

CANCER, CHEMICALS, AND CORPORATIONS

As you might know, my family is a walking cancer cluster: three out of five of us had some form of cancer. What has frustrated me as I've lived through three bouts of cancer in my family was the cancer industry's focus on "curing cancer," with very little attention on preventing it. Particularly given how dangerous the "cures" for cancer are, it's high time we focused more attention on how we avoid it.

Which is why I'm happy that this report from the President's Cancer Panel is getting a good deal of attention. It talks about all the environmental hazards that may contribute to cancer, devoting an entire chapter exploring each of six kinds of exposures that may contribute to cancer:

- Exposure to Contaminants from Industrial and Manufacturing Sources
- Exposure to Contaminants from Agricultural Sources
- Environmental Exposures Related to Modern Lifestyles (things like automobile pollution, airplane travel, and cell phones)
- Exposure to Hazards from Medical Sources
- Exposure to Contaminants and Other Hazards from Military Sources (pointing to 900 abandoned military sites that are Superfund sites)
- Exposure to Environmental Hazards from Natural Sources

(things like radon and naturally occurring arsenic)

But as the report notes, one of the reasons Americans are exposed to so many potentially carcinogenic materials is that our regulatory system doesn't work.

The prevailing regulatory approach in the United States is reactionary rather than precautionary. That is, instead of taking preventive action when uncertainty exists about the potential harm a chemical or other environmental contaminant may cause, a hazard must be incontrovertibly demonstrated before action to ameliorate it is initiated. **Moreover, instead of requiring industry or other proponents of specific chemicals, devices, or activities to prove their safety, the public bears the burden of proving that a given environmental exposure is harmful. Only a few hundred of the more than 80,000 chemicals in use in the United States have been tested for safety.**

U.S. regulation of environmental contaminants is rendered ineffective by five major problems: (1) inadequate funding and insufficient staffing, (2) fragmented and overlapping authorities coupled with uneven and decentralized enforcement, (3) excessive regulatory complexity, (4) weak laws and regulations, and (5) undue industry influence. Too often, these factors, either singly or in combination, result in agency dysfunction and a lack of will to identify and remove hazards. [my emphasis]

It elaborates in the expanded section on regulation to talk about regulatory capture.

Like many other industries, the U.S. chemical, manufacturing, mining, oil,

agriculture, transportation/shipping, and related industries are substantial political contributors and actively lobby legislators and policymakers on issues that affect their operations and revenue. For example, corporations aggressively block proposed chemical manufacturing, use, and disposal regulation, both through lobbying activities and in some cases, by manipulating knowledge about their products (e.g., industry-funded research).^{115,116} Although the Doll and Peto assessment of attributable fractions of the national cancer burden related to specific causes has been largely abandoned by the scientific community, it remains the basis of many existing chemical regulations and policy. The chemicals industry in particular likewise continues to use the notion of attributable fractions to justify its claims that specific products pose little or no cancer risk. As a result of regulatory weaknesses and a powerful lobby, the chemicals industry operates virtually unfettered by regulation or accountability for harm its products may cause.

This report came from the President's Cancer Panel, in a report telling Obama the shortcomings of our National Cancer Program. And it said that while there are a number of other controllable factors contributing to cancer (most notably smoking), we're simply not doing enough to even investigate these other possible causes of cancer.

With the BP spill, we're entering into a big discussion about whether our oil and gas habit is really safe and—more importantly—whether we even try to regulate it effectively. But at the same time, we ought to be having a wider discussion of the many ways (including our oil and gas addiction) that our modern lifestyles

lead to cancer.

CONGRESSMAN DINGELL: CALL BART STUPAK ON HIS LIES ABOUT ABORTION

John Dingell says he is going to try to persuade Stupak to drop his efforts to sink healthcare with his anti-choice efforts.

The Congress is a place where we represent our people and where we serve our conscience. I strongly disagree with Bart, I think he's wrong. But he was my friend. He is my friend. We hunt, we have campaigned together, and I'm going to try and show him the error of his ways. And I'm also going to try and see to it that we beat him on this because this is a matter of the utmost humanitarian and economic concern to this nation.

As of right now, the deal that Stupak made with Pelosi is off—he has postponed his press conference and Henry Waxman and Lynn Woolsey have said there is no deal on abortion.

But that leaves the problem of whip count. If Democrats lose all the people who had signed onto the Stupak deal, then they will have to get the vote of every single remaining fence-sitter to be able to pass the bill.

Which probably means it's not going to pass unless some of those anti-choice Stupak supporters will flip and vote for health care anyway.

I've long said that Dingell would be the most likely person to persuade Stupak to let this pass. Not only is Dingell the living history of efforts to pass health care, he has been a mentor to Stupak over his career. So the man who most wants to pass this bill (from a sense of personal destiny) also has a bit of leverage to persuade Stupak.

