



The Medicare “Reform” Legislation of 2003*

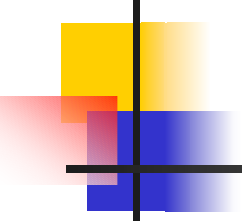
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The Medicare “Reform” Legislation of 2003

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Agenda

- WHAT HAPPENED AND WHY SHOULD YOU CARE?
- WHY DID IT HAPPEN WHEN IT DID?
- HOW SHOULD ONE INTERPRET ITS MEANINGS?
- WHAT SHOULD OBSERVERS KNOW FOR SURE?



Introduction

- On December 8, 2003, PRESIDENT BUSH signed Medicare's biggest overhaul in 38 years into law. Yet, after months of shrill debate, even close observers of Washington politics were at that time wondering just what exactly it was all about.
- On one side, congressional Republicans and President Bush described the \$400-billion legislation as a moderate, sensible means of providing long-overdue drug coverage to seniors.
- On the other, Democratic opponents -- including most House Democrats, Senate minority leader Tom Daschle, and Senator Ted Kennedy, who led an unsuccessful filibuster -- decried it as a monstrous giveaway to insurers and drug companies. They also charged that it was a "Trojan horse" aimed at crippling Medicare's universal benefits in order to foster go-it-alone competition.



The Medicare Legislation: What's In It?

- All this confusion becomes more understandable when one recognizes that the Medicare law is really at least two different pieces of legislation. The first provides a much-needed, if modest and excessively complex, drug benefit for Medicare beneficiaries, both senior citizens and disabled. But while this new benefit is generous for some low-income seniors, it will end up raising out-of-pocket drug costs for other poor beneficiaries. And because it is poorly designed and does not include effective ways of controlling drug costs, the plan will ultimately leave most seniors little better off than they are today, and some worse off. [More details in Q&A section]



The Medicare Legislation: What's In It?

- The second, darker side of the new Medicare bill is a slew of changes that have little or nothing to do with drug coverage and everything to do with special-interest demands and ideological animus toward Medicare. These include huge new subsidies for private insurers, and provisions that ensure that drug companies will be spared from their greatest fear: that Medicare will use its massive buying power to demand reductions in drug prices. Perhaps most ominous, the bill also contains elements that favor private plans and risk further degeneration of Medicare's all-in-the-same-boat structure. Six sizable "demonstration projects" are intended to introduce greater competition into Medicare; they will also likely raise costs for seniors who remain in the traditional program.



The Medicare Legislation: What's In It?

- What is most striking about the bill is not the consistency of its vision, but its deep incoherence. In the name of greater free-market competition, the legislation offers massive new subsidies to the pharmaceutical and insurance industries. In the name of providing greater protection, it threatens Medicare's guarantee of universal benefits. (Indeed, it even provides more than \$6 billion to support Health Savings Accounts outside of Medicare, risking the fragmentation of the broader insurance risk pool.) And in the name of greater cost containment, it encourages the expansion of private plans that have, to date, *not* saved Medicare money, while creating new budgetary rules that could very well make Medicare *less* equitable and affordable down the road.



Why Did This Happen?

- Behind these glaring inconsistencies lies the one great fact of contemporary American politics: partisan and ideological polarization. But if the bill were the product of political conflict alone, we would expect not a massive new entitlement with so many contradictions and problems but a more modest, lowest-common-denominator agreement -- for example, a bill covering catastrophic drugs costs only. Instead, what we have is a bill driven principally by a mix of high Republican ideals and low political calculations that was crafted almost entirely in isolation from Democratic input and then tweaked just enough to win moderate votes and sidestep potentially hostile public opinion.



Why Did This Happen?

- This brings us to the most overlooked reason for the unnecessary and self-defeating complexity: the conservative reform agenda itself, which is simultaneously driven by ideological principles that celebrate free competition and the interests of powerful industries that hope to avoid it at all costs. Private insurers and drug companies don't want true competition: They want a playing field tilted in their favor. And they were willing to do whatever it took to seize the advantage, including, according to recent news reports, bidding exorbitant sums for the future lobbying services of the current Medicare administrator, Thomas Scully. Republicans, eager to win campaign funds and hostile to the very idea of Medicare, essentially gave the medical industry what it wanted. But what they produced has about the same intellectual purity as an ad jingle.



Why Did This Happen?

