



AHCA/NCAL LEGISLATIVE UPDATE

Health Care Association of New Jersey
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OVERVIEW

The Political Environment
Economy
Health Care Reform
Other Legislative Issues
Looking to the Future

Political Environment

President Obama

- ◎ **U.S. House of Representatives**
 - **253 Democrats, 178 Republicans, 4 Vacancies**
- ◎ **U.S. Senate**
 - **57 Democrats, 41 Republicans, 2 Independents**
- ◎ **Governors**
 - **26 Democrats, 24 Republicans**

New Jersey Has Three Key Players for LTC

- Sen. Bob Menendez (D)— Chair, Democratic Senatorial Campaign Committee
- Rep. Frank Pallone (D)-- Chair of Energy and Commerce Health Subcommittee
- Rep. Bill Pascrell (D)— Member of Ways and Means Health Subcommittee



THE ECONOMY

Long Term Care = Economic Driver

- **Nationally, long term care directly generates \$153.8 billion, or 1.1 % of the U.S. GDP.**
- 15,720 skilled nursing facilities in every state & Congressional District.
- 1.4 million Americans cared for each day.
- Long term care employs roughly 2.9 million individuals, representing close to \$93.8 billion in labor income nationally.

Long Term Care = Economic Driver

- **In New Jersey, long term care directly generates \$153.8 billion, or 1.1 % of the state's GDP.**
- 362 skilled nursing facilities
- 45,551 patients cared for each day.
- Long term care employs roughly 57,000 individuals, representing close to \$4.2 billion in labor income.

Long Term Care = Continued Job Growth

Despite the economic downturn, Bureau of Labor Statistics data (2008 – 2009) indicates:

- Health care sector employment increased by 267,000 or 2.0 % to 13,742,900 jobs.
- Nursing and residential facilities added 50,200 new jobs in 2009, which represents a 1.7 % increase (for a total of 3,079,800 jobs).
- Nursing care facilities alone added 18,900 new jobs in 2009 – that's a 1.0 % increase (and a total of 1,636,200).
- Meanwhile, total U.S. non-farm employment in 2009 declined by 4,164,000 overall , which is a 3.1% decrease from 2008.



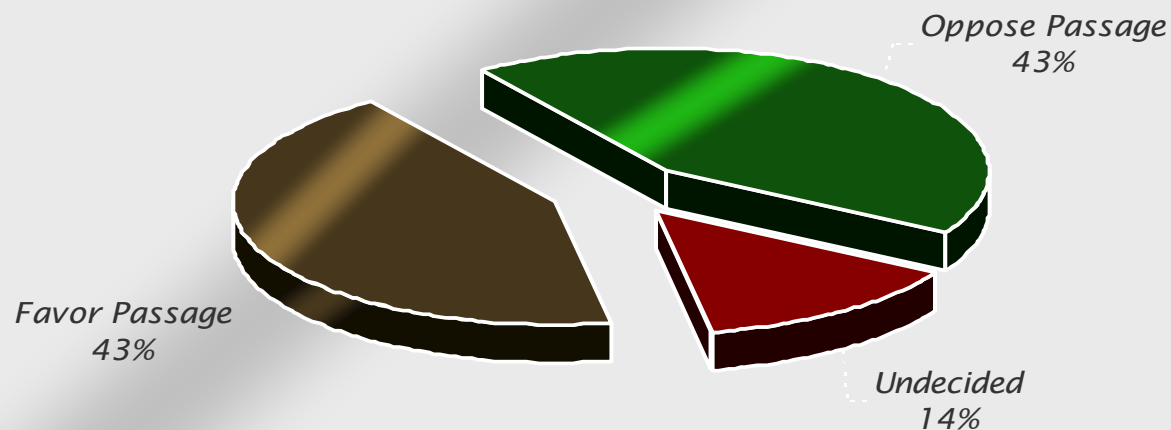
HEALTH CARE REFORM

Where Are We Now?



Where Are Americans Now?

