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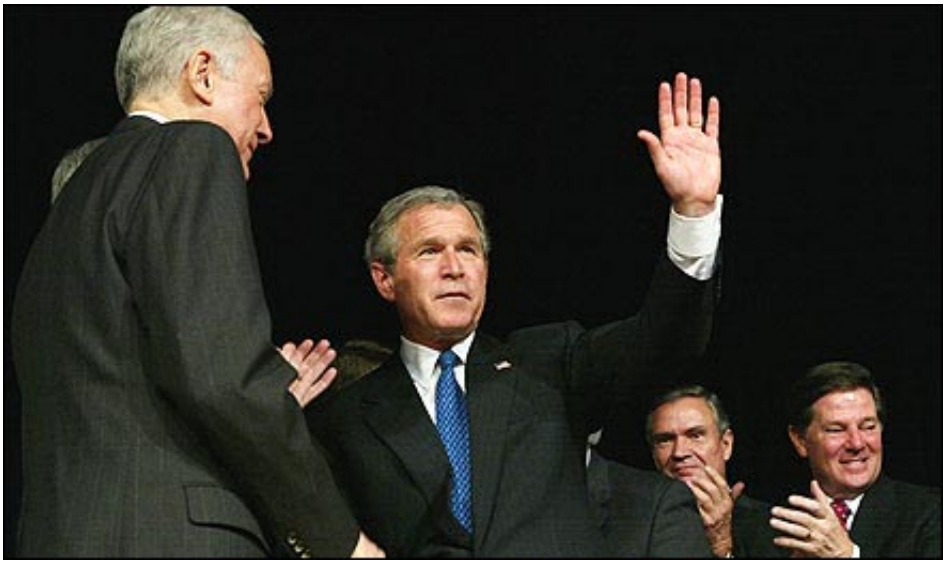

President Bush acknowledged applause during a signing ceremony of the Medicare bill at Constitution Hall in Washington in December 2003. (Getty Images File Photo)

CLOSED, FOR BUSINESS

The Boston Globe

Medicare bill a study in D.C. spoils system

By Christopher Rowland, Globe Staff | October 5, 2004

Last of three parts

Republicans went to great lengths to make sure President George W. Bush won a Medicare prescription drug benefit for the elderly last year. Among their feats: bridging 200 miles of New England countryside with the stroke of a pen.

Setting aside economic differences, not to mention mountains and rivers, the Bush administration plunked the University of Vermont teaching hospital in Burlington into the same federal wage district as metropolitan Boston.

On a map, the move makes little sense. Politically, the rationale becomes clear. It resulted in a $23 million boost over three years for Vermont's largest health-care institution and helped firm up critical support for the Medicare bill from the state's independent senator, James Jeffords.

"It defies belief that hospitals as far away from Boston as Burlington, Vt., can be part of the Boston area and be paid millions in Medicare payments," said Frank McGinty, executive vice president and treasurer of MaineHealth, a group of hospitals that tried and failed to do the same thing.

The money for the hospital -- whose doctors and executives have been an important source of campaign funds for Jeffords -- was a portion of the tens of billions of dollars congressional leaders lavished on the health-care economy as part of last year's Medicare prescription benefit law. It is just one small example of how the Washington spoils system went into overdrive as Republicans and Democrats alike sought to build support for the bill while also taking care of their home states and special-interest groups that mounted an enormous lobbying drive.

What once began as a proposal for $253 billion in drug coverage for seniors four years ago grew to a $400 billion grab bag for a broad spectrum of players in the health-care economy. The staggering costs rose yet another 33 percent when the Bush administration unveiled an estimate this year that it had kept quiet during the 2003 debate over Medicare: $534 billion.

Congressional leaders rewarded university medical centers, publicly traded hospital companies, physicians, helicopter ambulance companies, hospice providers, nursing providers, dialysis clinics, insurance firms, and more. The bill benefited premier teaching hospitals from Boston to Houston. Doctors in Alaska got an extra $50 million. Cancer institutes with outreach programs for Native Americans got access to government loans they never have to pay back.