- To be sure, politics usually requires compromises. But what's shameful about the present bill is just how deeply the compromises -- or, more accurately, the concessions to knee-jerk beliefs and private interests -- undercut the stated goal of the bill: drug coverage for seniors. By our back-of-the envelope calculations, the roughly \$400 billion in new spending over the next 10 years (not to mention the \$140 billion in new premiums paid by Medicare beneficiaries themselves) will buy only about half as much coverage as a sensibly designed bill could. This is not only because of the subsidies for private health plans and for Health Savings Accounts, but also because of the higher overhead costs of private plans (about five to six times higher than for traditional Medicare) and the 20-to-30-percent higher prices for drugs that seniors will have to pay because Medicare is forbidden from using its bargaining power to negotiate better deals. (A quite separate issue is the degree to which the higher OMB budget estimates were suppressed and the CBO estimate above was allowed to be used throughout the debate period, as news reports in early February highlighted)



How Should You Interpret Its Meanings?

- All this helps explain why the drug benefit itself is so convoluted and ultimately so meager -- covering, for example, only a small share of seniors' expected drug expenses overall, and reimbursing the 250th dollar of drug spending but not the 2,501th. It also helps explain why, according to polls, seniors don't like the benefit very much in prospect. A University of Pennsylvania survey in early December 2003, for example, showed opposition to the bill outweighing support by two percentage points among the general public, but by some 16 points among Americans over 65. An ABC poll conducted after the law was passed showed what a bad bargain this expensive legislation was when evaluated by popular approval. 60% of those asked their views expressed disapproval.



How Should You Interpret Its Meanings?

- Indeed, a significant proportion of Medicare beneficiaries will almost certainly be worse, not better, off under the bill. This includes several million low-income seniors who will lose the generous coverage they now enjoy under state Medicaid programs. It also includes millions who already have pretty good drug coverage through their former employers -- coverage which will likely be dropped, despite the bill's subsidies for employers that retain coverage.



How Should You Interpret Its Meanings?

- Even if these clear losses are ignored, all credible estimates suggests that, except for the very poor and very sick, drug spending will consume a larger share of seniors' incomes in the coming years than it does now, despite the new legislation. This is not just because the benefit is so meager, but also because the bill fails to authorize the negotiation strategies that large corporations and public programs like the veterans' health plan use to rein in skyrocketing drug prices. Fortunately for Republicans, none of this will become crystal clear until after the 2004 election, because -- not coincidentally -- the new drug benefit does not kick in until 2006.



What One Should Know About the Law's Prospects

- Some hopeful Democrats have argued the law is worth supporting because it will, in the long term, be a stepping stone to a good drug benefit and sensible Medicare reforms. Might they have a point? Making the benefit more rational and generous, especially for low-income seniors and those with high but not catastrophic drug costs, is essential. But for three important reasons, the new law is unlikely to be refined and improved down the line.



What One Should Know About the Law's Prospects

- The first is the dismal historical record of Medicare's attempts to encourage private plans within the program. If the past is any guide, the next debate will not concern the expansion of benefits but figuring out how to make the amazingly complex legislation actually work. And there will be considerable pressure from conservatives to delay any major changes until after the demonstration projects designed to showcase the alleged benefits of market competition occur -- in 2010.



What One Should Know About the Law's Prospects

- Furthermore, efforts to upgrade the benefit will run headlong into the massive budget deficit, and into the fact that the profligate legislation has no effective cost-control mechanisms. This is already clear from the budget submission of early 2004.



What One Should Know About the Law's Prospects

- Finally, the legislation's one bow to cost control is guaranteed to create conflict on terrain highly unfavorable to those seeking to expand and rationalize benefits. In a relatively unnoticed provision that wasn't in either the original House or Senate legislation, the bill creates a new standard for Medicare "insolvency." It would define the program as insolvent whenever, in two consecutive years, more than 45 percent of its spending comes from general income tax revenues (not incidentally, the most progressive source of Medicare financing) rather than payroll taxes and premiums. When this ceiling is hit, which is likely to happen sometime in the next decade, the law will require the president to propose spending cuts and tax increases within the program. That's likely to cause benefit cuts and premium hikes, not benefit expansions.



What One Should Know About the Law's Prospects

- It's also certain to cause continued political conflict -- which may be the bill's ultimate contradiction. Republicans hope to take off the table an issue with which they have been battered for years, and they may well do so through 2006. But by pushing through such an unwieldy bill, they are virtually ensuring that Medicare will be the biggest issue in American politics in the coming decades. Sadly, at the present juncture, that seems to promise more acrimony, confusion, and disappointment, rather than the constructive steps forward that Medicare so desperately needs.



