


An Analysis of Health Reform Legislation (H.R. 3962)


The House of Representatives has spoken; can we do better in the Senate?


By David Edman, Managing Partner, Risk Management Partners, LLC

If we are to effectively reform healthcare in the United States and keep the system private, there is one critical concept that needs to be accepted and respected—that is, **we must properly apply the general principles of insurance to healthcare.** Insurance is meant to provide individuals with financial protection against large, unexpected losses. When used in that way, **insurance works**, such as in the markets for automobile and fire insurance. When insurance is used to pay for smaller, routine, day-to-day expenses, **insurance doesn't work**—it is an inefficient and wasteful financing mechanism. If we want to fix healthcare in this country, preserve choice, and keep the system private, there is a way and it doesn't have to bust the federal budget.

So how do we move forward with health reform? Let's keep what is good in the House of Representative's healthcare bill, do better in the Senate, and move forward in a conference committee resolution that serves the best interests of the American people. The following are the **consensus provisions for health reform that should be in the healthcare bill...and are.** 

PROVISION	COMMENTS/SUGGESTIONS
Elimination of restrictive underwriting practices, such as exclusions for pre-existing conditions	Everyone agrees—let's get this done!
Permit individual purchasing of insurance across state lines Remove anti-trust exemption	More competition is better. Remove all barriers to selling health insurance across state lines. These changes will enhance competition and not add a dime to the federal deficit.
Simplify health insurance	In 2008, PricewaterhouseCoopers administrative procedures estimated that we have as much as \$315 billion of annual administrative waste in the healthcare system. We should simplify...and save money.
Premium and cost-sharing credits for those with incomes up to 400% of the poverty level	Once the insurance system is "fixed" (and we're not throwing good money after bad), we should subsidize those unable afford to buy into the system on their own.
Various cost containment procedures Various quality improvement provisions Programs to promote wellness and prevention	These are worthwhile objectives of health reform, but the House bill relies too much on a new and highly bureaucratic infrastructure that is expensive and not likely to be effective. These objectives can be best accomplished through a system promoting personal responsibility tied to financial incentives.

Below is a list of provisions of H.R. 3962 bill, which potentially cost the American people too much or offer solutions not likely to resolve the root problems of our current healthcare system. The following are **provisions of H.R. 3962 that should not be in the bill...but are.** 


PROVISION	COMMENTS/SUGGESTIONS
Create new health insurance exchange(s)	A health exchange is a system for a large group of people to review all their options, compare health insurance costs and benefits, and make a choice. Exchanges already exist for federal employees (Federal Employees Health Benefits Program, or FEHBP) and in most states for state employees. Don't waste money reinventing the wheel— use existing exchanges.
Creation of non-profit cooperatives (COOPs)	A COOP is a member owned and operated health plan. It is very expensive to start a new health plan (estimated \$100 million to \$200 million) with high probability of failure. If this was a good idea, many more non-profit COOPs would already exist. MORE 

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PROVISION	COMMENTS/SUGGESTIONS
Individual mandate to purchase insurance Employer mandate to purchase insurance	This should be done later, once the system is fixed from the standpoint of cost and quality.
Employer requirements for their employees: • Cover 72.5% of single premiums • Cover 65% of family premiums • Meet the definitions of a “qualified plan”	Many businesses, particularly small businesses, do not currently provide this level of coverage. This provision will be a significant added expense burden for many businesses, and they will be taxed or penalized for failing to meet this requirement.
Creation of a new “public option” to participate in the new health insurance insurance exchange	If there is an effective system of competition among private insurers on the basis of cost and quality (i.e., the insurance exchanges), a very expensive public option is not needed nor desired.

The key “takeaways” from the above section are that we do not need to spend in excess of \$1 trillion to create a new public option or new COOPs if we enhance competition through other means. We do not need to spend money on new “exchanges,” if we use the effective ones that currently exist.

IMPORTANT: The House of Representatives considered using FEHBP as a health insurance exchange in H.R. 3962, but deemed it to be too expensive. Are our elected representatives saying that FEHBP is good enough for Capital Hill, but not for Main Street? This should tell you that the health benefit plans available to Members of Congress and federal employees are too rich and we, the taxpayers, are currently paying too much for their health benefits.

Finally, if we accept that our objective is to properly apply general insurance principles to the health insurance industry, there are additional steps to be taken for meaningful reform of the system. These are **provisions that should be in a health reform bill...but are not in H.R. 3962.** 

PROVISION	COMMENTS/SUGGESTIONS
Promote consumer-driven health plans (CDHPs), such as health savings accounts and health reimbursement accounts (HRAs)	Employees and other individuals who purchase and use health insurance must have “skin in the game.” Auto and fire insurances work because people don’t want to make a claim. Health insurance will work when it primarily covers serious illness or injury, so people are motivated and financially rewarded for staying healthy.
Level the tax “playing field” by limiting deductions	A cap on deductions will encourage the growth of HSAs and other innovative and more efficient ways to purchase health insurance.
Increase competition	Everyone agrees that we need more competition in the current health insurance system. It is painless and inexpensive to allow private health insurers to compete across state lines.
Purchasing groups/alliances and association health plans	Insurance is driven by the “law of large numbers.” We should allow business to form groups, to create larger pools to share and manage risk, and be rewarded for their successful results.
Fix “Medicare Advantage”	The federal government should establish a limited number of plan design options. This simple step will increase competition, leading to lower costs and better results.
Meaningful tort reform	We know that significant healthcare dollars are wasted on unnecessary and inappropriate care. Reducing the number of frivolous lawsuits will be a big help.

Some final thoughts... 

Some final thoughts and practical steps that you can take

We started this discussion with the statement that in order to fix the health system, **we must properly apply general principles of insurance to healthcare.** Does your organization incorporate this concept into its health insurance purchasing practices? Do your employees understand why healthcare costs so much and the importance (financially and otherwise) from living a healthy lifestyle? Let us help your organization be a leader in your community and show the government how to fix healthcare at the grassroots level.

We must also insist that our elected representatives not only talk, but also “walk the walk.” Send them this critique of H.R. 3962 and challenge them to incorporate the following provisions into future legislation:

1. Open up the FEHBP for use as the health insurance exchange available to small businesses and individuals.
2. Benefits for all participants in the FEHBP, including federal employees, should be consistent with the level of benefits provided by larger, private sector corporations in America.
3. If there is to be a compromise that allows for a “public option” plan, it should be triggered only if a private sector initiative fails and, Members of Congress should be required to drop their FEHBP benefits in favor of their participation in the public plan.

Given the amount of wasted dollars currently in the system, we can fix the American healthcare system from the bottom up and the top down without spending trillions of dollars and mortgaging the future of our country. At Risk Management Partners, LLC, we are helping companies every day cut the waste in their healthcare expenses while the country waits for passage of meaningful health reform legislation. Who knows how long that will take, but the tools are available to you today. Be part of the solution, not part of the problem. [Contact us](#) for more information.



About David Edman

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