The additions, which some supporters say were necessary to win support for the bill, help explain how such a massively expensive bill, contributing to record 17.4 percent Medicare premium increases this year, could provide a prescription drug benefit that is viewed as inadequate by many seniors. The actual costs of the bill are still being debated 10 months after its passage, triggering calls in some quarters of Congress to roll back some provisions.

"It became a feeding frenzy," said Robert M. Hayes, president of the Medicare Rights Center, a New York consumer group critical of the bill.

GOP leaders added final details behind closed doors at a joint House-Senate conference committee, amid intense lobbying.

A Globe analysis of federal lobbying disclosure reports found that drug companies, hospitals, doctors, nursing homes, HMOs, and other health care companies and trade associations spent $311 million lobbying Medicare and other bills in 2003. The disclosure reports do not make it

possible to determine exactly how much money was spent lobbying directly on the Medicare bill, though it is clear most activity was focused on the measure, the prime health policy legislation of the year.

As they deliberated, members of Congress occupying key committees gathered hundreds of thousands of dollars in health-care industry campaign contributions.

"The Medicare program has now become a vast arena of special interest politics," said Robert E. Moffitt, a policy analyst at the conservative Heritage Foundation. "It has been transformed from a system where we were providing health coverage for seniors, into a system where there is a massive redistribution of income among health care providers."

To date, most attention has focused on increased payments to Medicare HMOs worth up to $46 billion and new profits that pharmaceutical companies will get after the full drug benefit begins in 2006. Goldman Sachs Group Inc. said the bill would increase drug industry revenues by 9 percent, or $13 billion in the first full year, or more than $100 billion over eight years. A Boston University researcher who is a critic of the drug industry estimated new profits at $139 billion over eight years.

For several years before 2003, the drug industry fought a Medicare prescription benefit because it feared government price controls. Drug executives dropped their opposition after congressional leaders agreed to a provision that specifically prohibits the agency that runs Medicare from negotiating drug prices, letting companies set prices in the private marketplace.

Less attention has been focused on other aspects of the bill. For instance, the government agreed to pay about $71 billion in subsidies to discourage corporations from dropping senior citizens from existing private health plans and forcing them into Medicare. Hospitals across the country will receive billions in higher reimbursements for patients who are admitted to the hospital for everything from appendectomies to open-heart surgery.

The White House defends the bill as a total revamping of Medicare, including the introduction of long-term, systemic changes that rely on private competition and other market forces that will make it efficient and affordable.

"The president promised seniors not just a drug benefit, but a stronger, more modern Medicare system," said White House spokesman Trent Duffy. "A drug-only approach to Medicare would have added a costly benefit to a shaky Medicare foundation."

Some advocates say the extra spending created cost gaps in the bill that Congress solved by taking money away from the benefits for America's elderly. In fact, congressional budgeters found $76 billion in savings as they reviewed Medicare programs. But eager to build support for the bill, leaders spent far more than that on programs that had little or nothing to do with getting drugs into the hands of seniors.

"That's how it got through," said Valerie Cheh, a health economist at the independent firm Mathematica Policy Research Inc., in Princeton, N.J. "There's a little piece of everything in here for everybody."

Here are some of those pieces, and how they were shaped:

Corporate welfare

Congressional sponsors said the $25 billion "rural package" of the Medicare bill was a much-needed lifeline for struggling hospitals and other providers in remote areas with small populations. But among the biggest winners were private, for-profit corporations that own chains of hospitals in both rural areas and small cities in the South and West -- especially Texas, Arkansas, Tennessee, and Florida.

Chain hospitals in McAllen, Texas, a fast-growing area near the Mexican border, and Corpus Christi, with a population of more than 250,000, are eligible for money under the rural provision, according to the Texas Hospital Association.