What I'd like to see Dingell do—aside from talking to Stupak personally—is call Stupak out on his lies, his utterly false claim that the Nelson language doesn't already restrict access to choice more than it is restricted now, and that only **his** language would preserve the intent of the Hyde Amendment.

But that's simply an out-and-out lie.

Not only do Stupak's claims about the fungibility of money fall flat (as Rachel explains), but his language would add onerous new barriers to choice for women everywhere. As a key GWU study shows,

In view of how the health benefit services industry operates and how insurance product design responds to broad regulatory intervention aimed at reshaping product content, we conclude that the treatment exclusions required under the Stupak/Pitts Amendment will have an industry-wide effect, **eliminating coverage of medically indicated abortions over time for all women, not only those whose coverage is derived through a health insurance exchange.** As a result, Stupak/Pitts can be expected to move the industry away from current norms of coverage for medically indicated abortions. In combination with the Hyde Amendment, Stupak/Pitts will impose a coverage exclusion for medically indicated abortions on such a widespread basis that the health benefit services industry can be expected to recalibrate product design downward across the board

in order to accommodate the exclusion in selected markets.

Now, Stupak can claim he's simply making a principled stand so long as the media refuses to call him on his lies. But if Dingell called him on it—if Dingell pointed out that this is not a principled stand, but rather an opportunistic effort to exploit a historic moment to attack women's reproductive rights—then he will not have cover for his actions.

Bart Stupak is not only threatening to kill health insurance reform out of desire to impose his beliefs on women around the country. But he's doing so using out and out lies.

And it's time somebody called him on those lies.

"THE SAME OLD GAME PLAYING IN WASHINGTON"

The Sunlight Foundation has a superb report of the way in which Bill Tauzin, whom Obama attacked during his campaign for his slimy deal-making, pushed through a deal with the Obama White House that limited savings from the pharmaceutical companies in the health care bill to \$80 billion.

The report:

- Traces Tauzin's history as a smarmy deal-maker
- Lays out the key meetings between PhRMA, the White House, and Max Baucus
- Shows how the PhRMA deal was

treated with priority over the goals of Democrats in Congress

- Tracks the fate of the PhRMA bill through the Senate passage of its bill in December—and to the point where the deal, and the rest of health care reform languishes

Here's the description of how other Democratic priorities were sidelined for the PhRMA deal:

While the \$80 billion deal was cut with Baucus' committee, other congressional committees continued to mark-up their own versions of health care reform without the knowledge that the White House was relying on Baucus to produce the final product. In the House of Representatives, the House Energy & Commerce Committee leveled a direct threat to the \$80 billion deal. Energy & Commerce Chair Henry Waxman sought to include all of the provisions that PhRMA had gotten the White House and Baucus to cut out of the reform bill. These included drug reimportation, Medicare negotiating power and speedier release of generics to the market. According to previous analysis of the measures proposed by the committee, these measures would have totaled hundreds of billions in cost cuts, far exceeding the \$80 billion cap agreed to by the White House, Baucus and PhRMA.

The cost cutting measures passed in the Energy & Commerce bill spooked the board of PhRMA, which included all of the CEOs involved in the deal-cutting meetings with the White House and Baucus. The board pressured Tauzin to go public with the deal to ensure that the White House

would recognize it and not renege. On August 4, the **Los Angeles Times**, in an exclusive report, featured quotes from Tauzin claiming that a deal between the White House and PhRMA existed and that, as Tauzin put it, "The White House blessed it." Tom Hamburger wrote in the article, "For his part, Tauzin said he had not only received the White House pledge to forswear Medicare drug price bargaining, but also a separate promise not to pursue another proposal Obama supported during the campaign: importing cheaper drugs from Canada or Europe."

The White House's Jim Messina later confirmed Tauzin's claim, stating, "The president encouraged this approach ... He wanted to bring all the parties to the table to discuss health insurance reform."

Democratic lawmakers were furious. Rep. Raul Grijalva, chairman of the Progressive Caucus, asked, "Are industry groups going to be the ones at the table who get the first big piece of the pie and we just fight over the crust?"

What's most interesting about the report, though, is the ending: where it describes Tauzin's ouster, announced last night, because of this deal.

In the end, the pharmaceutical industry's support for health care reform would be left up in the air . After spending \$100 million in advertising in support of legislation that Tauzin and key executives hoped would be a windfall for the pharmaceutical industry, the legislative process had flat-lined. In February, the board of PhRMA, split over the deal cut by Tauzin, pushed Tauzin to resign his post.

Here's some more from the NYT's report that Tauzin was leaving.

But the deal was also controversial within the drug industry, people familiar with the group's deliberations said, because some on its board questioned whether the agreement would pay off for them. And when the Republican victory in the Massachusetts Senate seat put the brakes on the health care process, many in the trade group known as PhRMA grumbled that it had all been for naught, these people said.

