

**U.S. Senate Health, Education, Labor & Pensions (HELP) Committee**  
**Full Committee Hearing**  
**“The Affordable Care Act: The Impact of**  
**Health Insurance Reform on Health Care Consumers”**  
**Thursday, January 27, 2011, 10:00 a.m.**

**Members Present**

<b>Democrats</b>	<b>Republicans</b>
Tom Harkin (IA) – <i>Chairman</i>	Mike Enzi (WY) – <i>Ranking Member</i>
Jeff Bingaman (NM)	Richard Burr (NC)
Patty Murray (WA)	John McCain (AZ)
Jack Reed (RI)	Pat Roberts (KS)
Bernie Sanders (I-VT)	
Kay Hagan (NC)	
Al Franken (MN)	
Michael Bennet (CO)	

**Focus of the Hearing**

The Senate Democratic Majority invited Kathleen Sebelius, Secretary of the U.S. Department of Health and Human Services (HHS), to appear before the Health, Education, Labor and Pensions (HELP) Committee to highlight some of the most popular provisions in the Affordable Care Act (ACA). This served as the first in a series of hearings that the HELP Committee will hold on the ACA.

The second panel was composed of private citizens who explained how the ACA has positively impacted their lives. The following summary focuses on the testimony and questioning of Secretary Sebelius and does not summarize the testimony of the second panel of witnesses.

**Member Opening Statements**

**Chairman Tom Harkin**

Chairman Harkin underscored the positive results that have already been realized by the passage of the ACA. Due to the legislation, insurance companies are now prohibited from denying coverage to anyone under age 19 with a preexisting condition, and that will be extended to everyone by 2014. Chairman Harkin said that the cost of preventable disease consumes 75 percent of health care spending annually, and the law includes “prevention and investments which are down-payments on the long-term project of transforming our sick-care system into a genuine health care system.”

The Chairman applauded Secretary Sebelius for her relentless and effective work in eliminating waste, fraud and abuse in Medicare and Medicaid. “This week, HHS reported that it had recovered more than \$4 billion from perpetrators of fraud last year, the highest annual recovery ever. And HHS released new rules authorized by ACA giving it even more effective tools to detect and combat fraud.”

### **Ranking Member Michael Enzi**

Ranking Member Enzi said that it is “easy to pick a few paragraphs out of a 2,000 page law to find a few provisions that are popular.” Instead, he focused on the weaknesses of the bill including the fact that the legislation did not include meaningful medical malpractice reforms. “Because of the ACA, Americans can no longer get child-only health insurance policies. Because of the ACA, millions of seniors on Medicare will see their out-of-pocket costs go up and their benefits go down because more than \$500 billion was cut from Medicare to pay for a new entitlement program.” Ranking Member Enzi stated that he intends to focus on ways to eliminate provisions in ACA that “limit our basic freedoms.” In their place, he plans to work to enact reforms that will focus on increasing consumer choices and decreasing health care costs. “We must make health care more affordable for consumers and the federal taxpayer.”

### **Kathleen Sebelius Testimony**

Secretary Sebelius listed the many provisions of the ACA that have been enacted, or are in the process of being enacted, and she said are already benefitting many Americans. “Many of worst abuses of the insurance industry have now been brought to an end. [ACA] begins to free as many as 129 million Americans with preexisting conditions from the fear of discrimination by insurance companies. There are new resources for states to review questionable premium hikes. Beginning 2014, individuals, families and small businesses will be able to pool their purchasing power and negotiate lower rates in the new health insurance exchanges, which many states are already working on to design and implement.

“ACA is impacting business owners in a good way. Over 5,000 businesses, state and local governments and unions are already using new funds to help maintain coverage for a very vulnerable population, people between 55-64 (‘early retirees’) and their families. And around 4 million small businesses owners are eligible for tax credits to help them provide health insurance to their employees.”

Secretary Sebelius cited the Congressional Budget Office’s (CBO) analysis that the ACA strengthens America’s economy. Recently, the CBO reiterated their numbers that the ACA will reduce the federal deficit by \$230 billion over the next decade and over \$1 trillion over the following decade.

### **Question & Answer Session**

**Chairman Harkin** began with a question regarding the child-only provision, asking Secretary Sebelius to describe the new protections the ACA provides to children in the private market and how that differs from the status quo before ACA was passed. The Secretary answered that before the ACA, many companies offered child-only policies but eliminated any child with a preexisting condition. ACA says if you offer child-only policies it must be open to all children. They are also eligible for new high-risk insurance pools that are run in states across the country in addition to the private health market.

**Ranking Member Enzi** continued on the theme of the child-only plans. He has found that there are at least 20 states in which child-only insurance policies are no longer available for purchase, and he said that this is devastating for parents who need to buy these policies. Ranking Member Enzi asked the Secretary if there are any specific steps she plans to take to fix the problem in those states or if Congress needs to

change the law. The Secretary responded that HHS has done a lot of outreach with insurers across the country and while there was an initial flurry of announcements, many insurance companies are reconsidering their initial plans to leave the child-only marketplace. Additionally, she pointed out that this is only a temporary problem as, by 2014, there will no longer be barriers for anyone with preexisting conditions to get coverage.

**Senator McCain** fired off direct questions, first asking the Secretary whether or not she agrees with President Obama's avowal in the State of the Union that we must repeal 1099 and that medical malpractice is an issue that Congress should address. After Secretary Sebelius responded in the affirmative, Senator McCain asked if she would submit for the record some ideas of what the parameters of medical malpractice reform might be. The Secretary answered "sure." Senator McCain said that he looks forward to addressing the issue of medical malpractice reform and hearing the Secretary's proposals as to how Congress can implement that. "We're going to find out whether trial lawyers run this place or the American people," he said.

