



OBAMA'S HEALTH REFORM DREAM Reality at last?

A historic vote in Congress has propelled US healthcare reform towards a conclusion. **Susan Dentzer** looks at what went wrong over the year of debate and what finally went right

After at least five decades of consideration, a presidential election that turned partly on the subject, and more than a year of debate in a divided Congress, the United States finally stands on the brink of sweeping health reform.

In a historic vote minutes before midnight on Sunday 21 March, most Democrats in the House of Representatives passed a package that would expand health insurance coverage to an estimated 32 million previously uninsured Americans and unleash other reforms throughout the US health system. In so doing, they set the stage for President Obama to sign a preliminary version of the package into law—and paved the way for final Senate action on the measure in the days to come.

The action capped an extraordinary year of debate marked by harrowing twists and turns. The number of uninsured people in the United States, estimated in 2008 at 46.3 million, is widely believed to be rising. As thousands of unemployed Americans have been forced to drop coverage, health insurance companies have begun to notify some of their remaining policy holders of double digit increases in premiums.

Yet Republicans in Congress were overwhelmingly opposed to reform, and public opinion polls backed them up. Even as Democrats now hope to persuade the public otherwise, pundits say voters are so disenchanted that Republicans will seize control of the House of Representatives in November's mid-term elections.

An outside observer might well ask how the reform movement came to this pass. Here is a capsule summary of what went wrong and what finally went right.

Learning the wrong lessons?

The philosopher George Santayana famously wrote that those who forget the past are doomed to repeat it. The contemporary version applied to US health reform may be that those who think they grasp the past's complex lessons, and can therefore avoid at least some of the past's complex mistakes, may yet be doomed to screw up anyway.

After President Bill Clinton failed to enact health reform in 1994, a consensus emerged that he and his administration had made key strategic and tactical mistakes. Among these were that

the administration had taken too long after the inauguration to assemble a reform package; that it had done so without engaging Congress; that the measure the administration finally assembled was far too sweeping; and that the administration had not sought to engage Republicans to forge a more publicly saleable, bipartisan approach.

President Obama began the reform effort last year seemingly determined to avoid these errors. Instead of assembling a bill in the White House, he set out eight broad principles that a reform package would have to achieve. He invited lawmakers of both parties to a forum at the White House in March last year and sought at least some Republican engagement in other sessions as well. He left the work of assembling legislation to the Democratic leadership of two Senate and three House of Representative committees, with members of his administration close at hand to engage in regular consultations. Meanwhile, he presided over a vigorous debate within the White House, as some of his advisers pressed for a sweeping reform while others argued for a scaled back measure.

Early difficulties

In the meantime, two unexpected events occurred, each thought to have caused serious setbacks to the reform process. Firstly, Democratic Senator Edward Kennedy, a longstanding reform advocate, had a terminal glioblastoma diagnosed. Realistically or not, Kennedy had been viewed as the only Senate Democrat who, by sheer dint of his personal relationships and perseverance, could have united the left and right in the Senate to achieve a consensus on health reform.

By the time President Obama took office, Senator Kennedy had largely absented himself from the Senate's day to day work. Staff members of the Senate health, education, labor and pensions committee that Kennedy headed



Job done? The House of Representatives passed the reform bill but a difficult process lies ahead in the Senate



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had taken its toll. The public had been souring on reform over the course of the previous year against the backdrop of a slow growing economy, high joblessness, and a ballooning federal budget deficit. A well known tracking poll by the Kaiser Family Foundation showed that the proportion of Americans who thought the country would be “better off with reform” had fallen from 59% in February 2009 to 45% in December.

With different bills now passed by the Senate and House of Representatives, the typical process would have been to appoint a “conference” committee of key lawmakers in both parties who would hammer out differences and agree on a common bill. This new bill would go back to both chambers of Congress for final passage and would then be sent to the White House for the president's signature, at which point it would become law. In early January 2010, lawmakers began preliminary negotiations to close gaps between the two bills. A major one centred on coverage and cost.

The final countdown: On Sunday 21 March President Obama watches as the House of Representatives votes to extend healthcare coverage to 32m Americans

then wrote a reform bill that Republicans on the committee perceived as distinctly left leaning and refused to endorse. This left Senator Max Baucus, the genial lawmaker at the helm of the Senate finance committee, to begin what some of his fellow Democrats considered a futile effort to craft health legislation that would secure at least some Republican support.

