

Will There Be a Public Option in the Future?

By Margaret Faso and Mark Wilson

68% of Americans support a public option, including 42% of Republicans, but what impact would it have on employers, employees, and other stakeholders?¹

Regardless of who wins the election in November, a number of health care reform proposals, including some type of public option, will be part of the debate on how to extend affordable coverage to 27.5 million uninsured Americans² during the continuing COVID-19 pandemic. The odds of some type of public option being enacted increase significantly should former Vice President Joe Biden win and Democrats win majorities in both chambers of Congress.

American's Current Health Care Priorities

Not surprisingly, American's top priority for Congress is to address issues related to controlling the COVID-19 pandemic.³ According to the latest Kaiser Family Foundation poll, creating a public option has the lowest priority of the following four health care issues:

- Increasing government financial assistance to help Americans who do not get health insurance from their jobs to pay for coverage (52%);
- Providing financial assistance for people who have lost their jobs to purchase COBRA insurance through their former employers (49%);
- Increasing funding to states to help pay for Medicaid (44%); and
- Creating a public option health insurance plan (41%).⁴

Nevertheless, 85% of Democrats, 73% of independents, and 42% of Republicans support enacting a public option,⁵ which almost ensures the issue will be part of any major health care reform should Democrats sweep the November election.

Vice President Biden's Public Option Plan

Every Democratic presidential candidate supported a type of single-payer system or public option during the presidential primary season. Over ten bills proposing variations of public option plans were introduced in the House and Senate last year⁶ and at least 18 states have considered legislation for a public option or Medicaid buy-in.⁷

Under former Vice President Biden's proposed public option plan:

- All Americans would have the choice to purchase a new affordable "public health insurance option like Medicare" whether they are covered through their employer, buying insurance on their own, or are uninsured.
- All employees, even those offered employer-provided coverage, could opt-out of that coverage, enroll in the public option, and be eligible for the ACA's premium tax credit and cost-sharing reduction. This would require modifying the ACA's employer mandate penalties.

- Americans with incomes below 138% of the federal poverty level would be automatically enrolled, premium-free, into the public option, which would benefit 4.8 million adults in the 14 states that have not expanded Medicaid under the ACA.
- The public option would cover primary care without any co-payments, eliminate the 400% income cap on ACA tax credit eligibility, and increase the size of the ACA premium tax credit by calculating it based on the cost of a gold plan with lower deductibles and out-of-pocket costs, rather than a silver plan.
- The limit on the cost of coverage will be lowered so that no one buying insurance on the individual marketplace, regardless of income, would have to spend more than 8.5% of their income on health insurance.⁸

Prohibit balance billing. Former Vice President Joe Biden’s health care proposals would also bar health care providers from balance billing (surprise bills) when a patient doesn’t have control over which provider they see.

Biden-Sanders Unity Task Force Public Option Recommendations

The Task Force recommendations largely mirror former Vice President Joe Biden’s public option plan with one notable addition. The Task Force plan would enable older workers to choose between their employer-provided plans, the public option, or enrolling in Medicare when they turn 60, instead of having to wait until they are 65.⁹

Open Questions About a Public Option

Price competitiveness? Aside from those being automatically enrolled in a zero-premium public option plan, relative premium prices and deductibles will largely determine how many people enroll in a public option compared to other ACA exchange plans and employer-sponsored coverage. Employers and commercial insurers pay nearly double Medicare reimbursement rates for all hospital services (199% on average) and 143% of Medicare rates for physician services.¹⁰ This, in part, reflects the fact that Medicare prices are set administratively while the prices paid by commercial insurers are the result of negotiations with providers.

The Biden public option would be paid for by:

- Negotiating lower reimbursement rates from hospitals and other health care providers.
- Enabling Medicare to negotiate drug prices and limit price increases for all brand, biotech, and generic drugs to inflation.
- Restoring the 39.6% top personal income tax rate.
- Closing loopholes that allow high-income Americans to avoid capital gains.
- Doubling the capital gains tax rate on Americans with incomes over \$1 million.
- Terminating pharmaceutical corporations’ tax break for advertisement spending.
- Allowing consumers to buy prescription drugs from other countries (HHS must certify drugs are safe).
- Using existing antitrust authority to address the concentration in the health care system.

However, the Biden plan calls for Medicare to “negotiate” reimbursement rates with providers, which may result in higher premiums. For example, the premiums for Washington state’s first-in-the-nation public option experiment are on average five percent higher than premiums for other ACA exchange plans. The higher premiums are driven by state law, which requires the public option to negotiate reimbursement rates with providers and pay them at least 160% of the Medicare reimbursement rate.¹¹

Network coverage? Unless required to, many providers may decline to accept patients in the public option due to lower reimbursement rates. Washington state has also experienced this issue as it does not require providers to participate in their public option network, enabling providers to withdraw from negotiations. Lower relative network coverage could make the public option less competitive with both ACA exchange plans and employer-sponsored health benefits. It is unclear whether the Biden public option plan will have this impact as they do not specify if providers will be required to participate in the plan.

