



**H.R. 3962, "Affordable Health Care for America Act"**  
**Passed November 7, 2009 – 220 to 215**

**Seniors / Medicare**

- Legislation cuts \$571 billion in allocated Medicare funding<sup>1</sup>
  - Eliminate Medicare Improvement Fund
  - Reduce Medicare Advantage payment benchmarks
  - Reduce Part A and Part B market basket payment updates
  - Require prescription drug rebates at Medicaid levels from manufacturers from all low-income Part D enrollees
  
- Total of \$170 billion in cuts from Medicare Advantage plans (Section 1161)
  
- The Secretary of Health and Human Services can negotiate Medicare payment levels for physicians for efficient areas – counties or equivalent areas in the U.S. in the lowest fifth percentile of utilization based on per capita spending for services provided in the most recent year (Section 1123)
  - As part of the adjustment that governs physician reimbursement levels, physicians would be subject to a 21 percent cut beginning in January 2010 with phased-in increases in the cut over time, according to the CBO<sup>2</sup>
  - The lack of a spending reduction offset for the doctor reimbursement legislation passed by the House (H.R. 3961) will result in higher Part B premiums for seniors, forcing them to finance part of the overall Medicare reduction under the bill through increased rates
  
- Part D premiums for Medicare beneficiaries will increase to help offset closing of 'donut hole,' possibly as much as 50 percent (Section 1181)
  
- Would set Medicare Advantage capitation benchmarks equal to 100 percent of the prevailing fee-for-service cost level in each county (Section 1161)
  - According to CMS, this would reduce Medicare Advantage rebates to plans and result in less generous benefit packages<sup>3</sup>

- Limits the Medicare exception to the prohibition on certain physician referrals to physician-owned or invested-in hospitals (Section 1156)
- Disallows mid-year formulary changes under Medicare Part D (Section 1185)
- Secretary of Health and Human Services authorized to waive any requirements in the existing Medicare statute in order to implement any new changes, granting blanket authority to CMS to rewrite existing statutes and regulations (Section 1158)
- Secretary of Health and Human Services has authority to edit seniors' choice of Medicare plans by rejecting any or every bid by any entity other than the government-run health plan (Section 1175)
- Expands the definition of Medicare physician services to include consultations regarding end-of-life decision making (Section 1233)
- Repeals the current tax deductibility of subsidies provided to companies offering prescription drug coverage to retirees (Section 534)
  - Could lead to companies dropping retiree health coverage

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<sup>1</sup> Centers for Medicare and Medicaid Services. *Estimated Financial Effects of the "America's Affordable Health Choices Act of 2009" (H.R. 3962) As Passed by the House on November 7, 2009*, available at [http://republicans.waysandmeans.house.gov/UploadedFiles/OACT\\_Memorandum\\_on\\_Financial\\_Impact\\_of\\_H\\_R\\_3962\\_11-13-09\\_.pdf](http://republicans.waysandmeans.house.gov/UploadedFiles/OACT_Memorandum_on_Financial_Impact_of_H_R_3962_11-13-09_.pdf). 13 November 2009.

<sup>2</sup> Congressional Budget Office and Joint Committee on Taxation. *Letter to Congressman John Dingell*, available at [http://www.cbo.gov/ftpdocs/107xx/doc10710/hr3962Dingell\\_mgr\\_amendment\\_update.pdf](http://www.cbo.gov/ftpdocs/107xx/doc10710/hr3962Dingell_mgr_amendment_update.pdf). 6 November 2009.

<sup>3</sup> Centers for Medicare and Medicaid Services. *Estimated Financial Effects of the "America's Affordable Health Choices Act of 2009" (H.R. 3962) As Passed by the House on November 7, 2009*, available at [http://republicans.waysandmeans.house.gov/UploadedFiles/OACT\\_Memorandum\\_on\\_Financial\\_Impact\\_of\\_H\\_R\\_3962\\_11-13-09\\_.pdf](http://republicans.waysandmeans.house.gov/UploadedFiles/OACT_Memorandum_on_Financial_Impact_of_H_R_3962_11-13-09_.pdf). 13 November 2009.