The second setback was the loss of former Senate majority leader Tom Daschle, Obama's original pick to lead the Department of Health and Human Services. Mr Daschle was widely viewed as an important force in securing agreement on a reform package in the Senate, where he still had close ties. However, he was forced to withdraw from consideration when it emerged that he had failed to pay taxes on some of his lobbying related income and had reaped tens of thousands of dollars in speaking and other fees from health insurance companies.

With Senator Kennedy and Mr Daschle out of the picture, President Obama let the two Senate committees proceed along their separate paths. In the House of Representatives, meanwhile, three different committees began work on components of what was intended to be a single bill.

This process encountered dysfunctions of its own. Among them was a deep split between a large corps of decidedly leftist Democrats and a smaller group of more centrist, fiscally conservative ones. The former had favoured having the government assume responsibility for financing all health care but was willing to settle for a hybrid system that included a so called “public option”—a government run health insurance plan that could compete for business alongside private insurance and, it was argued, help to drive down health insurance costs. The more conservative

Democrats opposed the public option and were mainly concerned that the reform package would not increase large federal budget deficits.

Negotiations among all these factions slowed the legislative timetable considerably. The House of Representatives finally passed its bill on 7 November 2009 by just five votes. With the legislative clock ticking, the Senate majority leader, Harry Reid, was asked to combine the two Senate committees' bills into one vehicle that could pass the Senate. Here again, reality intruded its ugly head. The Senate's rules allow for any senator to “filibuster” most legislation—that is, to employ a parliamentary tactic to obstruct passage, which can include speaking for hours on end on the floor of the Senate. Cutting off a filibuster requires 60 votes. There were 58 Democrats in the Senate and two independents who usually voted with the Democrats. With all 40 Republicans opposed, Reid would need every one of those 60 votes in order to block a filibuster and pass his blended package.

He then engaged in a round of horse trading that made even seasoned observers of the often tawdry political process blanch. In particular, one senator, Ben Nelson of Nebraska, was cut a special deal which would have sharply reduced his state's share of spending for helping to cover many of the uninsured.

The Senate eventually passed the entire reform measure in an unprecedented Christmas Eve vote, with the support of 58 Democrats, two independents, and one Republican. But the Nelson deal



No easy ride: opposition to national health reform has been fierce—and personal

Put simply, the House measure would have been more costly than the Senate measure. By 2019, it would also have extended health insurance coverage to an estimated 96% of non-elderly, legal US residents (elderly residents are already covered through Medicare) versus 94% for the Senate bill, up from the 83% who have coverage at present.

Near fatal blow

Amid these early talks, a form of lightning struck. The election to replace Senator Kennedy, who had died in the previous August, occurred on

19 January and was won by a Republican, Scott Brown, who opposed national health reform. Suddenly, the Republicans had a 41 vote margin in the Senate—and the Democrats no longer had enough votes to cut off a filibuster.

That meant any combined health reform bill would be doomed to failure in the Senate even if the votes could somehow be mustered to pass it in the House. The Democrats now faced only one realistic alternative. The House would have to adopt the previously passed Senate measure, and then pass a separate “reconciliation” measure that would incorporate agreed changes to the Senate bill. Republican lawmakers loudly

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objected and claimed Democrats were attempting to cram unpopular legislation down their opponents’—and the American people’s—throats. They insisted that Democrats “start over” and begin talks over a vastly scaled down package that both parties could support.

In February, an embattled President Obama, whose support in the polls had also sunk to new lows, called the Republicans’ bluff. He announced that he would host a summit of Democratic and Republican leaders to determine which ideas for reform could gain “common ground.” An unprecedented televised session stretching nearly seven hours took place in Washington on 25 February, with the president and members of both parties debating various ideas.

In the meantime, the president had finally done what some members of his party had argued for all along: he had moved beyond endorsing broad principles and had at last embraced a specific set of legislative reforms. That vehicle was the Senate bill that had passed in December, with some modifications designed to make it more palatable to more liberal members in the House. After the summit, President Obama incorporated four narrow proposals that Republicans had suggested during that session to give his plan some “bipartisan” veneer. Then, on 3 March, he called for an “up or down vote”—code language that made it clear he wanted the final reform measure to move forward under reconciliation, a process that takes only a simple majority of 51 Senate votes to pass and that cannot be stopped by filibustering.

The action then shifted to the House of Representatives, where the Democratic leadership worked for nearly three weeks to write the final reconciliation measure and court votes. Up until hours before the late Sunday vote, negotiations were still under way to bring on board a group of about 12 anti-abortion Democrats. They wanted to ensure that federal subsidies to individuals to purchase health insurance could not be used to pay for coverage that included abortions. At the last minute, an executive order issued by President Obama won them over, putting in place an enforcement mechanism to ensure that longstanding federal policy would be upheld and that federal funds would not be used for abortion services (except in cases of rape or incest, or when the life of the woman would be endangered).

