



December 14, 2009

Dear Member of Congress:

Access to good affordable health care for all Texans has been the center’s top priority since we began as a policy institute concerned about low-income Texans in 1985. We write today to share our recommendations as to the highest priorities for Texas in merging the House and Senate Health reform bills.

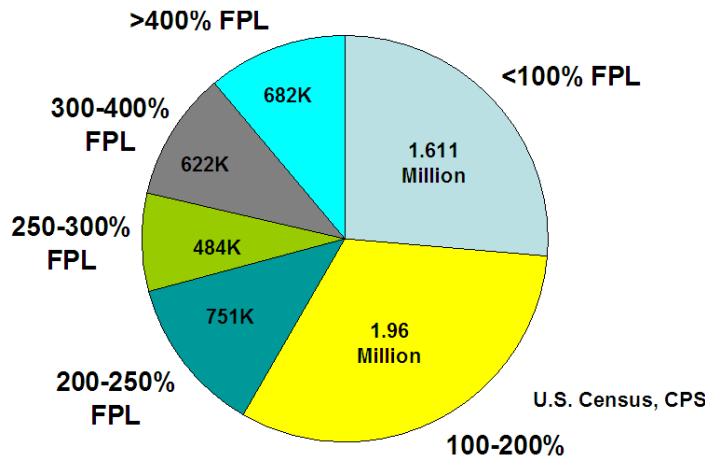
For reform to succeed—and be seen as successful by Texans—two major changes from the *status quo* are needed. First, every Texan must be able to buy coverage at or near an average price. This requires a strong Health Insurance Exchange and insurance reforms that are applied to as much of the insurance marketplace as possible. Second, the millions of uninsured Texans who cannot afford to pay the full cost of coverage even at the average price (around \$13,000 per family per year) must have sliding-scale assistance with those costs. The combination of Medicaid expansion and assistance with premiums and out-of-pocket costs through the Exchange addresses this need.

The center’s analysis indicates that HR 3962 is significantly more likely to succeed on both of these points, covering uninsured Texans at every income level and making affordable coverage available to more middle-class Texans who do not qualify for subsidies. However, the Senate likely does not have the votes to go with the House on two of the key differences between the two chambers: the inclusion of a strong public option and the expansion of Medicaid to 150 percent of the federal poverty level (FPL).

If the House could win the following changes, the House’s ultimate goals of assuring affordable coverage for every income level and strong health insurance market reforms would still be served. We urge you to make the following two issues the top priorities for our Texas delegation in the negotiation. To understand why these two issues are important, consider who is uninsured in Texas, as this graph illustrates:

### Texas Uninsured by Income Today.....

6.1 million uninsured in 2008



With this background, you can see why affordability and a strong Health Insurance Exchange are critical.

### 1) Affordability:

**For a new reform law to succeed in covering most uninsured, decent coverage must be affordable to citizens at every income level; otherwise, those who cannot afford coverage will just stay uninsured.**

The best compromise for Texans would **take the best from both House and Senate bills**, because the House bill provides stronger affordability protections (for both premiums and out-of-pocket costs) for low-income families, while the Senate bill is better for moderate-income households.

- A family of three earning \$27,465 could pay up to 7 percent of their annual income for health costs (premiums plus out-of-pocket) under the House bill, but 19 percent under the Senate version.
- On the other hand, a family of three earning \$73,240 could pay up to 26 percent of income under the House bill, but a lower 20 percent under the Senate version.
- Because **70 percent of Texas' current 6.1 million uninsured have incomes below 250 percent FPL**, Texas stands to gain dramatically if the House's more adequate premium assistance and out-of-pocket protections for that income group are adopted.

The Senate version of the bill for families below 250 percent FPL provides inadequate subsidies, leaving families unable to afford insurance, but exposing them to penalties for being uninsured. The one thing the Senate bill does ensure is angry citizens. **Again, the best outcome for Texas would for the House to negotiate adoption of the House version of premiums and out-of-pocket caps for families and individuals with incomes below 250 percent FPL.**

### (2) Strong Health Insurance Exchanges:

**While we believe that the House's goal of a single national Exchange (with a state option to create Exchanges that are held to the same high standard) is the best provision for Texas and the nation. If you cannot achieve this goal in the merger of the bills, you must require the House's stronger minimum standards and structure for the Exchange be adopted in the final bill for all state-level Exchanges.** This should have no cost to the bill, and is needed to help our state (and other southern and western states where most of the uninsured live today) deliver on the promise of health reform.