Informed Thursday night of Mr. Tauzin's plans to resign, Kathleen Jaeger, president of the Generic Pharmaceutical Association, which sometimes crossed swords with PhRMA, said she was surprised. "He has done a fantastic job for the brand pharmaceutical industry," she said. "Billy is a master of politics and policy."

Officials for the trade association and the White House declined to comment.

Given the silence from the White House and PhRMA, what does that say about the fate of the health care bill itself? With Tauzin's ouster, is there room to put no-nonsense policies back in the bill in reconciliation, starting with drug reimportation? Can we convince Byron Dorgan to stay if we simply push through the most logical policy?

I'm not sure what Tauzin's ouster means, but I look forward to what the White House will do now that their sleazy back room deal has been laid bare.

IS OBAMA'S BIPARTISAN HEALTHCARE SUMMIT AN ATTEMPT TO RECUPERATE THE CADILLAC TAX?

When Max Baucus delayed finalizing the Senate Finance Committee's healthcare bill last August in the name of getting bipartisan support from Olympia Snowe or Chuck Grassley, Republicans and teabaggers spent the month talking about death panels. Allowing the delay in the false hope of bipartisan support was, among a string of poor decisions, probably the worst decision the Obama Administration made.

So why is Obama planning on a bipartisan healthcare summit for later this month?

The move has gotten a lot of people trying to puzzle WTF (?!?!?) Obama intends to achieve. Here are Greg Sargent's thoughts:

A lot to chew on here. Republicans will spin this as proof that Obama has shelved reform, wants to start again, and will only pursue a bill that GOPers sign onto. Liberals will be dismayed at the apparent suggestion that Obama seems to actually be saying that such common ground could form the basis of anything approaching real reform – and that he's leaving open the possibility of doing “compromise” legislation with Republicans.

It's possible, though, that this is all about laying the groundwork for pursuing a Dem-only reconciliation solution later. Such an effort, should it happen, will inevitably be portrayed as yet another partisan back-room effort to ram reform through. So perhaps the White House hopes a very public gesture of

bipartisanship and transparency now will undercut those attacks and allow Dems to argue that they had no choice but to move forward alone.

Update: Maybe the game plan is to give skittish Congressional Dems cover to support a Dem-only reconciliation (i.e., “back-room” and “partisan”) approach later.

Update: Nancy Pelosi, who’s been much more realistic throughout this process than the White House or the Senate about the likelihood of bipartisan cooperation ever happening, endorses this in a statement:

“I welcome the President’s call for a bipartisan, bicameral discussion in front of the American people on fundamental health insurance reform that will make quality care affordable for all Americans and American businesses. The House and the Senate will continue to work between now and February 25th to find a common approach between the House and the Senate on these solutions.

“The House-passed health insurance reform legislation included a number of Republican amendments – added as the bill worked its way through three committees. In the last Congress, we worked with President Bush in a bipartisan way to pass initial economic recovery legislation, a bill to deal with the financial crisis and historic energy legislation that increased our nation’s fuel

efficiency standards for the first time in more than 30 years. We remain hopeful that the Republican leadership will work in a bipartisan fashion on the great challenges the American people face.”

Either this is a coordinated cave, or it’s a coordinated effort to lay the groundwork for a Dem-only solution later.

I think Greg’s thoughts are probably the most likely explanation. Still, I’ve got a nagging suspicion this is an attempt to recuperate the Cadillac tax—or some sort of end to the health insurance tax break.

As Ezra lays out, the Cadillac tax—insofar as it chips away at the tax break for employer-sponsored health care—is a policy that both George Bush and John McCain supported, in even more radical forms.

The solutions the GOP has on its Web site are not solutions at all, because Republicans don’t want to be in the position of offering an alternative bill. But when Republicans are feeling bolder – as they were in Bush’s 2007 State of the Union, or John McCain’s plan – they generally take aim at one of the worst distortions in the health-care market: **The tax break for employer-sponsored insurance.** Bush capped it. McCain repealed it altogether. Democrats usually reject, and attack, both approaches. Not this year, though. Senate Democrats initially attempted to cap the exclusion, which is what Bush proposed in 2007. There was no Republican support for the move, and Democrats backed off from the proposal. They quickly replaced it, however, with the excise tax, which does virtually the same thing. The

excise tax only applies to employer-sponsored insurance above a certain price point, and it essentially erases the preferential tax treatment for every dollar above its threshold.

And of course, the excise tax is probably the biggest sticking point between the House and the Senate.