**Senator Franken** explained that he thinks of comprehensive health care reform as a three-legged stool. "The first leg is you can't discriminate against preexisting conditions; the second is you can't buy insurance on the way to the Emergency Room, so you need a mandate so everyone has it; and the third is subsidizing people who can't afford it, and that's why we have a sliding scale up to 400 percent of Federal Poverty Level (FPL)." Senator Franken offered this illustration to show that he disagreed with Ranking Member Enzi's claim that the hearing was a marketing ploy designed to highlight the few popular paragraphs in the ACA. "I think this is a discussion about a comprehensive health care reform and not just cherry picking certain paragraphs."

**Senator Bingaman** asked Secretary Sebelius about implementation of the workforce provisions contained in Title 5 of ACA, a topic which he said was a bit off the subject of the Secretary's direct testimony but something that he believes is a very important part of the bill and would like to see move forward. Senator Bingaman feels that a central part of ACA is the creation of a new independent, nonpartisan, national workforce commission that is tasked with providing Congress and Administration with providing guidance on how to align federal resources to meet health care workforce needs. It is based on recommendations the Institute of Medicine (IOM) made, and modeled after the Medicare Payment Advisory Commission (MedPAC). The Commission may provide a report as early as October 1, 2011, but it can't begin its work until it gets funding, and it is unclear what the funding status is. Senator Bingaman said that he knows this Commission is not directly the responsibility of the Secretary, but he wants to flag the issue for her because he believes it is a very important part of health care reform.

Secretary Sebelius agreed that the issue of the health care workforce is an enormous issue that she believes had been looming on the horizon and ignored for decades. She said that the workforce commission is a stellar group that she looks forward to working with. When Senator Bingaman asked if she would have someone on her staff look into the issue of how to get the funding for the Commission to do its work, the Secretary responded that she would be glad to.

**Senator Bennet** discussed a provision that he had worked hard to have included in the ACA, the Community Based Care Transition Program (CCTP). The CMS defines the goals of CCTP, which are "to reduce hospital readmissions, test sustainable funding streams for care transition services, maintain or improve quality of care, and document measureable savings to the Medicare program. The demonstration will be conducted under the authority of section 3026 of the Affordable Care Act of 2010." Senator Bennet said that CCTP has shown a reduction of hospital readmissions of up to 50 percent in places that had high readmission rates. He asked Secretary Sebelius if she has noticed these positive effects across the country, and what Congress can do to accelerate that work. The Secretary said that she has noticed these coordinated care strategies being employed in pockets across the country, and its influence will

continue to grow. She believes that CCTP and similar models will be very good for health care costs and the health of the American public.

**Senator Roberts** expressed his displeasure about the 83 critical access hospitals in Kansas which were not included in the five-year exemption from Independent Payment Advisory Board (IPAB) review. He vowed that Congress would act if the IPAB recommended reductions that take funds away from the 83 rural community hospitals. He then asked Secretary Sebelius if she would you support a recommendation to at least include the 83 Kansas critical access hospitals in the five-year exemption. The Secretary said that she shares the Senator's belief that critical access hospitals are very important. "I'm committed to working with you to look at what the gap is and what can be done about it short-term. It's important that those hospitals not be jeopardized," the Secretary said.

**Senator Burr** asked Secretary Sebelius what the Administration's position is on fixing the Sustainable Growth Rate (SGR) formula for Medicare physician reimbursement. She responded that President Obama has said that he would like to see a permanent fix of the SGR. Senator Burr then recalled that CBO admitted that in their projections of the cost of the ACA, they failed to take into account \$250 billion that would be necessary to fix SGR. Senator Burr then concluded that the extra \$250 billion would eat up all of the savings from ACA. He went on to say that the ACA's new tax on medical devices "flies in the face of what the President said in the State of the Union about winning the future and out-innovating the rest of the world."

**Senator Sanders** announced that Vermont is giving serious thought to moving forward to a Medicare for all single-payer program, in which the state believes that it can save many hundreds of millions of dollars. He asked the Secretary if she would be prepared to work with Vermont on this, and suggested that maybe the nation can learn from what Vermont is doing with increased flexibility. The Secretary responded that she applauds the work Vermont has done. "States across the country have often been well ahead of the federal government in terms of creative health strategies to expand coverage to citizens. We very much encourage the flexibility of state-based approaches, which this bill is built around."

**Senator Hagan** discussed Inclusive Health, North Carolina's preexisting condition insurance plan. It currently has over 800 participants, which Senator Hagan understands to be one of the highest in the country. She said that one of their challenges has been raising awareness to get people enrolled. She asked Secretary Sebelius to talk about some of those challenges states are having in getting people enrolled in their comparable insurance plans for preexisting conditions, and asked if HHS offers guidance to states on ways to increase this awareness. The Secretary said that one of the challenges was that a lot of people were not aware these programs even existed, so HHS is trying to help amplify that message. HHS has done outreach in conjunction with states to disease groups, community leaders, faith-based communities and others to make them aware of these new benefits.

**Senator Murray** asked Secretary Sebelius to expand on the section of her testimony in which she discussed new resources that the ACA is providing to states to help prevent unreasonable premium increases. The Secretary responded that there is a new feature of HealthCare.gov which publicizes rates for the first time so consumers can get an overview of what rates are being charged by what plans in their particular jurisdiction, what percentage of people are denied coverage at that rate, and how many times the rate deviates from that. Additionally, she said that state insurance commissioners are committed to making the rate-review process much more transparent on their own websites. "The combination of consumers being able to pick-and-choose finally what policy is best for them and a much more rigorous rate review has already yielded results where excessive rates have been turned down and new rates have been submitted," she said.