

# Health Reform Seeking Direction

## Shock Senate Election Eliminates Dems' Super Majority

An upset win for Republicans in the Massachusetts senatorial special election may halt months of steady, if uneven, movement in Congress to pass a massive and controversial health care reform package, putting President Obama and congressional Democrats in a pickle over what to do next.

At stake are major, and potentially troublesome, changes for the long term care sector, notably the state of proposals in both the Senate and House reform bills for drastic cuts in Medicare payments for skilled nursing facilities (SNFs).

At press time, there was confusion

over which way the White House and congressional Democrats would go on health care. What is known is how they got there, namely, Republican Scott Brown's win to fill the seat of the late Sen. Edward Kennedy (D-Mass.) ended Democrats' hopes to pass a clean version of the Senate health care reform package approved on Christmas Eve.

That vote's success—and other future Senate votes on health care—turned on the Democrats having 60 votes to avoid Republican filibustering and other maneuvering. Now, Democrats have just 59 solid votes on their side, eliminating the super majority and any wiggle room for the White House.

"We've put so much effort into this, so much hard work, and we were so close to doing some significant things. Now we have to find the political path that brings us out. And it's not easy," said Sen. Dick Durbin (D-Ill.).

In the president's Jan. 27 State of the Union address, Obama urged the passage of health care reform, noting how far the issue has come since he took office, but he did not offer specific time-tables for action or provide a legislative outline. However, in the president's fiscal year (FY) 2011 budget released on Feb. 1, there was positive news for providers because the budget did not cut the SNF market. In fact, the



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White House budget design contains an additional \$25.5 billion in new Medicaid funding so that the temporary Federal Medical Assistance Percentage funding may be extended six months from its present end date to June 2011.

The White House budget will come under considerable scrutiny in Congress over the coming weeks and months before any final action is taken.

Long term care advocacy organizations are monitoring:

**Medicare cuts:** The House bill had cuts of \$23.9 billion and the Senate \$14.6 billion. Cuts threaten the viability of nursing facilities all over the country, according to the American Health Care Association (AHCA).

**Medicaid:** AHCA backed a House reform bill measure to add \$6 billion in Medicaid funding for long term care services over the next four years. This provision recognizes the chronic underfunding of Medicaid SNF care, which results in an estimated shortfall of more than \$4.6 billion a year, or \$14.17 per beneficiary per day.

**The so-called Wyden amendment:** Named for Sen. Ron Wyden (D-Ore.), it was part of the Senate reform bill and would require the Medicare Payment and Advisory Commission to review and report on Medicaid funding when making recommendations about Medicare payments.

**Therapy caps and resource utilization groups (RUGs-IV):** AHCA has sought an extension of the Medicare therapy cap exceptions process and a delay in the implementation of RUGs-IV. It remains uncertain when Congress will act on the therapy cap process.

—Patrick Connoles

## CORRECTION:

An article on page 20 of the January 2010 issue of *Provider* implied that CapitalSource had exited the skilled nursing facility business. Although CapitalSource has sold all of its nursing facilities, the company will continue to focus on health care first mortgage lending.



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