In general, the House bill establishes much tighter oversight of the insurance industry and creates one national Exchange empowered to negotiate with insurers and deliver better value to individuals and small businesses. Given Texas' historically low commitment to insurance regulation, we fear that the Senate's weak minimum standards for state-level Exchanges will result in a weak and less effective Exchange that will fail to reduce premium costs adequately or to enforce competition that is based on value and customer service, and not on avoiding insuring Texans with existing health care needs. We attach a very brief comparison of key differences in the House and Senate Exchange provisions for your information.

Several other important items we ask you to note as you work to merge the two chambers' bills:

- We agree with other analysts that it is important to achieve as many significant improvements in the availability and affordability of coverage as quickly as possible. The Senate's delay until 2014 of both Medicaid and Exchange provisions is likely to diminish public perception of success and thus support for the final bill.

- The House bill requires larger businesses to offer health insurance while exempting the smallest businesses and creating sliding-scale assessments as payroll size increases. In contrast, the Senate bill creates disincentives to hiring and retaining low-income workers, because its assessments apply only to firms (more than 50 employees) where at least one worker accesses premium assistance through the Exchange. This Senate approach is a potentially serious source of discrimination against low-income workers.
- The Senate's bill allows low- and moderate-income workers premiums to be increased by up to 30 percent if they are deemed by an insurer to be out of compliance with a "wellness plan," with an option for the Secretary of HHS to increase that to 50 percent. As drafted, these increases would not be subject to the sliding scale caps on premiums and out-of-pocket costs for low- and moderate-income families. In effect, these Senate provisions would allow a back-door method of charging people more when they are sick, in contradiction of the key promise that reform would end pricing based on health status.
- The Senate's bill also allows greater discrimination against older enrollees, making it harder for them to afford coverage. The House bill establishes an appropriate 2:1 limit on premium variation based on age. The Senate bill has a weaker 3:1 standard. Texans paying premiums three times higher than others for the same policy will not feel that significant reforms have been put into place.

Our Texas delegation has an opportunity to strengthen the final compromise bill to improve both the number of Texans who will gain coverage and affordability for middle-class Texans who will not qualify for subsidies.

In the weeks to come, we will work hard to keep Texans updated on your work with the best information and analysis at [www.texasvoiceforhealthreform.org](http://www.texasvoiceforhealthreform.org). If we can help you or your staff understand how any issue affects Texas, please do not hesitate to contact us.

Sincerely yours,



F. Scott McCown  
Executive Director  
[mccown@cphp.org](mailto:mccown@cphp.org)



Anne Dunkelberg  
Associate Director  
[dunkelberg@cphp.org](mailto:dunkelberg@cphp.org)

Enclosure

## **CPPP Comparison of House and Senate Health Insurance Exchange Provisions**

**House Bill Brings More of the Market into the Exchange** (creating more leverage to enhance value, lower administrative costs, and foster competition).

- House Exchange up and running sooner: 2013 vs. 2014.
- Allows the possibility for expansion to larger businesses (100+ employees) sooner, 2015 vs. 2017.
- Other than grandfathered plans, the House moves the entire individual market into the Exchange. The Senate bill maintains all markets outside of the Exchange. (Both bills require plans in and out of the Exchange to meet standards related to guaranteed issues, medical underwriting, age rating, etc.)
- Creates one national Exchange, though states may create their own if they have the capacity to administer the same functions.
  - The Senate bill creates 50 state Exchanges that will have less market power and varying levels of willingness to use the Exchange to create value for consumers.
  - The Senate bill allows more than one Exchange in a state (as long as it serves a distinct geographic area). This will further reduce market leverage and increase complexity.

**House Creates a Stronger Exchange That Can Negotiate with Health Plans and Create More Value for Consumers**

- House bill clearly allows the Commissioner to use a competitive bidding process to select Exchange plans, negotiate with plans to increase value for consumers, and reject plans that are a bad value.
  - The Senate bill has fewer directives about the power of the Exchange and will allow states to create more passive Exchanges.
- Exchange has the authority to review and reject premium increases in the House bill. The Senate bill allows Exchanges to take premiums into account when selecting plans, but prevents them for excluding plans by imposing “premium price controls.”

**Race to the Bottom vs. State Innovation**

- With one national Exchange and clear standards for the creation of any state-based Exchange, the House bill prevents a “race to the bottom” with the creation of weak Exchanges in states that are reluctant to regulate the health insurance industry.
- The House bill also maintains opportunities for state innovation of stronger Exchanges, since states will have the option of starting their own if they meet federal guidelines.

**Senate Bill Strengths**

- Makes Members of Congress and staff use the Exchange, which may offer greater confidence to Texans and provide some incentive to improve the system over time.