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MEMORANDUM

TO: Trion

**FROM: Scott Sinder
Rhonda Bolton
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SUBJECT: Overview of the President's Health Reform Proposal

The White House released an outline of a revised health care reform proposal on Monday in an attempt to find a compromise between the House and Senate passed bills. The Administration proposal appears more similar to the Senate passed version, but with some significant modifications. Of note, the Administration proposal appears to eliminate CO-OPs and the proposed voucher program for lower income workers, but it would maintain the state-based exchange system from the Senate bill; the unpopular tax on high-cost health insurance plans would be delayed until 2018; and there is no public option. The Administration proposal would also delay implementation of the taxes on various health care industry players, and would change the fee on medical device manufacturers to an excise tax. Additionally, the Administration proposal includes a boost in tax subsidies for low- and moderate-income individuals to purchase insurance and bigger penalties on larger employers that do not provide health insurance. The Administration proposal maintains the individual mandate, and fees on employers who do not provide coverage.

Under the Administration proposal, the Department of Health and Human Services would be given new powers to review premium increases by private insurance companies, and a new board, the Health Insurance Rate Authority, made up health insurance experts would be created to determine on an annual basis what reasonable premium hikes are in various markets. Both measures are designed to enable HHS to work with state officials to ensure insurance companies are not able to raise premium rates "unreasonably."

The summary below provides a very high level overview of the White House proposal. It is important to note, however, that this analysis is based on an outline of the Administration proposal that has been circulated; no legislative text is yet available and – as we have learned from experience – there is a lot that is in the details. (The President’s outline is available via <http://www.whitehouse.gov/health-care-meeting/proposal/whatsnew/overview>).

Administration Health Reform Proposal Outline Summary/Overview

The White House proposal maintains most of the market reforms from the Senate legislation, including minimum medical loss ratios and rebates by carriers who fail to meet those ratios, a pool for individuals with pre-existing conditions, a prohibition on rescissions, no annual/lifetime limits, extended dependent coverage, no cost-sharing for preventative care, no gender discrimination, and guaranteed insurance renewal. Provisions that would take effect six months after enactment:

- A new insurance pool for individuals with pre-existing conditions
- A re-insurance program for employers that offer health insurance to their early retirees will save as much as \$1,200 for every family enrolled
- Medical Loss Ratio: public disclosure by insurance companies of the amounts they spend on administrative expenses including advertising, profits and salaries compared to what they spend for care
- Carrier Rebates
- Uniform explanation of coverage documents
- A new independent appeals process for consumers and patients to appeal insurance company decisions
- Penalties for insurance companies who deny coverage for children because of a pre-existing medical condition
- Premium Rate Review
- No annual and lifetime limits
- Prohibition on rescissions
- New plans will have to offer preventive care and immunizations at no cost
- New plans will have to cover an enrollee’s dependent children until age 26
- Small business tax credits to help them offer insurance coverage
- A new website to help consumers compare different insurance coverage options along with state-by-state health care consumer assistance and ombudsman for any of their health insurance questions

Other core provisions of interest to Trion and its clients include –

High-Cost Plan Excise Tax

The White House plan would delay the tax for all plans until 2018, and further raise the threshold at which the tax would kick in from \$8,500 for singles to \$10,200 and from \$23,000 for families to \$27,500. These amounts would be indexed for subsequent years at general inflation plus 1 percent. To the degree that health costs rise unexpectedly

quickly between now and 2018, the initial threshold would be adjusted upwards automatically.

Modifications to “Grandfathered Plans”

The President’s proposal maintains the “grandfather” policy from the Senate bill allowing individuals to maintain current coverage. However, the grandfathered plans will be subject to many of the market reform requirements that they were not subject to under the House and Senate proposals. Within months of legislation being enacted, the President’s proposal would require plans to cover adult dependents up to age 26, prohibits rescissions, mandates that plans have a stronger appeals process, and requires State insurance authorities to conduct annual rate review, backed up by the oversight of the HHS Secretary. When the exchanges begin in 2014, the President’s Proposal would add new protections that prohibit all annual and lifetime limits, ban pre-existing condition exclusions, and prohibit discrimination in favor of highly compensated individuals. Beginning in 2018, the President’s Proposal would require grandfathered plans to cover preventive services with no cost sharing.

Employer Mandates

The President’s proposal does not impose a mandate on employers to offer or provide health insurance, however it imposes tax penalties on any employer that has over 50 employees and that does not provide a requisite minimum level of coverage. In contrast to the Senate bill, the President’s proposal modifies the tax calculation on large employers who do not offer coverage. Employers with 50 or more workers can subtract out the first 30 workers from the payment calculation (i.e. - a firm with 51 workers that does not offer coverage will pay an amount equal to 51 minus 30, or 21 times the applicable per employee payment amount). The proposal also changes the applicable payment amount to \$2,000 for firms with more than 50 employees that do not offer any coverage. It would apply the same firm-size threshold across the board to all industries and eliminate the assessment for workers in a waiting period, while maintaining the 90-day limit on the length of any waiting period beginning in 2014.

Consistent with the Senate bill, small businesses with fewer than 50 workers would be exempt from any employer responsibility policies.

Individual Mandate

The White House Proposal includes an individual mandate that would impose a tax equal to either a flat dollar amount or percentage of income - whichever is higher (although not higher than the lowest premium in the area). Under the President’ plan, the flat dollar amounts would be \$325 in 2015 and to \$695 in 2016. Subsequent years are indexed to \$695. As an alternative payment, the President’s proposal would tax a percentage of an individual’s income at 1.0% in 2014, 2.0% in 2015, and 2.5% for 2016 and subsequent years. The President’s proposal adopts the House exemption, allowing individuals with income below the tax filing threshold to be exempt from the individual

mandate. Neither an individual with an annual income below \$9,350, nor a married couple with income below \$18,700 would have to pay the assessment.

The President's proposal also adopts the Senate's "hardship" exemption. Individuals and families would be eligible for a waiver from the requirement to purchase health insurance if premiums exceed 8 percent of income. In addition, exceptions would be made for religious objectors, taxpayers with incomes below the tax-filing threshold (\$9,350 for a single or \$18,700 for a married couple in 2009), and Indian tribe members. Americans under the age of 30 and other Americans who are exempt from the requirement to purchase insurance would be eligible for a low-cost catastrophic plan that covers serious illness and injury.

The President's proposal also increases the tax credits and cost sharing assistance for individuals and families, relative to the House and Senate measures.

Revenue Generating Provisions

The White House Proposal includes the following revenue generating provisions, most, if not all of which were part of the Senate bill:

- An increase in the Medicare hospital insurance tax for high-income taxpayers;
- An excise tax on insurance companies that begins in 2018. The excise tax will only apply to premiums above \$27,500 for families and \$10,200 for singles in 2018 and would be adjusted at the consumer price index plus one thereafter;
- An additional 10% penalty on non-health withdrawals from HSAs and Archer MSAs;
- A limit of \$2,500 on Flexible Spending Accounts under cafeteria plans;
- A fee on branded prescription drug pharmaceutical companies in proportion to their federal sales;
- An excise tax on medical devices;
- An excise tax on indoor tanning services;
- Starting in 2012, elimination of a deduction for employer subsidies for retiree drug coverage under Medicare Part D; the President's plan would delay the effective date of this provision by one year beyond what was contemplated in the Senate bill; and,
- Several tax code modification, including: (i) expanding corporate information reporting requirements; and (ii) preventing tax shelters by clarifying the definition of when activities have true "economic substance" beyond evading taxes.

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