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THE MAJORITY'S $279-BILLION 'DOC FIX' SHELL GAME

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SUMMARY

The Democrats' tactic for bringing health care legislation to the floor is a transparent attempt to gain credit for a Medicare reimbursement increase doctors want, while hiding its $279-billion cost. They have crafted a rule that lets them have it both ways: they can claim support for the doctors' payment hike as part of their overall health care plan, but at the same time pretend its cost is a separate matter.

The Budget Committee's Ranking Republican has requested a Congressional Budget Office [CBO] analysis of the health care bill if the "doc fix" were included. In the mean time, the House Budget Committee staff has developed its own estimates based on CBO figures. This analysis shows the following:

- The "doc fix" by itself increases spending by $209 billion – plus $70 billion that is hidden in administrative actions by the Department of Health and Human Services [HHS] (explained below). Thus, the total cost of the "doc fix" is $279 billion.

- When the "doc fix" is combined with the health care bill, the combination increases the deficit by $100 billion. Adding the $70 billion from the HHS action, the total deficit increase is $170 billion.

- They would put upward pressure on overall health spending by increasing the Federal budgetary commitment to health care by $807 billion – compared with $598 billion for the health care bill alone.

- They would increase the deficit in the long run. CBO had previously concluded the health legislation would "slightly reduce deficits in the second decade" because revenue would outpace spending increases. Adding the "doc fix" appears to reverse that trend: it causes a deficit increase of $33 billion in 2019, and would appear to lead to a further increase in the second decade.

- The Democrats have sought to disguise these effects by adopting a rule that provides for consideration of both the health care bill and the "doc fix" – but takes them up separately. *This maneuver seeks to win the political advantage of supporting the "doc fix" while hiding its substantial fiscal impact on health care legislation.*

The discussion below briefly explains the "doc fix," its background with respect to health care legislation, and the Majority's attempt to hide this cost. It then presents the Budget Committee staff analysis of the likely costs and deficit effects when the health care overhaul and the "doc fix" are combined.

THE MEDICARE 'DOC FIX' AND THE BUDGET

- Under the current-law Sustainable Growth Rate [SGR] formula, Medicare payments to physicians are scheduled to be reduced by 21 percent in fiscal year 2010. This reduction is assumed in the current-law baseline used by the CBO for projected Medicare spending, which is rising inexorably at about 7 percent per year. Changing the payment formula increases both spending and deficits relative to CBO's baseline.

- The administration has repeatedly contended the President is committed to keeping health care legislation deficit-neutral *by CBO numbers*.

  - During a House Budget Committee hearing in June, Office of Management and Budget Director Orszag said: "And so, just to reinforce the point, what we are saying is that health care reform must be deficit neutral using CBO-scored, hard, scoreable offsets, over 10 years and in the 10th year."

  - In his speech to a Joint Session of Congress, the President famously insisted health care legislation would not increase deficits "by one dime."

- Clearly, the combination of the Democrats' health care bill and the "doc fix" would violate this commitment.

THE 'DOC FIX' AND HEALTH CARE LEGISLATION

- Events since mid-summer reflect the juggling of the Medicare physician payment question.

  - *29 April 2009*. Democrats pass their budget resolution conference report, S. Con. Res. 13. It reflects only 2 years' worth of adjustments in Medicare physicians' reimbursements, at a cost of $38 billion. Adding a permanent change would violate the Democrats' own budget.

  - *17 June 2009*. The House passes a statutory pay-as-you-go [pay-go] bill that ostensibly requires any increase in mandatory spending to be offset with reductions in other spending, or tax increases, or a combination of the two. The bill exempts the "doc fix" from these requirements.

  - *13 July 2009*. HHS issues a proposed rule that would remove physician-administered drugs from being considered as part of the physician reimbursement formula. This administrative action hides nearly $70 of Medicare spending, according to CBO, that otherwise would have to be accounted for.

- *14 July 2009*. The Majority introduces H.R. 3200, the America's Affordable Health Choices Act of 2009. It includes a boost in Medicare payments to physicians – the "doc fix" – increasing spending and deficits by $239 billion over the next 10 years, according to CBO projections. By the end of July, the legislation is marked up by three committees – Energy and Commerce, Education and Labor, and Ways and Means – and the "doc fix" remains in the bill.