I can't help but suspect that Senate claims that they can't figure out how to pass a fix through reconciliation are, instead, lame excuses mobilized to protect the excise tax that they (and presumably, the Administration, still want). And Pelosi's response that there simply are not the votes for the healthcare bill in the House is her equally intransigent refusal to pass something that won't do what it was promised to do and will piss off the unions Democrats need to get elected in November. In other words, the Senate and the House appear to have hit an impasse over the excise tax, one that prevents the most obvious solution to passing health insurance reform.

And all of this has happened at a time when the Administration's Cadillac tax booster, Jonathan Gruber, has gotten very quiet. At least some of Gruber's claims (notably that workers would get a raise, but also, probably, that companies would save money, and therefore, possibly even the claims about revenue and cost controls) haven't survived closer scrutiny. So how can the Administration still argue for a Cadillac tax if it won't do what they promised it would?

Mind you, even if this speculation is right, I still don't know WTF (!?!?!?) Obama would intend to accomplish with this summit. Is he just planning on bringing John McCain into a room and saying, "John, I have a great idea! Let's borrow that idea that you proposed last year that turned out to be such a dud electorally?" Or is he going to try to get the Republicans to commit to the excise tax, since they would welcome an opportunity to screw the unions, regardless of

how stupid the underlying policy was?

I do know this. For some time, the White House's efforts to pass the excise tax barely hid their underlying objective to eliminate tax breaks for employer provided health insurance. So while this is entirely speculative, I do wonder whether Obama is trying to use Republicans to either justify a switch to a different plan, eliminating the tax break, or at the very least, to build pressure for the policy among Democrats.

THE HOUSE WILL VOTE TO ELIMINATE HEALTH INSURANCE'S ANTI- TRUST EXEMPTION NEXT WEEK

I just got off a conference call with Speaker Pelosi. While she had a lot of optimistic things to say about the passage of a Senate plus sidecar bill, the big piece of news is that the House will pass (meaning, I presume she has the votes) a bill eliminating the anti-trust exemption for insurers and medical malpractice companies next week.

As she pointed out, the insurers have had this exemption for 65 years, and "the result has not been good" for consumers. And the only other industry that has been given such an exemption is major league baseball.

She said that, among other things, eliminating the exemption will allow the federal government to investigation collusion and price-fixing among insurers.

I presume this is one of those bills designed to

force Republicans to vote to protect the insurance industry—and as such, it is good politics. I'd be even happier if there were any prospect of it getting passed in the Senate, which I doubt. It would be nice to have on more piece of leverage to exercise with the insurance industry.

THE JOBS BILLS: THE BATTLE FOR COBRA

Congress has not yet seen fit to give Americans health care. But there's a new health care battle heating up right in the middle of the jobs bills that will be the next focus of Congress.

The jobs bill the House passed in December extended subsidies to help laid off workers pay for COBRA that were originally enacted as part of the Stimulus bill. The subsidy pays 65% of COBRA for those laid off, ensuring that families don't have to spend the bulk of their unemployment insurance check to pay for health coverage. At a cost of \$12.3 billion, the bill extended the subsidy from 9 to 15 months, and made it available for those laid off through June 30, 2010.

Obama has said he supports such a measure. And, a bunch of Democrats in the Senate have written to Harry Reid and Max Baucus urging that he pass the same legislation through the Senate. They write:

... recent employment numbers are an indication that we must immediately extend jobless benefits and health assistance for individuals and families squeezed in this tighter economy. Nearly 40 percent of the unemployed – more than 6.1 million people – have been out of

work for six months or longer. The average duration of unemployment is now at 29.1 weeks. What is more, many of those individuals and their families lost their health coverage when they lost their jobs. **On average, a monthly healthcare premium payment to cover a family costs \$1,111, which represents 83.4% of the average unemployment check. In some states, the average unemployment check is less than the cost of a monthly healthcare plan premium.**

Based on these figures, Congress must extend unemployment benefits and eligibility for the COBRA Premium Assistance Program through the end of the year. Short term extensions, while still helpful to families, only add strain to state agencies that must constantly re-tool their computer systems, and at the same time, continue to assist the millions still searching for work. **As our economy continues on a path to recovery, we need a robust extension of safety net programs that have provided a lifeline to families since the recession began.**

We urge quick action on the extension of the unemployment insurance provisions in the American Recovery and Reinvestment Act through December 31, 2010, including the Emergency Unemployment Compensation Program, full federal funding of the Extended Benefit program, an increase of \$25 per week in state and federal benefits, and the suspension of the federal income tax on an individual's first \$2,400 of unemployment benefits. In addition, we must also extend the eligibility period of the COBRA Premium Assistance Program through December 31, 2010.

Due to the importance of these issues, we respectfully request a meeting with

you to discuss how we can provide for an extension of both programs. We thank you for your consideration of our request. All of our offices are committed to ensuring our constituents are able to properly provide for their families during this difficult time. [my emphasis]

The list of signers is interesting for those it includes—as well as those missing.