Common Questions

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- When will I be able to get drug coverage from Medicare?
 - The new drug benefit will begin on January 1, 2006 with the addition of a new part to Medicare: Part D. A Medicare drug discount card will go into effect in Spring 2004.



Common Questions

- Will the new Medicare drug benefit help me?
 - The drug benefit may save you money if do not currently have drug coverage and your drug costs are over \$810 a year (the break-even point given the currently estimated monthly premium of \$35). However, whether you will save money will depend upon three factors:
 - Whether insurance companies in your area offer coverage at a reasonable premium;
 - Whether the drug benefit from an insurance company (or from the government if a private plan is not available in your area), will cover the drugs you need; and
 - Whether you can get your drugs cheaper through a discount drug plan or buying them from Canada.



Common Questions

- What premium will I pay for drug coverage?
 - In addition to your Part B premium, you will have to pay a monthly premium for Part D coverage, which will be automatically taken out of your Social Security check. Some have estimated it will be about \$35 a month (\$420 a year) in 2006. You may also have to pay an additional premium to the private insurance company that offers the prescription drug plan in your area. No one yet knows what that monthly premium may be because no insurance company has ever offered a stand-alone drug plan before. Different companies will likely charge different premiums and cover different drugs. Premiums can rise a lot from one year to the next. If your monthly income and assets are low you will have no monthly premium (see [question 5](#)).



Common Questions

- Will I have full drug coverage?
 - No. Your drug coverage will be limited. You will have to pay a monthly premium, an annual deductible and varying amounts of co-insurance, depending on the total costs of the drugs you buy. After you have spent \$3,600 out-of-pocket for covered drugs, your costs will go down significantly. But if you buy a drug that is not on your plan's formulary—list of covered drugs—or you buy it from another country, that cost will not count toward the \$3,600 in out-of-pocket costs. Here is the breakdown of the drug benefit as described in the new law.



Common Questions

- In 2006, on top of the monthly premium, you will pay:
 - The first \$250 of your drug costs each year (deductible);
 - 25% of the cost of covered drugs between \$251 and \$2,250;
 - 100% of the cost of covered drugs between \$2,251 and \$5,100; and
 - 5% of the cost of covered drugs between above \$5,101 (or a copayment of \$2 for covered generics and \$5 for covered brand-name drugs—whichever is greater).



Common Questions

- Can I buy insurance to fill the gaps in Medicare drug coverage?
 - You may be able to. Private companies that offer a Medicare drug plan (the Part D benefit) can, if they choose, sell policies to pay some of your out-of-pocket costs. If offered at an affordable premium, these plans could help the majority of people with Medicare who have annual drug costs below \$5,100. You can only buy such a policy from the same company from which you are getting your Medicare drug benefit. However, if your income is low you may qualify for supplemental insurance through your state's prescription drug assistance program.



Common Questions

- Will I get extra help with drug coverage if my income is low?
 - Yes. If your annual income is below 150% of the Federal Poverty Level (FPL) and your assets are below specified limits, you can apply for one of the programs below, which will offer less costly Medicare prescription drug coverage.



Common Questions

- How do I get the Medicare prescription drug benefit?
 - You will probably have to sign up for Part D at your local Social Security office during the initial enrollment period (six months starting November 15, 2005 during which you can enroll in Part D). The basic premium (estimated to be \$35 a month) will be deducted from your Social Security check.



Common Questions

- Then there are three possible ways to get drug coverage:
 - You keep Original Medicare and sign up for a stand-alone Medicare drug plan offered by a private company (the company may charge you an additional monthly premium).
 - You keep Original Medicare and, if no stand-alone plan is available, you get drug coverage directly from the government.
 - You enroll in or remain in a Medicare private plan, like an HMO or PPO, which will offer the drug benefit as well as all your other Medicare-covered services (the company may charge you an additional monthly premium).
 - No matter which plan you choose, you can only change plans once a year.



Common Questions

- Do I have to enroll in the Medicare prescription drug benefit?
 - No. Just like Medicare Part B, which pays for doctors and other medical services, the Medicare drug benefit is voluntary. However, if you do not enroll during the six-month open enrollment period when the benefit first becomes available, you may have to pay a premium penalty if you choose to enroll at a later date. The premium penalty will be at least 1 percent for every month you delay enrollment (1% of the national average premium). If you already have prescription drug coverage at least as good as Medicare's drug benefit, you will not be subject to a premium penalty. In order to avoid a premium penalty, you cannot have been without comparable drug coverage for more than 63 days.