Potential Impact on Stakeholders

Employers and employees: The impact on employer-provided health care coverage will be largely determined by what changes are made to the ACA’s employer mandate penalties. If large employers are still required to offer affordable minimum value coverage or pay a significant penalty, most if not all will continue to do so. However, the 1.7 million small employers who currently offer coverage and are not subject to the ACA mandate may stop offering comprehensive health care coverage and provide other benefits, including supplemental health benefits, or increased wages.¹²

Employers who only offer a high deductible health plan (HDHP), or have significant numbers of employees enrolled in a HDHP, are likely to see those employees opt into the public option. Lower-income employees may also decide to opt-into the public option if they see it as more affordable. A smaller pool of more costly employees would remain enrolled in employer plans because of real or perceived access barriers related to lower provider payments in the public option, resulting in increased premium costs for those remaining in employer plans. If large employers are not required to offer affordable minimum value coverage, then substantially more employers will drop comprehensive health care benefits over time and offer other benefits, including supplemental health benefits, and higher wages to attract and retain employees.

Health care industry and providers: Lower reimbursement rates under a public option could reduce average hospital revenue by about 35% which would likely increase consolidation in the health care system and reduce the number of providers over time.¹³ In turn, hospitals and other health care providers, particularly in rural areas, that are already marginally profitable would be more likely to close. Job opportunities and wage growth in the industry will stagnate, and the number of private health care plans will be reduced, impacting the quality of care, access to care, and choices for Americans. Limitations on drug prices will decrease innovation and the number of new drugs that come to market.¹⁴

Consumers/Uninsured: Implementing the Biden public option plan would significantly reduce the number of uninsured Americans and the amount of uncompensated care primarily because of its automatic enrollment.¹⁵ Many individual market enrollees would switch from private plans to the public option.¹⁶ As discussed above, a smaller pool of more costly individuals would remain enrolled in private plans because of real or perceived access barriers related to lower provider payments in the public option plan, which would increase premium costs for those remaining in private plans.

Taxpayers: According to the Committee for a Responsible Federal Budget, the Biden public option plan is expected to cost \$1.7 trillion over 10 years, which would be mostly offset by his proposed health care savings (*e.g.*, lower drug prices) and tax increases, resulting in a \$250 billion increase in the federal budget deficit over 10 years.¹⁷ Moreover, with or without a public option, health care related taxes are likely to increase in the future. The Medicare hospital trust fund is projected to be depleted in 2026 and in order to remain solvent the Medicare payroll tax would have to be immediately increased from 2.9% to 3.66%, or expenditures/benefits reduced by 16%, or some combination of the two.¹⁸

CHRO Views on a Public Option

HR Policy Association has surveyed its members on the idea of a public option four times over the past two years. Consistently, 13% to 30% of the members oppose implementing a public option. The number of members who support a public option, however, has varied depending on how the question is asked. In 2019, 47% of HR Policy members supported implementing a public option in two separate surveys (CHRO Summit and Washington Policy Conference). However, support drops to 26% and the number of members who are “not sure” increases to 49% if it would mean higher corporate and personal income taxes (2020 CHRO Summit).¹⁹ These results illustrate the inherent tradeoffs associated with implementing a public option (*i.e.*, lowering the uninsured rate vs. the direct and indirect costs of implementing such a system) impact the level of support among members.

For the 2020 Washington Policy Conference, HR Policy asked a different public option question. Below are the preliminary survey results.

Joe Biden has proposed giving all Americans—including those who are currently offered coverage through their employers—the choice to buy into a high-quality, affordable public option through the Affordable Care Act marketplaces. The lowest-income Americans not eligible for Medicaid will be automatically enrolled in the public option at no cost to them, although they may choose to opt out at any time. Would you support legislation for a public option? (Select the option that most closely matches your opinion)

- Yes, even if it were an option for employees offered employer sponsored coverage (37%)
- Yes, but only for people in states that have not expanded Medicaid and/or those that have limited ACA exchange options, and they are not offered employer coverage (31%)
- Yes, but only for people ages 50 to 64 who are not offered employer coverage (4%)
- Yes, but only for low-income people and those aged 50 to 64 (14%)
- No, I do not support legislation for a public option of any kind (14%)

CHRO views on a public option stem from a desire to increase access to affordable coverage for uninsured Americans and by their exasperation over continued rising health care prices despite over 15 years of effort to control their health care costs. In February 2020, HR Policy Association asked its members if they thought private sector employers could use direct contracting, advanced primary care and Centers of Excellence strategies, and other innovations

to reduce health care costs without significant government intervention. Almost half (49%) said “to some extent, but not enough to make a difference,” while 14% said no, they couldn’t, and 30% said yes, they could. While most employers believe it is important to offer high quality, affordable health care benefits, they don’t think the current system is the only way to provide coverage, particularly those that operate globally.

2021 Reform Outlook

In June, the House passed the Patient Protection and Affordable Care Enhancement Act (H.R. 1425) by a vote of 234 to 179 with two Republicans voting for the measure. The bill’s provisions are likely to be the starting point of any Democratic health care reform effort in 2021. The bill would, among other things, expand the ACA’s subsidies for exchange plans, encourage states to increase Medicaid coverage, direct Medicare to negotiate drug prices, and limit future drug price increases to the rate of inflation. Other COVID-19 related measures in the House-passed HEROES Act (H.R. 6800) regarding testing, vaccine distribution, and COBRA subsidies could also be added to H.R. 1425 in the next Congress.