Barbara Boxer (D-CA)

Dianne Feinstein (D-CA)

Michael Bennet (D-CO)

Christopher J. Dodd (D-CT)

Edward E. Kaufman (D-DE)

Daniel Akaka (D-HI)

Tom Harkin (D-IA)

Roland W. Burris (D-IL)

John F. Kerry (D-MA)

Benjamin L. Cardin (D-MD)

Barbara Mikulski (D-MD)

Carl Levin (D-MI)

Debbie Stabenow (D-MI)

Al Franken (D-MN)

Jeanne Shaheen (D-NH)

Frank R. Lautenberg (D-NJ)


Robert Menendez (D-NJ)

Tom Udall (D-NM)

Kirsten E. Gillibrand (D-NY)

Sherrod Brown (D-OH)

Jeff Merkley (D-OR)



Ron Wyden (D-OR)
Bob Casey (D-PA)
Arlen Specter (D-PA)
Jack Reed (D-RI)
Sheldon Whitehouse (D-RI)
Bernard Sanders (I-VT)
Patrick J. Leahy (D-VT)
Herb Kohl (D-WI)
Robert C. Byrd (D-WV)
Jay Rockefeller (D-WV)

Aside from the usual ConservaDems (and Harry Reid himself) and a number of western Senators, even Chuck Schumer appears not to have signed the letter yet.

Granted, I live in the Clusterfuck state. But I know a ton of people for whom the COBRA subsidy has been the single thing that has kept them from panicking as they face long months with no job. Let's make sure the Democrats come together—with at least one Republican—to include this COBRA subsidy extension in the jobs bill.

RAHM'S AUTHORIZATION TO USE MILITARY FORCE

Is Rahm planning on using Rove's tactics to get a crappy health insurance reform passed using the urgency of the upcoming election?

BAD NELSON, BAYH, AND LINCOLN OBJECTIVELY PRO- CORNHUSKER KICKBACK

✖ Thus far today, Ben Nelson, Evan Bayh, and Blache Lincoln have come out against passing health care reform through sidecar reconciliation.

Of course that means they're defending all the corrupt aspects of the Senate bill that proved to be so unpopular in MA, starting with the Cornhusker Kickback (and including the Louisiana Purchase that similarly bought off Mary Landrieu). And they've flip-flopped on their earlier demands that such corrupt deals be removed from the bill.

Mind you, I can't say I'm surprised that Bad Nelson and Blanche and Bayh can't decide whether they want to keep or lose their personal bribes. Just that if anyone should be labeled a monster, it's probably the folks so diligently protecting the stuff that voters say, overwhelmingly, they despise.

"MD'S SOB STORY"

I'm not Raul Grijalva or Jerry Nadler, but I thought I'd try to respond to TPM reader MD's "sob story" (as MD called it) because the story illustrates the issues at stake in health care reform. Here's the story.

Like everyone I have a sob-story to tell about health care. After telling it to

countless liberals who oppose the Senate's health-care reform bill, I still haven't heard a good answer from them about why they can't support the Senate bill. They usually stop talking, or try to change the subject. Maybe Raul Grijalva or Barney Frank or Anthony Weiner or Jerry Nadler have wrestled with this problem and I haven't seen it. Have you seen anything from them about this?

My story: My father is dying of Huntington's disease. Before he dies in 8 to 10 years, he will need anti-depressants, anti-psychotics and drugs that fight dementia and his tremors and convulsions. He'll need multiple brain scans and physical therapy sessions.

Current medical treatments can't save him, but they will give him a few more years before the slow death strips him of his memories, personality and control of his body.

There's a 50 percent chance the same slow motion death awaits me and each of my three siblings. If I ever lose my job I'll become uninsurable, permanently. My sister already lost her insurance.

That means whatever treatment is developed for Huntington's will be unavailable to us. There's simply no way we could afford it. Not only high tech gene therapies or other interventions, but the medications and treatments that exist now that would buy us enough time to see our kids' graduations or weddings, and would give them hope of not suffering their grandfather's fate.

There's a bill that would mean we'd never be rejected for health insurance or have it canceled. Health insurance that could ease our final years, or maybe even save us.

But liberals are refusing to support it. I know there are principles and politics at stake. I know people are tired of being told to shut up and take what's given to them. But in the end, there are thousands of people with Huntington's and millions of people with other serious or terminal illnesses who will never benefit from treatment because they are uninsured. Millions more who are otherwise healthy will die premature or unnecessary deaths because basic health care isn't affordable.

What do liberal leaders say to them? What do those liberals tell people like my dad, a die-hard activist Democrat, a UAW member who worked his way through college to become a teacher?

I'm used to Republicans and conservatives not giving a damn about people like us, or mocking us for asking questions like this. That's why my father spent so much of his life fighting to keep Democrats in power. But to be abandoned by people my father worked with and supported his entire life? What in the bill is so terrible to justify that?