Common Questions

- What if I already have drug coverage through Medicaid?
 - If you have Medicaid, you will lose your Medicaid drug coverage and instead get drug coverage through Medicare. Medicaid will still help pay your other Medicare out-of-pocket costs, including the deductible and coinsurance, and you will not have to pay the drug plan premium. You will have to pay a copayment for each prescription. The Medicare drug benefit may not be as good as the Medicaid coverage you had.



Common Questions

- What if I already have drug coverage through a state prescription drug plan?
 - States can choose to offer coverage to supplement the Medicare drug coverage for individuals eligible for the state's drug plan.



Common Questions

- What if I already have drug coverage through a former job?
 - If your former employer chooses to continue to offer prescription drug coverage you can choose:
 - To keep it and not buy Medicare drug coverage (you will not have to pay a premium penalty if you later lose your retiree coverage and want to enroll in a Medicare drug plan if your coverage is at least as good as Medicare's drug coverage).
 - To keep it and buy Medicare drug coverage (you will still have to spend \$3,600 dollars out-of-pocket for Medicare covered drugs before the more substantial Medicare coverage begins).
 - To drop it and buy Medicare drug coverage if it costs more and/or covers less.



Common Questions

- Will the Medicare prescription drug benefit cover all drugs?
 - No. Each company that offers Medicare drug coverage will have its own formulary (list of covered drugs). They will likely provide incentives for you to use generic drugs. If a drug is not on the formulary or if you buy from another country, you will have to pay the full cost yourself. In addition, the cost of drugs not on your plan's formulary will not count towards your out-of-pocket costs to qualify for the drug benefit.



Common Questions

- What is the Medicare discount drug card?
 - Between June 2004 and the end of 2005 (until the Medicare drug benefit begins), private companies will offer drug discount plans approved by Medicare. You will be able to buy a discount drug card that may save you some money on your prescription drugs. Each card will cost no more than \$30 and will offer between 10% and 15% savings on some drugs. Each card will be different, so it will be very hard to choose which card, if any, to buy. You may be better off with the discount card you are currently using, getting your drugs from the Veterans Administration if you qualify.



Common Questions

- Will I be paying lower prices for drugs I buy through the Medicare drug plan?
 - No. Your coinsurance may be based on drug prices that are higher than you may be able to get in Canada. Each private company offering the drug benefit will negotiate individually prices for their members. If there are no private drug plans available in your area and you have Medicare drug coverage through the government, the price of the drugs you buy will probably be high because the new Medicare law specifically forbids the government from negotiating with pharmaceutical companies for lower priced drugs.



Common Questions

- Does the new Medicare law affect what Medicare pays for outpatient therapy caps?
 - Yes. The new law puts a two-year moratorium on the outpatient physical therapy cap that began on September 1, 2003. The suspension began on December 8, 2003, the day the President signed the bill into law, and will extend until January 1, 2006. People who received outpatient physical therapy during the two months the cap was in effect (September 1, 2003 to December 7, 2003) will still be responsible for any bills they incurred over the limit.



Common Questions

- Will other benefits be added to Medicare?
 - Yes, some wellness benefits will be added or expanded. As of January 1, 2005, Medicare will cover:
 - One preventive physical examination in the first six months after a person enrolls in Part B (the exam will include measurement of height, weight and blood pressure, an electrocardiogram, education and counseling).
 - Blood tests to screen for cardiovascular disease, including tests for cholesterol, lipids and triglyceride levels.
 - Laboratory tests to screen high-risk individuals for diabetes.



Common Questions

- Will the Medicare Part B deductible increase?
 - Yes. The Part B deductible, which has been \$100 since 1991, will go up to \$110 on January 1, 2005. Every year after that it will increase by the same percentage as the Part B premium increases.



Common Questions

- Will I have to pay more for the Medicare Part B premium if my income is high?
 - Yes. Beginning January 1, 2007, the monthly Medicare Part B premium will be higher if your annual income is above \$80,000 (\$160,000 for couples). If so, the government will contribute less towards your Part B coverage. Currently, everyone pays 25% of the actual cost of Part B coverage; tax-payer money pays the other 75%. For example, in 2003 the actual cost of Part B coverage is \$234.80 per month per person; people with Medicare pay \$58.70 and the government pays \$176.10. In 2007, the Part B premium will be calculated according to the sliding scale.



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