Current Public Sentiment on Health Care Reform



Source: The Kaiser Family Foundation 2/23/10

Health Care Reform

- **Achieving Health Care Reform Became More Complicated**
- **Emerged As Longer-Term Play With Much Delayed Endgame**

How It Began . . .

- February 2009: Administration's FY 2010 budget \$634 billion reserve for HCR.
- May 2009: Hospital, physician, pharmaceutical, medical device, insurance, and labor gather at White House, pledge to reduce spending by 1.5% per year for 10 years.
- July 2009: White House, Senate Finance Committee enter agreements to achieve \$155 billion and \$80 billion in savings from hospitals and PhRMA.
- August 2009: Congressional recess- town hall meetings.
- November 2009: House passes legislation, 220-215.
- December 2009: Senate passes legislation, 60-39.

Final House Health Care Reform Bill

- *The Affordable Health Care for America Act (H.R. 3962).*
Passed on November 7, 2009 by 220 – 215
1 Republican supported it; 39 Democrats opposed it.
- Eliminates SNF Market Basket
(January 1, 2010 – September 31, 2010).
- Productivity factor reduction from 2010 to 2019.
- Market basket & productivity adjustments = \$23.9 Billion.
- Includes \$6 billion in additional Medicaid funding for nursing facilities.
- Includes a partial fix to NCAL's Part D co payment issue

Final Senate Health Care Reform Bill

- *Patient Protection & Affordable Care Act (H.R. 3590).*
- Passed December 24, 2009 by a vote of 60 – 39:
All Democrats supported the bill;
All Republicans voted against it.
- Productivity adjustment reduces SNF funding by \$14.6 Billion over 10 years, delayed start of FY 2012.
- Includes partial fix to NCAL Part D co pay issue.
- Contains Wyden MedPAC Language on Medicaid
- RUG-IV Delay

. . . And Then There Was Massachusetts

- Senate Election Results = a loss of 60 votes
- Congress was knocked back on its heels
- Back to the drawing board
 - Reconciliation talks begin because only 51 votes needed

Politics of Health Care Reform

- ⦿ Get it done and take consequences?
- ⦿ Don't do it and take consequences?
- ⦿ Senate bill plus reconciliation?

Full Court Press

- President's Proposal-- February 22
- White House Summit-- February 25
- Congressional Reaction- How to Get It Done?
- Sunday, March 21-- the House passed the Senate's Health Care Reform bill 219-212.
 - Signed into Law by President Obama March 23.
- Sunday March 21-- the House passed the Reconciliation bill 220-211.
- Now before the Senate.