This isn't about betrayal, or a slap in the face, or an insult. It isn't about strategies to keep seats, or grand theories of justice. Democrats in Congress have the chance to cast a single vote that will make the lives of tens of millions of Americans less wrenching, our demises less brutal. That's what this is about.

I'd like to hear Reps. Grijalva, Frank, Weiner or Nadler tell us why they can't cast that vote.

Now, to begin with, MD's entire premise is wrong. To suggest that Grijalva and Nadler are

the people preventing a bill from moving forward ignores the fact that, as things stand, even with their votes, the House would be at least one vote short of passage. As I pointed out here, until MD can convince one of the following to vote for a bill, there is zero chance of the Senate bill passing: Bart Stupak, Larry Kissell, Dennis Kucinich, Eric Massa, or any number of Blue Dogs who refused to vote for the bill the first time. MD would do better yelling at the Catholic Bishops, who think it's more important for Bart Stupak to make choice less accessible to all women than it is to provide lots of poor Catholics health insurance, than he would yelling at Grijalva and Nadler.

And because the bill is at least one vote short, it is going to have to get more populist (to convince Kucinich or Massa to support it) or still more conservative (to get either the anti-choice vote or the Blue Dog vote) before it passes, presumably through reconciliation.

And frankly, it may get better in ways that are very important for MD and his family. MD doesn't explain his situation well enough to be clear, but I will assume his father currently has health insurance through either the UAW or a teacher's union and has not yet reached Medicare age (because otherwise, the debate is primarily about whether MD's father has to pay for drugs in the Medicare Part D donut hole).

One of the reasons why Grijalva and Nadler do not support the Senate bill, as is, is because it would lead people like MD's father to pay more out-of-pocket for his care—because that is the entire point of the Excise Tax. Starting in 2013, MD's father might have to pay higher deductibles each year, he might have to pay for his physical therapy, he might find some of the expensive medicines unavailable to him. As an example, after my health care went through the kind of changes envisioned under the excise tax, I had to start paying \$800 for necessary MRIs once or twice a year. And under my new plan, I would have had to pay \$560 six times over the

course of cancer treatment (a total of \$3,360) for one of the really expensive drugs I took, a drug just like the expensive drug therapies MD refers to.

So MD needs to understand that Grijalva and Nadler want the changes that **must** happen before this bill passes to benefit MD's father, to prevent him from losing his current level of care, rather than benefiting a bunch of millionaires.

And, presuming those changes would push in the direction of House bill on other issues, there is a benefit for MD and his sister—who have what is counted as a pre-existing condition—as well. I'm very sympathetic to their plight, because as of October, when I'm scheduled to lose my COBRA, I will be, like his sister (and like he'd be if he lost his job) uninsurable.

For starters, the House bill allows people to keep COBRA until the exchanges go into effect (2013 in the House bill, 2014 in the Senate bill). Grijalva and Nadler are fighting to make sure that if MD lost his job, he could keep his current insurance until such time as he could get health care through the exchange. For me, this would be a huge benefit, because as expensive as COBRA is, it's far cheaper than I would have to pay for any health care I could get, if I am able to.

As for MD's sister, Grijalva and Nadler are fighting so that MD's sister can access high risk insurance right away; under the current Senate bill, MD's sister must go for six months without insurance before she can tap into the federal high risk pool. And the high risk pool for his sister would be half as expensive if Grijalva and Nadler get their way. Plus, under the Senate bill, there is a dollar limit on how long the federal government can offer that high risk insurance; the CMS has estimated that the money would run out "by 2011 and 2012," so MD's sister might well lose health insurance or pay even more between now and when the exchanges, under the Senate bill, open in 2014. And note,

if Grijalva and Nadler get their way, MD's sister can enroll her whole family in the high risk pool, whereas under the existing Senate bill, only she would be able to enroll.

Finally, one more thing. If Grijalva and Nadler have their way, then MD's father's drugs will be cheaper, both because they're fighting to lower the exclusivity periods for the high tech gene therapy MD refers to from what is currently in the Senate bill. And because they're fighting to prevent pharmaceutical companies from making deals with generic manufacturers to hold off on production of generics so as to postpone competition for a number of years. Again, for people facing years of medical care, such things will make a huge difference in quality of life.

So before MD starts beating up progressives, he ought first beat up the Catholic Bishops who are standing in the way of a bill. And because the House is at least one vote short of passage—even with the progressives who voted for it the last time—there will probably be an agreement to change the bill in reconciliation. And one of the first things that will happen—one of the things Grijalva and Nadler are fighting for—is to make sure that middle class union members like MD's father don't have their health care cut dramatically just to shield a bunch of millionaires from higher taxes.