Whether or not a public option is part of any reform bill will largely depend on the size of the Democratic majorities in the Senate and House and any potential changes to the Senate’s filibuster and budget reconciliation rules. Senator Debbie Stabenow (D-MI), the fourth ranking Senate Democrat, said in an interview the party will “have to assess” how far to go in the first health care bill next year, but “we should be as big and bold as we can.”²⁰ Should the Senate change its filibuster rule, its passage is more likely and public option opponents may have to decide if they are going to try to shape the legislation or continue to oppose it.

¹ Kaiser Family Foundation, Health Tracking Poll, January 2020, available at: <https://www.kff.org/health-reform/poll-finding/kff-health-tracking-poll-january-2020/>.

² U.S. Census Bureau, Health Insurance Coverage in the United States: 2018, Table 1, November 2019, available at: <https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-267.pdf>.

³ Morning Consult National Tracking Poll, July 2020, available at: <https://www.politico.com/f/?id=00000173-9877-d36e-abff-fdff3090000>.

⁴ Kaiser Family Foundation, Health Tracking Poll, July 2020, available at: <https://www.kff.org/coronavirus-covid-19/report/kff-health-tracking-poll-july-2020/>.

⁵ Kaiser Family Foundation, Health Tracking Poll, January 2020, available at: <https://www.kff.org/health-reform/poll-finding/kff-health-tracking-poll-january-2020/>.

⁶ Kaiser Family Foundation, Compare Medicare-for-all and Public Plan Proposals, May 15, 2019, available at: <https://www.kff.org/interactive/compare-medicare-for-all-public-plan-proposals/>.

⁷ Liu, Jodi L., Asa Wilks, Sarah A. Nowak, Preethi Rao, and Christine Eibner, Public Options for Individual Health Insurance: Assessing the Effects of Four Public Option Alternatives. Wakely Consulting Group, 2020. https://www.rand.org/pubs/research_reports/RR3153.html.

⁸ Biden Public Option Plan available at: <https://joebiden.com/healthcare/>.

⁹ Biden-Sanders Unity Task Force Recommendations, available at: <https://joebiden.com/wp-content/uploads/2020/08/UNITY-TASK-FORCE-RECOMMENDATIONS.pdf>.

¹⁰ Lopez, E, et. al. 2020. How Much More Than Medicare Do Private Insurers Pay? A Review of the Literature. <https://www.kff.org/medicare/issue-brief/how-much-more-than-medicare-do-private-insurers-pay-a-review-of-the-literature/>.

¹¹ Hansard, S., August 10, 2020, Public Option Experiment Hits Speed Bump as Premiums Don't Fall, Bloomberg Law, available at: <https://news.bloomberglaw.com/health-law-and-business/public-option-experiment-hits-speed-bump-as-premiums-dont-fall>.

¹² American Health Policy Institute estimate using MEPS data.

¹³ Pifer, R., May 5, 2020, Paying private insurers Medicare rates would tank hospital revenue by 35%, study finds, Healthcare Dive, available at: <https://www.healthcaredive.com/news/paying-private-insurers-medicare-rates-would-tank-hospital-revenue-by-35/577313/>.

¹⁴ Congressional Budget Office, October 11, 2019, Effects of Drug Price Negotiation Stemming From Title 1 of H.R. 3, the Lower Drug Costs Now Act of 2019, on Spending and Revenues Related to Part D of Medicare, available at: <https://www.cbo.gov/system/files/2019-10/hr3ltr.pdf>.

¹⁵ Linda J. Blumberg, John Holahan, Stacey McMorrow, and Michael Simpson, Estimating the Impact of a Public Option or Capping Provider Payment Rates, Urban Institute, March 2020, available at: <https://www.urban.org/sites/default/files/2020/03/23/estimating-the-impact-of-a-public-option-or-capping-provider-payment-rates.pdf>

¹⁶ Liu, Jodi L., Asa Wilks, Sarah A. Nowak, Preethi Rao, and Christine Eibner, Public Options for Individual Health Insurance: Assessing the Effects of Four Public Option Alternatives. Wakely Consulting Group, 2020. https://www.rand.org/pubs/research_reports/RR3153.html.

¹⁷ Committee for a Responsible Federal Budget, Primary Care: Estimating Democratic Candidates' Health Plans, February, 26, 2020, available at: <http://www.crfb.org/papers/primary-care-estimating-democratic-candidates-health-plans>.

¹⁸ Medicare Trustees Report, 2020, available at: <https://www.cms.gov/files/document/2020-medicare-trustees-report.pdf>.

¹⁹ Internal Poll, HR Policy Association, 2019.

²⁰ Sullivan, P., August 15, 2020, Battle looms over Biden health care plan if Democrats win big, The Hill, available at: <https://thehill.com/policy/healthcare/511909-battle-looms-over-biden-health-care-plan-if-democrats-win-big>.