With a series of votes on Sunday night, the House essentially conducted a two step manoeuvre—first passing into law the same health reform package the Senate had passed in December, and then adopting the package of changes to that bill in

the reconciliation provision. That in effect sent the Senate bill to President Obama for his signature, making it destined to become the law of the land, at least temporarily. The Senate parliamentarian, who advises the Senate’s presiding officer on parliamentary procedure and rules, had previously declared that this step was necessary because the fixes sought by House Democrats through reconciliation could apply only to existing law. In effect, that meant that the Senate bill had to be adopted into law before it could be legally changed.

According to the non-partisan Congressional Budget Office, the official scorekeeper of congressional legislation, the amended health reform legislation will:

- Cover an estimated 32 million previously uninsured Americans by 2019, leaving about 23 million non-elderly residents uninsured (about one third of whom would be unauthorised immigrants)
- Establish a mandate for most legal residents of the United States to obtain health insurance
- Set up insurance exchanges through which an estimated 24 million people could receive federal subsidies to substantially reduce the cost of purchasing that coverage
- Greatly expand eligibility for Medicaid, the federal and state insurance programme primarily aimed at poor people—resulting in about 16 million new enrollees in Medicaid and a separate children’s health insurance programme
- Expand coverage to an estimated 6 million to 7 million people through employment based insurance
- Substantially reduce the growth of Medicare’s payment rates for most services relative to the growth rates projected under current law
- Impose an excise tax on insurance plans with relatively high premiums and a new layer of tough federal regulations on private health insurance, which has historically been regulated at the state level
- Make various other changes to the federal tax code, Medicare, Medicaid, and other programmes.

Republicans routinely decry the legislation as a proposed “government takeover of health care,” but in fact the bill would mostly preserve employer provided private insurance as well as the private health insurance market, although with more federal regulation.

A difficult process still lies ahead in the Senate. Although the previously passed Senate bill will already be law, Democratic senators are still determined to enact the reconciliation bill fixes sought by the House. Yet Senator Baucus and other Democrats are voicing scepticism that they

can enact the fixes before their scheduled Easter recess begins on 26 March. Among the many tactics that the Republicans can use to try to block the reconciliation bill is invoking a rule that could force sections of the bill to be eliminated if they do not have a direct impact on the federal budget. Republicans are vowing to do so, and if the Senate’s parliamentarian agrees that sections are not germane to the budget, 60 votes—now a political if not mathematical impossibility for Democrats—would be required to over-rule him. Although many Democrats think they can still prevail and pass legislation anyway, it’s unclear what many Americans would think of this spectacle and how much public support would be left.

Just minutes after the House completed action on Sunday night, a sober President Obama gave short and measured comments at the White House saluting the success. The vote, he said, was not a “victory for any political party” but rather “a victory for the American people, and a victory of common sense.” He did not say when he would sign the Senate bill into law, although he is expected to do so before the Senate resumes action on Tuesday 23 March.

White House officials say the president will also launch a passionate campaign to shore up public support for the reform. Polls continue to show the majority of Americans either divided evenly against the overall reform legislation or leaning against it. Strangely, however, when voters are asked specifically about their views on individual provisions of the legislation, members of both parties back them by substantial majorities. For example, in the February Kaiser Foundation tracking poll, 76% of Americans—64% of Republicans, 79% of independents, and 85% of Democrats—said it was very or extremely important to enact the health insurance reforms contained in the bill. Similarly large majorities endorsed other of the bill’s provisions, such as the proposed creation of new state insurance exchanges or tax credits to help small businesses purchase coverage for their workers.

Watching this unique series of events unfold, one is continually reminded of Winston Churchill’s memorable aphorism that Americans will always do the right thing . . . after they have exhausted all the alternatives. This time, with the alternatives exhausted, doing the right thing took only decades.

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Cite this as: *BMJ* 2010;340:c1576

See **EDITORIAL**, p 663, **NEWS**, p 671



Food for thought

The British Nutrition Foundation promotes itself as a source of impartial information, but as **Phil Chamberlain** reports, it does not always make its links with industry clear

Next month the British Nutrition Foundation is hosting a one day conference looking at the science of low calorie sweeteners and aiming to “separate fact from fiction.”