So, I agree with MD—this isn't about strategies to keep seats. It's about making sure MD's father gets to keep the health care he already has.

Update: Corrected per lizard's comment.

Update: CMS link included, language updated.
Generics language updated.

SOME THOUGHTS ON HEALTHCARE

From the start, let me say I support sidecar reconciliation going forward—the passage of the Senate health care bill, tied to the simultaneous passage through reconciliation of some fairly substantive changes (eliminating most of the excise tax, inclusion of a public option, possibly with Medicare buy-in, elimination of the antitrust exemption, and drug reimportation) that would not only make the Senate bill palatable and much cheaper, but would constitute real reform.

With that out the way, let me just throw a few things out there on which I will base my further discussion.

Rahm's trial balloon on a stripped down bill

On Wednesday, Rahm proposed a stripped down bill.

RAHM PITCHES STRIP-DOWN, reports Inside Health Policy's Wilkerson, Coughlin, Pecquet and Lotven: "White House Chief of Staff Rahm Emanuel called House leaders Wednesday to sell a smaller health care reform bill with insurance market reforms and a Medicaid expansion, Democratic and Republican insiders tell Inside CMS. House Speaker Nancy Pelosi (D-CA) so far is not buying it, they say, and one Democratic policy analyst considers Emanuel's pitch a trial balloon. ... Pelosi was scheduled to meet with Blue Dog and progressive coalition members Wednesday (Jan. 20) afternoon and a full Democratic caucus meeting is scheduled for Thursday morning. 'I would agree she's not buying it,' a Democratic policy analyst said, referring to Emanuel's idea of a smaller bill. 'We're hearing that she's trying to figure it out.' ... In the Senate, Budget Committee

Chair Kent Conrad (D-ND) said that while he had opposed using the fast-track process for the health reform legislation 'writ large,' he believes reconciliation could be used as a way to make fixes if the House passes the Senate bill."

Greg Sargent makes it clear that this doesn't necessarily mean Rahm (or the White House) prefers such an option—he's just looking into what is possible at this point.

After talking to insiders my sense is that the procedural issues at play are extremely complex, and White House advisers and Dem leaders really want to understand the full range of options before them, as limited as they appear to be, before leaning hard one way or another.

I'm also told that reports that Rahm Emanuel is pushing for a scaled-down bill are false. Rahm is actively involved in sounding out Congressional leaders to determine what's possible, but hasn't stated a preference, for the above reasons. This may not amount to a satisfactory explanation for many, but this, as best as I can determine, is what's happening.

So for the moment, let's just leave this out there as a trial balloon.

Within hours of Brown's win, Max Baucus said reconciliation would be part of the solution

After saying for months that reconciliation wouldn't work, Baucus has spun on a dime and said that reconciliation will be part of the solution.

"Reconciliation, I'm guessing at this point, will be part of the solution," said Senate Finance Committee Chairman

Max Baucus (D-Mont.).

Clearly, this is not the same as having one of the true obstructionists—Lieberman, Nelson, or Landrieu say this—in the Senate. But we don't need them to pass a bill through reconciliation; we need the still significant majority we have in the Senate.

Note, Baucus' quick concession that reconciliation would be needed to pass this bill ought to make all those who, before, said, "Reconciliation won't work, you have to capitulate to Joe Lieberman" think twice about whether their earlier read of the situation was correct, and what Baucus' quick concession says about the good faith of the hold-outs on the Senate side. If reconciliation is now possible, the only reason it wasn't possible in the past was the political situation, largely created by the large number of people empowering Lieberman and Ben Nelson by saying "reconciliation won't work, you have to capitulate to Joe Lieberman." And that ought to make the same people hesitate before they cry again, "Progressives have to pass the Senate bill as is, without working to fix the bill through reconciliation."

Votes (particularly through reconciliation) are easier to get in the Senate than the House right now

Here's a detail many on the left seem to be missing when they call on progressives to just suck it up and pass the Senate bill: the numbers.

Check out the roll call for the passage of the House bill last year. The bill passed 220-215. But that 220 includes Bart Stupak and Joseph Cao, both of whom have said they would not be happy with Nelson's anti-abortion language—they want Stupak's own, harsher language (and Stupak says he's got 10 more Democrats like him). And it also includes Robert Wexler, who has since retired.

In other words, just based on losing those three

votes, you don't have enough votes in the House to just "suck it up" and pass the Senate bill.

Of those who voted "no" last November, just two said they did so because the bill was not progressive enough: Dennis Kucinich and Eric Massa (and many people doubt Massa's explanation on that count). Larry Kissell got elected on a progressive platform, but Kissell is, alone among many endangered freshman, doing well in his re-elect numbers (something that may or may not have to do with his vote against the House bill, which is still more popular among voters than the Senate bill).