Stock analysts and the corporations themselves have estimated that Medicare-related revenue increases for several chains specializing in smaller communities -- Community Health Systems Inc., Health Management Associates Inc., and Triad Hospitals Inc. -- will be in the range of $8 million to $12 million a year for each corporation.

The money boosts reimbursement for patient visits, including an adjustment to make payment rates the same as hospitals in big cities, where Medicare rates had been set higher to recognize the greater costs of labor and goods.

"This isn't just a one-time, throw-money-at-them, catch-up," said Robert Mains, an analyst with Advest Group Inc., in Saratoga Springs, N.Y. "This is something they will permanently have as a benefit,"

The idea of large corporations reaping profits from reimbursement provisions that were publicly billed as helping rural facilities struck some as incongruous.

"When you have these big corporations running smaller hospitals, it is not necessarily money going into the rural community," said Lisa McGiffert, a health policy analyst with the Austin, Texas, office of the independent, nonprofit group Consumers Union. "It certainly isn't the picture that was painted to members of Congress when they were passing this bill. As often is the case, they pick a subject that is soft and sympathetic, and large corporations would not be sympathetic."

Executives of some hospital chains contributed heavily to the campaigns of Republicans and Democrats, with a heavy tilt toward the GOP.

Triad, based in Plano, Texas, for example, is the second-largest source of contributions to California Republican Bill Thomas, the powerful chairman of the House Ways and Means Committee and a key author of the Medicare bill. Triad has funneled $17,000 into Thomas's campaign fund in the 2003-2004 election cycle, most of it at a Dallas fund-raiser in March 2003, according to Federal Election Commission disclosures. Five Triad executives at the fund-raiser contributed $1,000 each, and the company gave Thomas another $10,000 from its political action committee.

Among Triad executives who wrote a check was James D. Shelton, Triad's chairman and CEO. Triad and Shelton declined to comment. But Shelton gave an unusually blunt assessment of the motives behind his political campaign contributions during a conference call with Triad's stock analysts on Feb. 24, two months after Bush signed the Medicare bill.

Asked by an analyst how the industry planned to fend off calls to cut back some of the Medicare increases for hospitals, Shelton said he planned to open his checkbook again.

"First of all, I set a fund-raiser this last week for Blanche Lincoln in Arkansas," Shelton said during the conference call, referring to a Democratic member of the Senate Finance Committee. "We're continuing to be proactive in terms of a lot of the congressional delegations around the country."

A spokeswoman for Thomas, Christin Tinsworth, said the contributions Triad and other health-care companies made had no bearing on the Medicare bill.

Connections

Another cosponsor of the Dallas fund-raiser for Representative Thomas was the Federation of American Hospitals, the lobbying arm of the nation's for-profit hospital chains. The federation's president, Charles N. "Chip" Kahn III, who contributed $2,000 to Thomas's campaign, is a former top member of Thomas's staff and one of dozens of Washington lobbyists who used to work for presidential administrations or Congress.

The Federation of American Hospitals spent $2.78 million lobbying Congress in 2003, according to the Globe analysis. With Kahn's connections, the hospitals can make that money work more effectively. It's the type of "revolving-door" relationship that tilts the Capitol Hill equation in industry's favor, said Celia Wexler, vice president for advocacy at Common Cause, a national nonprofit lobbying group that focuses on government ethics.

"He certainly has relationships on Capitol Hill and a level of expertise that would be very useful to the American Federation of Hospitals," she said. "We're not talking a level playing field here. The average member of the public does not have that kind of representation."

Kahn also volunteers as a top fund-raiser for Bush's reelection campaign. He has "Ranger" status, which means he has rounded up more than $100,000 in "bundled" campaign contributions from individual political supporters for the president. He is one of 25 major Bush fund-raisers from the health-care sector, according to Public Citizen.

In an interview, Kahn dismissed the suggestion that his former relationship with Thomas helped America's for-profit hospitals win more Medicare money.

"He listens to me," Kahn said of Thomas, "but he listens to a lot of other people, too."