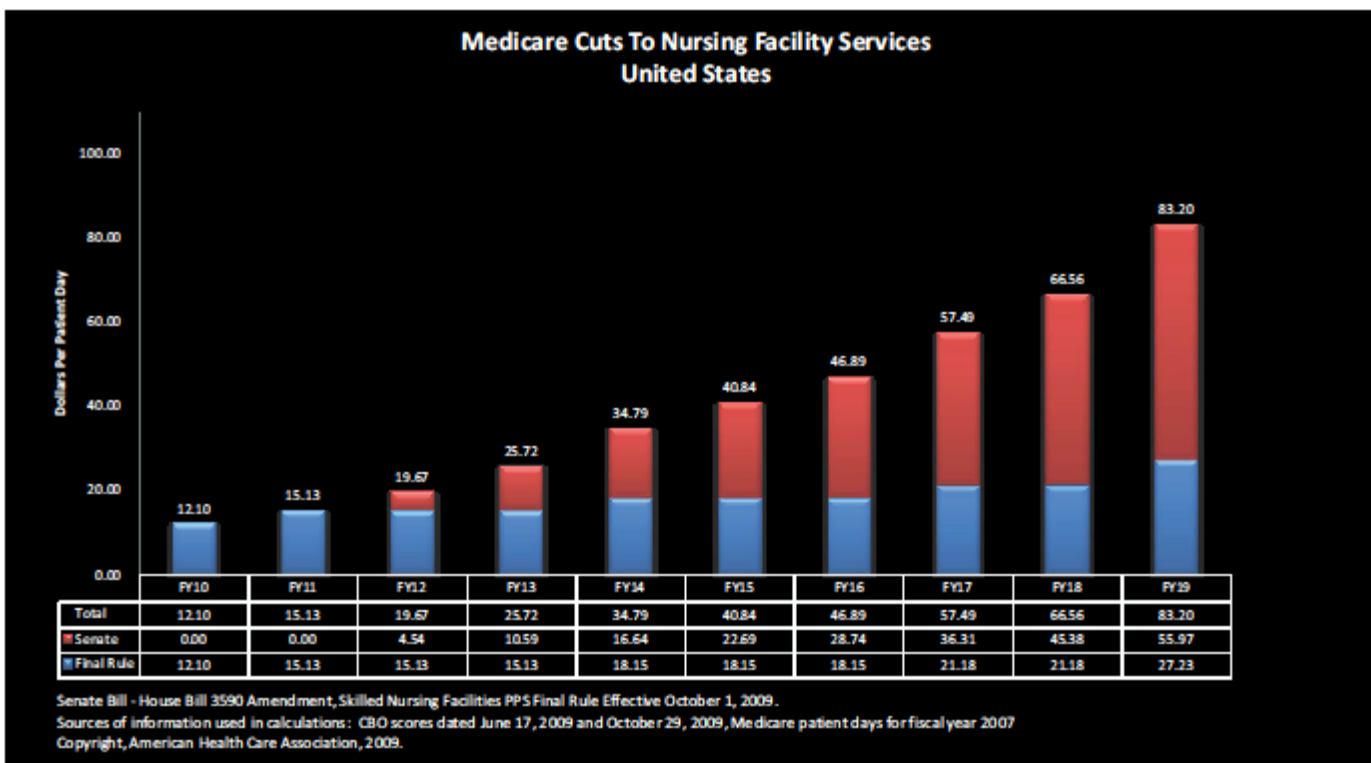
Helpful Provisions in the Final Bill

- **No SNF Market Basket Cuts for FY 2010 or FY 2011.**
- **Wyden MedPAC language.**
- **Extends current therapy exceptions process until 12/31/10.**
- **Part D partial fix.**
- **Workforce provisions.**
- **The CLASS Act.**
- **A Sense of the Congress statement on tort reform.**
- **State demonstration programs to evaluate alternatives to current medical tort litigation.**
- **New grants under the Elder Justice section for health information technology and workforce training.**
- **A General Accountability Office study and report on the Five Star Quality Rating System.**