The event’s promotional web page contains all the key messages that the foundation uses about itself: it is objective and evidence based, is about how to use products appropriately, promotes consumer choice, and appeals to all those engaged in food and public health policy.¹

The web page doesn’t say, though the information is elsewhere on the foundation’s website,² that the foundation is financially supported by Tate & Lyle, British Sugar, Ajinomoto (which makes Aminosweet), and McNeil Consumer Nutritionals (which makes Splenda sweetener). One of the participants in the panel discussion will be Tom Sanders, head of the nutritional sciences department at King’s College London, which has received millions from sugar company Tate & Lyle.³

In February the foundation put out a press release saying people could shake off the winter blues by drinking more fluids.⁴ It didn’t say that funders include Danone (producers of Evian, Volvic, and Badoit bottled water), Coca-Cola, Pepsi, Innocent drinks, Twinings, Nestlé, and various yoghurt drink manufacturers,² although a footnote at the end does mention the food industry as one of the foundation’s funding sources.

Funding and independence

For public health and food policy campaigners this merry go round of donation, publicity, and influence has been a source of concern since the foundation was formed more than 40 years ago. However, in the tightly knit world of nutrition, where people in food companies, non-governmental organisations, academia, and the government know each other and often have to work together, few wish to voice such criticism publicly. The amount of food industry money sloshing around means few researchers haven’t taken funds, and most would say that it has not compromised their scientific independence.

Joe Harvey, from the Health Education Trust, a charity promoting the development of health education for young people in the UK, offers a contrary view.

“In my opinion organisations like the British Nutrition Foundation, which want to be seen as offering independent advice and materials, should avoid donations from the food industry or be much more up front about them so the public are aware of the involvement,” he says. “At best it is naive to take industry money and believe there is no quid pro quo. At the very least food companies are able to use such donations to clean up their public image and give themselves enhanced credibility.”

The British Nutrition Foundation says it “promotes the wellbeing of society through the impartial interpretation and effective dis-

semination of scientifically based knowledge and advice on the relationship between diet, physical activity and health.”⁵ This perception of independence and scientific rigour is crucial because it allows the foundation to weave strong links with the government and present itself as a disinterested commentator to the media.

The fact is that the organisation’s membership is a roll call of food industry stalwarts. The 39 members include producers such as Cadbury’s, Kellogg’s and Northern Foods, restaurants such as McDonald’s and PizzaExpress, all the main supermarket chains apart from Tesco, and industry bodies such as the Potato Council.²

The foundation emphasises that its funding comes from many different sources,⁶ though it is clear that industry support is vital. Paul Hebblethwaite, the chairman of the board of trustees, said in the 2008-9 annual report: “Their donations are of great importance to the foundation, and in particular support our charitable work with schools, consumers and health professionals.”⁶

Sara Stanner, the foundation’s science programme manager, says, “The donations we receive from food and drink companies are used at ‘arm’s length’ and in a generic sense to supplement the funding we secure from the other sources.” She adds that, “Our ability to protect our independence is strengthened by this diversity in funding and centres on our

strong governance . . . Strange as it may seem we are not pressurised, commercially or politically, to be selective in the repertoire of nutrition topics we address.”

Many of the foundation’s staff move between the organisation and the food industry.⁷ Mr Hebblethwaite has had “a distinguished career in the food industry working for a number of major companies including Cadbury-Schweppes and Chivers-Hartley.”⁸ He is also chairman of the Biscuit, Cake, Chocolate and Confectionery Trade Association.⁸ The organisation’s board of trustees and oversight committees contain many current employees of the food industry as well as academics from various institutions.⁶ Former foundation staff include Gill Fine, the Food Standard Agency’s director of consumer choice and dietary health, who previously worked for Sainsbury’s.⁹

Ms Stanner says, “Our view is that we are fortunate in attracting scientific staff of a very high calibre from all walks of human nutrition, which enriches the work we do and ensures we are able to provide a mature and balanced view on nutrition issues To ensure diversity in the expertise available among our Trustees, our Articles of Association state that not more than two of our Trustees (out of a total of 12) can be Industrial Governors (ie, from the food industry).”

Educational role

Members are served through regular briefings and invitation-only conferences as well as being able to draw on the foundation as a resource for literature, advice, and third party endorsement.

