

## BEWARE THE SENATE LABOR COMMITTEE'S SUPREME COURT OF HEALTH

Unable to work out the complex and confusing details of their health care reform proposals, some Members of Congress are trying to dodge tough issues of the future costs and benefits and delegate key decisions to an enormously powerful, presidentially appointed National Health Board, a future "Supreme Court of Health." The creation of the National Health Board is a key component in the Clinton plan. Thus, in the latest version of the Clinton plan, offered by Senator Edward M. Kennedy (D-MA), the Senate Committee on Labor and Human Resources last week approved an amendment offered by Senator Jeff Bingaman (D-NM) that practically would turn over to the National Health Board all powers to increase the out-of-pocket costs or cut the health benefits of workers and their families.

Under the Bingaman amendment to the Kennedy version of the Clinton plan, the National Health Board, in "cooperation" with the Congressional Budget Office, is to estimate the cost of the plan's comprehensive benefits package. To control costs, the Board can recommend "adjustments" in the bill's comprehensive benefits package, copayments, deductibles, or "other appropriate programmatic savings."

So, while Congress is outlining a package of generous health benefits for Americans, the Board could limit or deny them under this latest committee-passed "bait and switch" proposal. The Board's "sequestration" powers over medical services and power to institute price hikes for American families would make the Gramm-Rudman automatic cuts in federal programs benign by comparison. To avoid this, some Republican members on Kennedy's committee hope to strike the provision creating the all-powerful Board.

Under the Bingaman amendment, Congress would have 45 days to vote to disapprove recommendations of the National Health Board to trim the health program's future costs. For all practical purposes, these decisions by the National Health Board would be final, for they would not be subject to any amendment or change by Congress. If Congress failed to act within 45 days, the decisions of the National Health Board automatically would go into effect. Thus, the Board would dictate to ordinary Americans what benefits, treatments, or procedures they could and could not have in such a government-standardized benefits package, and what prices they would pay. Since the size and cost of the government's standardized benefits package is the major determinant of the cost of health care reform, this constitutes an enormous concentration of government power in an unelected board over one-seventh of the American economy and the personal life of every American.

**Abrogation of Responsibility.** This latest ploy by certain Members of Congress to dodge political responsibility for literally life-and-death decisions and for the future costs and benefits flows from the continuing desire on Capitol Hill to create a comprehensive standardized health benefit package for every American. Many Members of Congress apparently believe that a group of government experts knows what is best for ordinary Americans, and exhibit a stubborn refusal to allow consumers the choice to buy the benefits they want at the prices they wish to pay.

Under the Clinton plan, the Kennedy plan, the Cooper plan, and the Chafee plan, the federal government would establish a comprehensive package of benefits that all Americans must have, whether they want them or not. Many American workers and their families thus would be paying higher premiums or taxes for benefits, procedures, and treatments that they do not want or need—and yet the package may not include other services

they do want. For physicians groups —from chiropractors to *in vitro* fertilization specialists—it would be financial death not to be included in this standard comprehensive benefit package. So, special interest lobbying by medical specialty societies intensifies in a feeding frenzy to gain admittance to the standardized package, bidding up benefits and thus driving the entire cost of the government program out of control. In part, turning over decisions about benefits to an independent board is an attempt by lawmakers to escape this pressure. “Yesterday’s committee debate,” writes Dana Priest in the May 20, 1994, *Washington Post*, “made it clear that members of Congress also are afraid of their own spending habits.” The problem is that Senator Bingaman’s “solution” would put enormous powers over every American’s access to health care into the hands of an unelected board.

Senator Kennedy’s version of the Clinton plan, for instance, contains an even more generous benefits package than the White House bill. Similarly, the working draft in the House Subcommittee on Labor-Management Relations also contains a richer benefits package than that found in the original Clinton plan, and the subcommittee voted on May 17th for an amendment offered by Representative George Miller (D-CA) for an expansion of mental health benefits. Reports Spencer Rich in the May 18 *Washington Post*, “The voice vote was the third time in recent weeks that advocacy groups have won a major victory in their battle for full coverage of mental health benefits despite frequently voiced fears that more generous insurance coverage would ‘break the bank’.” On May 18, Representative Miller, backed by a coalition of 32 organizations called the “Coalition for Oral Health,” offered yet another amendment containing \$7.3 billion in dental benefits. While Miller acknowledged that his amendment would increase health care costs, he argued that “good health” takes precedence and that Congress can “sort out cost problems later.” Miller’s amendment passed, again in a voice vote. In reality, if Congress is able to delegate the tough decisions to the National Health Board, it will be that unelected body that will actually determine what health benefits Americans are permitted to receive.

**Cutting Quality Care.** Of course, the transfer of tough decision-making over costs and benefits to a powerful government board or commission in no way guarantees an end to Washington’s special interest group lobbying. It only changes the focal point of such lobbying to the executive branch or to the independent board. To the extent Congress makes such a board or commission “independent,” it makes it an even more powerful regulatory agency, meaning that back-door lobbying counts for everything and ordinary Americans can have little or no influence over the decisions that will affect them so personally.

How would the Board actually control the rising costs of the benefits voted by Congress? It could respond in two ways. First, it could make Americans pay even more for benefits—including many treatments or procedures, such as drug abuse programs or abortion, that they may not want or may even oppose in principle. Second, it could reduce medical services to keep within national spending targets. This also means that American families could find themselves denied care for their personal health needs that they had been promised by Congress in legislation. Under the Bingaman amendment, this could happen if Congress simply does nothing.

**Promoting Personal Choice.** Instead of setting forth a comprehensive set of government-approved standardized benefits, and thus establishing massive government control over the American health care system, Members of Congress should instead allow Americans to pick and choose the benefits they want and the prices they wish to pay. This is what Members of Congress can do each year under the Federal Employee Health Benefits Program. Congressmen and other federal workers are not subjected to the straitjacket of a comprehensive, standardized benefits package. The Consumer Choice Health Security Act (S.1743, H.R. 3698), sponsored by Senator Don Nickles (R-OK) and Representative Cliff Stearns (R-FL) would give similar control over benefits to every working American family, with help for families to obtain at least basic, catastrophic insurance coverage. That proposal puts the ultimate power in the hands of the families who are affected by health care decisions, where it belongs. The Bingaman amendment would give that power to bureaucrats.

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For further information:

Robert E. Moffit, “A Guide to the Clinton Health Plan,” Heritage Foundation *Talking Points*, November 19, 1993.

Robert E. Moffit, “Kennedy’s Bait and Switch Health Reform,” Heritage Foundation *Executive Memorandum* No. 380, May 16, 1994.