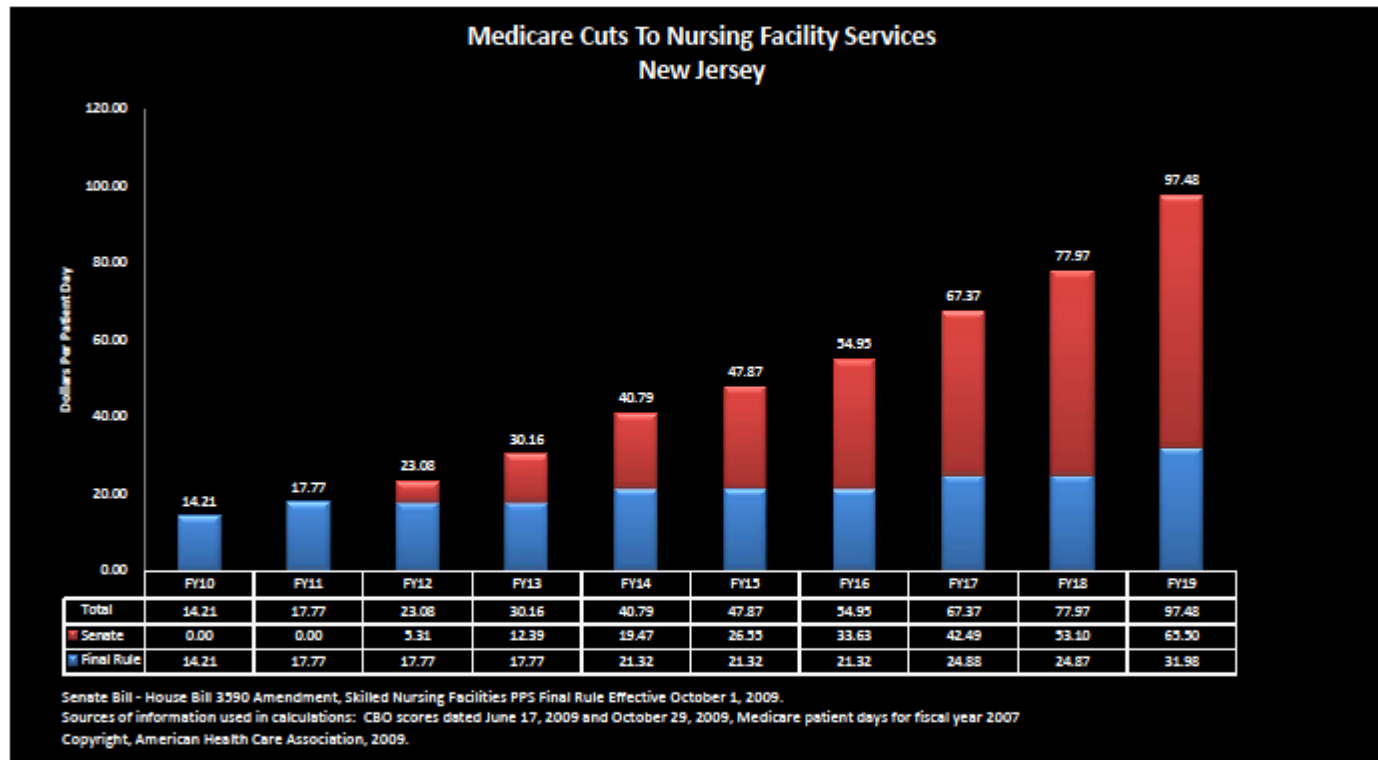
Harmful Provisions in the Final Bill

- **SNF Productivity Adjustment beginning in FY 2012 (October 1, 2011) - \$14.6 billion over 10 years.**
- **Implementation of RUG-IV pushed to October 1, 2011, but neither concurrent therapy or MDS 3.0 were delayed.**
- **SNFs not exempted from Independent Medicare Advisory Board (IMAB) recommendations.**
- **New transparency requirements.**
- **Additional background check requirements.**
- **Changes to reporting of crimes requirement in the Elder Justice section.**
- **The impact on employers of the health care insurance requirements.**

Cuts to the U.S. as a Result of Health Care Reform and the FY 2010 Final Rule



Cuts to New Jersey as a Result of Health Care Reform and the FY 2010 Final Rule



Good News on Employer Mandates

- Do not go into effect until **2014.**
- Very good possibility of changes prior to effective date.

Individual Obligation

Effective in 2014

- ⊙ Individual must have coverage through:
 - **Medicare;**
 - **Medicaid;**
 - ⊙ **Eligibility expanded to all individuals under age 65 with incomes up to 133% FPL**
 - **Exchanges;**
 - ⊙ **Individual.**
 - ⊙ **Small Group.**
 - **Employer Sponsored Coverage.**

Employer Obligation *Effective in 2014*

“Free Rider With Modified Firewall”

- No obligation to offer coverage, BUT
- Must pay a fee for any full time employee who receives a government subsidy to purchase coverage.

“Free Rider”

- For employers not offering coverage to all full time employees (defined as working 30 hours per week):
 - If one full time employee gets a tax credit to purchase insurance in exchange:
 - Must pay a fee -
 - \$2,000 x # of all full time employees.
- *EXAMPLE:*
 - Employer has 200 full time employees.
 - 10 full time employees get government subsidies to purchase coverage in the exchange.
 - Employer would have to pay:
 $\$2,000 \times 200 = \$400,000$.

Modified Firewall: Employer Obligation & Tax Credits

- Limits the flow of funds
- If employer offers minimum creditable coverage that is affordable, then
- Individuals cannot opt out and obtain a tax credit to purchase coverage through exchange.