For instance, the foundation contributed to arm’s length industry initiatives such as PhunkyFoods, a programme to promote healthy eating and physical activity among under 11s.¹⁰ PhunkyFoods is a wholly owned subsidiary of the private nutrition consultancy Purely Nutrition, and the programme is funded by Nestlé, Northern Foods, and Cargill. According to Northern Foods, the foundation contributed to the campaign’s teaching materials for schools.¹¹

The foundation’s website is also used by food companies who need to direct readers to what they can say is an independent source of information. Kraft has a healthy living website

with a section on nutrition and useful links.¹² The foundation is the top link, but nowhere is it mentioned that Kraft has been a financial supporter since at least 2004.¹³

The government has contracted the foundation to produce educational materials. These include the Licence To Cook website for the Department for Children, Schools, and Families (www.licencetocook.org.uk), a recipe book for year 7 (11-12 year old) pupils,¹⁴ educating teachers about food technology,¹⁵ and a contract from the Food Standards Agency to help young people “engage with the core food competences.”¹⁶ Companies have been happy to fund these government projects run through the foundation.⁶

Tim Lobstein, director of policy and programmes at the International Association for the Study of Obesity-International Obesity Task Force, said the organisation had produced several educational resources in the past that seemed to support industry messages. The foundation “did a big piece of work for the Food Standards Agency reviewing ‘influences on consumer food choices’ which conveniently left out

any review of the influence of marketing and advertising techniques,” he said.¹⁶

Oliver Tickell, from the Campaign Against Trans Fats in Food, looked at the documents the foundation had produced on his area of interest and came to a similar conclusion.

“The first is a briefing sheet and is very balanced,¹⁷” he said. “The other is a submission to the Scottish parliament on a bill to limit trans fats, and essentially it says to do nothing.”¹⁸ Tickell says that this view coincides with that of the food industry, which doesn’t want to see regulation.

Influence

Its presence in Whitehall brings influence, and the foundation is overt about this saying: “Through active engagement with government, schools, industry, health professionals and journalists, we also aim to provide advice to help shape and support policy and to facilitate improvement in the diet and physical activity patterns of the population.”¹⁹

In the foundation’s annual report, Ms Stanner, adds: “Some of our work has a direct



effect on policy. For example, the Science Group carried out a systematic review of the effects of early life exposure to peanuts on risk of allergy, for the Food Standards Agency, the findings of which are feeding through to policy.”⁶

However, historically, such influence has been far from benign. A *World in Action* documentary from 1985 quoted previous director general, Derek Shrimpton, saying: “In the period I was there the foundation was solely taken up with defence actions for the industry.” He said that the foundation had been constantly engaged in frustrating government committees aiming to recommend reductions in sugars, salt, and fats.²⁰

Meanwhile Ms Stanner can also be found on a Sainsbury’s website aimed at the parents of young children, where she is a resident expert on diet and nutrition.²¹ The website does not mention that Sainsbury’s funds the foundation.

The foundation sees its communication role as key and aims to provide swift and expert advice to journalists, who often are not medical reporters but cover issues from a consumer point of view.⁶ In this it has carved a successful niche for itself.

Several independent listing services aimed at patients and consumers, including Patient UK and netdoctor, repeat the group’s own description without mentioning its industry links.



The foundation claims independence but is funded by food industry stalwarts

Meanwhile when it is quoted in the media it is most commonly without any other description. A LexisNexis search for British Nutrition Foundation references in UK newspapers in the past year returned 128 references. Only two mentioned that the foundation had industry funding.^{22 23}

Ms Stanner says "If we engage in any piece of project work that involves support from one of our member companies (or any other industry link), we always clearly acknowledge this. In our experience, most people that we talk to are aware that we get funding from different sources, including industry and government."

But typical of the reporting was an article in the *Independent* when McDonald's said it was going to publish the nutritional content of its meals.²⁴ The newspaper asked the foundation to assess popular takeaway meals, including that of McDonald's, which was given the worst health rating. The article did not mention that McDonald's funds the foundation.¹³

Joanne Lunn, then a nutrition scientist at the foundation, was quoted by the paper saying: "These are large portions and it is not recommended that you eat high-fat meals such as these regularly. You should remember the adage,

"There is no such thing as a bad food, only a bad diet."²⁴

The media seek out the British Nutrition Foundation as a ready source of authoritative comment on matters of nutrition and wider food policy. In return the foundation swiftly delivers succinct analysis in a language that suits its audience and does not offend either its partners in Whitehall or its paymasters in the food industry. It is a relationship that shows every sign of continuing.

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Competing interests: PC has completed the unified competing interest form at www.icmje.org/coi_disclosure.pdf (available on request from him) and declares (1) no financial support for the submitted work from anyone other than their employer; (2) no financial relationships with commercial entities that might have an interest in the submitted work; (3) no spouses, partners, or children with relationships with commercial entities that might have an interest in the submitted work; and (4) no non-financial interests that may be relevant to the submitted work.

This article was published on bmj.com with the title "Independence of nutritional information?"

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Cite this as: *BMJ* 2010;340:c1438