of reform – without which repair the Administration can accomplish nothing further on health care reform anyway.



A Responsible Health Care Step: Put the “Docfix” Issue to Bed

The second option is to take up and pass a “docfix” bill, or a smaller version of it, paid for fully with savings provisions culled from the stalled health care reform bills.

A full “docfix” now costs \$371 billion over ten years. At least half of this could be paid for with the health care bill’s proposed reductions in Medicare’s fee-for-service charges (\$186 billion over 10 years), plus another \$24 billion in savings from Medicare Disproportionate Share (DSH) payments. The proposed Medicare commission was assumed to bring in another \$28 billion in savings. Depending on how much of the Senate’s proposed “Cadillac plan” tax that legislators wanted to implement, Medicare physicians could be made whole, or nearly so.

For the past few months, proponents of health care reform have hastened to assure us that these proposed Medicare savings will not result in reduced services for seniors. AARP in particular has argued that these cost reductions are good for Medicare. The Administration has laughed off concerns that their proposed commission would implement measures that reduce seniors’ access to care. But do proponents actually believe their own assurances? One way to find out would be to offer some of these savings to pay for the “docfix” bill. If the Medicare savings are truly painless, proponents should support them even if they are not tied to a larger health care coverage expansion.

In fact, using such savings to pay for “docfix” would offer a critical additional advantage: protecting Medicare’s accounting integrity. As CBO and the CMS Medicare Actuary have each separately warned, Congress cannot use the same money twice – both to shore up Medicare solvency and to spend on an unrelated health care coverage expansion. Using these savings only for “docfix” alone would

keep the money saved within Medicare, providing a genuine rather than merely illusory improvement in program finances.

The bottom line is that if Congress and the Administration are looking for a responsible next step on health care, they could heed the public’s discontent over irresponsible spending and budget chicanery. They should assure the public that the budget-busting docfix bill will either be fully offset, or won’t pass at all.