Permitted Firewall Exceptions

⦿ Affordability

- If employee's share of the premium is unaffordable (exceeds 9.5% of MGI):
 - The employee may be eligible for tax credit; and
 - Employer may have to pay.

⦿ Minimum Creditable Coverage

- If employer's plan does not meet the minimum creditable coverage standard:
 - Employee may get tax credit; and
 - Employer may have to pay.

What takes effect in 2010?

- Immediate access for uninsured with pre-existing conditions
- Small business tax credits
- No pre-existing condition exclusion for children
- No insurance rescissions
- Lifetime caps on insurance eliminated

What takes effect in 2010?

- All plans must provide first dollar coverage for preventive services
- Extends dependent coverage up to age 26
- New temporary reinsurance program for early retirees
- And about a dozen other provisions...

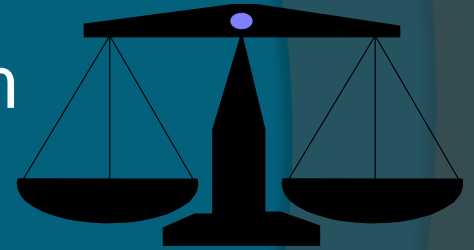
OTHER ISSUES

Employee Free Choice Act of 2009

- “Card Check” bill.
- Actual “card check” provision dead.
- Compromise pending, timing uncertain.
 - Possible elements of a compromise:
 - Faster elections? 21 day deadline?
 - Mail in ballots?
 - Best offer arbitration (baseball style)
- Senate will vote first.

Fairness in Nursing Home Arbitration Act

- AHCA/NCAL opposes *H.R. 1237, S. 512*.
- Would prohibit the use of all pre-dispute agreements in ALL long term care settings, applies to BOTH nursing homes & assisted living.



Five Star / Survey

- AHCA worked to secure a letter from 31 State Attorneys General, which calls on Secretary Sebelius to suspend and revise the current Five Star Rating System.

STATE ATTORNEYS GENERAL

**A Communication From the Chief Legal Officers of the
Following 31 States and Territories:**

**Alabama Alaska California Colorado Connecticut Florida Georgia
Guam Kansas Kentucky Louisiana Maine Massachusetts
Mississippi Missouri Montana Nebraska New Jersey
New Mexico North Dakota Oklahoma Pennsylvania Rhode Island
South Carolina South Dakota Tennessee Utah Virginia
Washington West Virginia Wyoming**

- New AHCA Task Force focusing on Five Star issues & introduction of legislative language that would revamp the current survey system.

Quality

- More significant quality improvements are detailed in our *2009 Annual Quality Report*.
- One of our key messages for 2010 must be:
In 2009, we increased staffing – adding more than 50,000 jobs. We’ve improved quality. Congress should not cut funding that’s working – especially when it goes to care for America’s seniors.
- At its January 14th meeting, MedPAC acknowledged that “Quality [in skilled nursing facilities] has improved slowly” in the areas of rehospitalization and return to community.

FMAP & Medicaid Cliff

- Economic Recovery package in January 2009 provided temporary FMAP increase.
- States will face a Medicaid “cliff” when funding expires in December 2010.
- Senate has extended the additional FMAP supplemental payment to June 2011 in tax extender package, has to be passed again by House.

Looking to the Future

AHCA/NCAL working hard to ensure better future:

- *Renewed focus on advocating for what is best for patients/residents, not just reimbursements;*
- *Image and rebranding campaign being formulated;*
- *Have demographics on our side and despite HCBS push, will always be a need for SNF/AL services;*
- *Additional grassroots efforts forthcoming-- getting to know your Members of Congress before you need them;*
- *AHCA/NCAL will continue to provide value-added services to our membership as they serve the most vulnerable of patients.*



Grassroots – We Need YOU!

- **Critical Element**
- **200,000 + letters sent to Members of Congress**
- **More than 100 in district meetings**
- **More than 100 facility tours**
- **We STILL need YOU !**



How to Become an AHCA/NCAL Advocate

- Sign Up for the Mailing list
- Take Action Online
- Stay Informed of Important Bills and Votes
- Research and Directly Contact Representatives and Senators



Questions?