- *29 October 2009*. The Majority introduces a new version of health care legislation – the Affordable Health Care for America Act, H.R. 3962 – that does not include the "doc fix." CBO estimates this bill will cost $1.3 trillion over 10 years, but reduce deficits by $109 billion.

- *29 October 2009*. On the very same day, the Majority introduces H.R. 3961, the Medicare Physician Payment Reform Act. It is a separate bill with the identical "doc fix" provision in the original health care legislation. CBO estimates this bill will increase deficits by $209 billion over the next 10 years.

- *30 October 2009*. HHS finalizes its rule hiding $70 billion in "doc fix" costs.

- *6 November 2009*. The House Rules Committee reports a rule allowing the House to consider both the health care bill and the Medicare "doc fix" – but to consider them separately. The "doc fix" probably will not be taken up until after the Veterans' Day break, further distancing it from the health care bill. This promotes the illusion that the "doc fix" is a separate matter from the overall health care bill – even though many other Medicare provisions that cut spending *are* included in the health care bill.

▫ **A Separate Reality.** This "now-you-see-it-now-you-don't" rule has several consequences:

  - It effectively allows the Majority to claim its intention to adopt the "doc fix" – a condition of winning American Medical Association support for the health care overhaul – while pretending its $209-billion cost has nothing to do with the health care bill.

  - On the other hand, it leaves the Majority discarding its own claimed commitment to budget discipline. Whether or not the "doc fix" is included in the health care bill, the combined effect of the two ends up violating the Democrats' budget resolution, and the vaunted pay-as-you-go rule.

  - Further, in a stunning irony, the rule attaches the "doc fix" legislation – which will not be paid for, and therefore will increase the deficit – to a statutory pay-as-you-go bill, *which would require mandatory spending increases to be offset with spending reductions, tax increases, or both*. It is tantamount to saying: "Give me chastity and continence – but not yet."

ESTIMATES OF THE FISCAL IMPACT

- The table on the follow page reflects the Budget Committee staff analysis of combining the health care and "doc fix" legislation. In brief, the analysis shows:

  - *Deficit Increase*. The table on the next page reflects the Budget Committee staff analysis of combining the health care and "doc fix" legislation. The combined bills would increase the budget deficit by $100 billion – $170 billion if the cost resulting from "administrative action" taken by HHS is included. This outcome assumes all the provider reductions are sustained. As evidenced by these maneuvers on the "doc fix" and previous legislation to reverse Medicare spending reductions, it is highly unlikely that the nearly $500 billion in Medicare provider reductions will be realized, increasingly the likely impact on the deficit.

  - *Health Care Inflation*. To provide additional information on the impact of Federal policies on health care costs and inflation, CBO has been furnishing information on legislation's impact on the Federal budgetary commitment to health care. Based on CBO data, the combined impact of the two bills would increase the Federal budgetary commitment to health care by $807 billion – compared with $598 billion for the health care bill alone.

  - *Long-Term Budget Impact.* In analyzing the health care bill alone, CBO estimated it would cause a reduction in deficits in 2019. CBO projected that this trend would continue and the health care bill alone would "slightly reduce Federal budget deficits in the second decade once fully implemented." If the cost of the Medicare physician reimbursement is added, however, the combined impact of the legislation is to increase deficits by $33 billion in 2019 (excluding the additional cost of administrative action). As a result, the combined legislation is likely to increase the deficit in the long run.

Combined Cost of H.R. 3961 'Doc Fix' and H.R. 3962 'Health Care Reform' (in $ billions)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-2014	2010-2019
Net Increase or Decrease (-) of HR 3962 on Budget Deficit	6	-21	-55	-28	-21	7	14	2	-5	-9	-118	-109
Net Increase or Decrease (-) of HR 3961 on Budget Deficit	8	15	17	18	18	20	23	26	29	35	76	209
Combined Impact on Budget Deficit	14	-6	-38	-10	-3	27	37	28	24	26	-42	100
Impact of Additional Cost from Administrative Action												70
Net Impact on Deficit												170