In other words, just to get enough votes to pass, you're going to have to do one of several things:

- Convince Stupak to back down off his anti-choice stance and vote for the bill
- Convince Kucinich, Massa, or Kissell to vote for a bill they didn't vote for the first time
- Convince some of the Blue Dogs who voted against the bill the last time to vote for it this time around

Those numbers alone ought to make it clear that you're not going to pass the Senate bill through the House by haranguing progressives to pass the bill, because unless you convince Kucinich or Massa (I'm leaving Kissell out, who actually said he opposed the bill from the right), then you still don't have enough progressive votes to pass the bill. Want to harangue someone? Harangue the Blue Dogs or Stupak, because they're a more likely source of that 218th vote than Kucinich or Massa. Here's Stupak's number, in case you're looking to whip votes: (202) 225 4735.

The Brown win

People will likely be arguing for years about how big a factor health care was in Brown's win on Tuesday. But a few things are clear. Union members supported Brown over Coakley 49% to 46%. I've heard from a number of union people from MA who talked about the difficulty, having gotten unions to vote for Obama in 2008 at least partly because of McCain's promise to tax health insurance, to now get their members excited about voting for Coakley so that their benefits would be taxed in the excise tax. Now, it may be that unions didn't try to spin this early enough, or it may be that workers really care about this, but it's clear that the excise tax is one of the things that played a factor in the Brown win.

The other thing that is clear is that a lot of the independents that voted for Obama voted for Brown, and a good number of Obama voters (especially the youth vote) stayed home. And while the numbers are mixed between those two groups, it is clear that both groups support a public option.

The math

Now, before I get into why I support sidecar reconciliation, let me address a scaled back plan—which has a lot to recommend it. Jon Walker lays out one scenario here, one that is not far off a scenario Ezra laid out the other day.

A number of people have complained that you can't pass comprehensive health care reform piecemeal (Brian Beutler, Karen Tumulty, Jason Seminal). But look at the language these folks are using carefully—particularly the way it fluctuates seamlessly between discussing "health care reform" and "health insurance reform." Some of these same people willingly admitted back in December that the Senate bill was not, in fact, health **care** reform, but health **insurance** reform.

But one of the problems with the Senate bill is

just that—it succeeds in getting 30 million uninsured people insurance, but will leave a significant portion of Americans—perhaps as much as 19% of the total population—with insurance that they won't be able to afford to use [note, some of these already have insurance they can't afford to use; sentence changed per WO's comment; figure changed to reflect that 2% of the 21% of MA residents who can't afford care don't have insurance]. It means it would not eliminate (though it would lessen) medical bankruptcies, it would not give employers much relief from rising health care costs, and it would not do much to rein in costs (until someone can explain why the behavior the excise tax incents hasn't brought down health care inflation over the last three decades, I'll consider that a big scam). One of the problems with the Senate bill (the House bill was better though still not great) is that it was about health insurance reform, and not only fell far short of health care reform, but might make health care reform less likely as it made the medical industry more powerful. (And all that was before Justice Kennedy gave them the right to buy politicians.)

But that's one of the reasons why Rahm's trial balloon is so important—and, I suspect, why Baucus immediately became willing to discuss reconciliation. A plan like Jon's—expanding Medicaid and allowing Medicare buy-in—would solve a great deal of the urgency surrounding health care, without giving the insurance companies millions of captive consumers. Rather than putting the industry in a much stronger position, it would put them in a weaker negotiating position, making it more likely that when we turn to the one urgent issue that must either involve insurance or single payer (the exclusion of those with pre-existing conditions), we will at the same time be able to demand real concessions on Medical Loss Ratio and/or actuarial values so that people can actually afford to use the health insurance reform would give them access to. Plus, the one great aspect of the Senate bill—the one part

that is undeniably reform—is its Medicare-based delivery reforms, and we could do that in a smaller bill anyway. So while the opponents of piecemeal reform have a point, they also need to be clear that they're talking about insurance reform, not health care reform, and they need to explain how they get from there to health care reform.

So I do think passing a stripped down bill that focuses on extending care to the 15 million who most urgently need it is preferable to passing the Senate bill without a guarantee it'll be fixed through reconciliation.

But I actually do think—because the House, not the Senate, now has leverage—that the bill might get significantly more progressive through reconciliation. Max Baucus and all the other insurance company buddies in the Senate may now be willing to deal to preserve some expansion of the insurance companies' base. And if it's done correctly, they may be willing to accept the competition they dodged when the Senate had the upper hand.

The point is, to those clamoring for progressives in the House to cave, to think responsibly of what they're doing. What you do now can result either in real reform, in expansion of care with minimal reform. Or, in passing the Senate bill that, based on the excise tax alone, may have been a significant factor in Coakley's loss. Health care reform is important—which is why we shouldn't accept just the Senate bill, because (except for the Medicare changes) it is not health care reform.