Thomas's spokeswoman, Tinsworth, said Kahn's former relationship with the chairman does not affect policy.

Securing bigger Medicare reimbursements under the banner of rural hospitals was not a tough sell, Kahn said. "Some of the members cared more about the rural hospital provisions than any other part of the bill," he said.

A crucial supporter, Kahn said, was the chairman of the Senate Finance Committee, Charles Grassley, an Iowa Republican whose state was among the beneficiaries with about $151 million in rural hospital funding alone, according to data from the American Hospital Association. By merit of his powerful position, Grassley has received heavy campaign support from the health-care sector. He has collected $353,000 from insurance companies and executives, $333,000 from doctors and other health professionals, and $241,000 from the pharmaceutical and health products industries, according to disclosure reports compiled by the non-profit Center for Responsive Politics.

In response to questions from the Globe, Grassley defended the inclusion of expensive hospital provisions in the drug benefit. The "rural package," Grassley said in an e-mail message, was paid for with savings squeezed from other areas of the Medicare program.

"The rural provisions were crucial for improving beneficiaries' access to physician and hospital services," he said, "because if seniors can't see the doctor, then a prescription drug benefit is of little value."

Leverage

Some of the most intense infighting focused on $900 million that was dropped into the bill in the final weeks of debate for hospitals that claim they are disadvantaged by regional wage differences -- the provision that helped the University of Vermont's hospital. Hospital executives in lower-paying areas wanted more money from Medicare, saying they needed the money to retain staff by paying better hourly wages.

The Bush administration used the broadly worded congressional guidelines accompanying the $900 million to write a complex set of specifications for hospitals to win a higher wage classification, using geography, population, and income data. When the dust settled and an obscure board in the Department of Health and Human Services issued the list of 121 recipients, many were hospitals in states and districts represented by key Republicans.

Among them were two hospitals in the Texas district of Republican Majority Leader Tom DeLay, a member of the conference committee on the Medicare bill. Ten hospitals in Connecticut, home of US Representative Nancy Johnson, another Republican member of the conference committee, also benefited. Pennsylvania, represented by Arlen Specter, a moderate Republican who had crusaded for health care money, had 13 institutions in the victory column.

Charles Robbins, a Specter spokesman, said Specter "is always interested in improving hospitals." Johnson's office and DeLay's office did not respond to requests for comment.

Also represented were hospitals in a handful of states represented by key Senate Democrats, including Max Baucus of Montana, ranking member on the Finance Committee, and Kent Conrad of North Dakota. Their support, along with that of Vermont's Jeffords, was key to the Medicare bill's passage. Nine Democrats and Jeffords gave the Medicare bill its 54 to 44 margin.

In New England, the regulations resulted in about $7.8 million a year for three years for the University of Vermont's Fletcher Allen Health Care medical center, in Burlington -- money the hospital says it can use to pay its workers better, a hospital spokesman said. To squeeze UVM under

the umbrella for the benefits, Jeffords, the lone Senate independent and a key supporter of the Medicare legislation, fought to get Burlington, Vt. in the same wage district as Boston and Worcester, according to his staff. It was a renewal of an earlier Medicare provision that benefited the Burlington hospital but was due to expire, the staff said.

Jeffords, in a statement responding to the Globe's questions, said he worked to put Fletcher Allen and other hospitals like it "on a level playing field with their urban counterparts."

"I voted for this bill knowing it was not a perfect bill, but after so many years, we could no longer afford to keep talking about a perfect bill while letting a good bill slip from our grasp," he said.

About 150 hospitals thought they qualified for the higher reimbursements but were frozen out when the money was distributed by the administration. McGinty, the Maine hospital official, thought Maine's hospitals would get $70 million over three years but learned otherwise just before the list was released.

"We really don't understand what happened," McGinty said. "We are mystified."

Conrad, the North Dakota senator, confirmed in a telephone interview that he and other Senate Democrats negotiated details with the Bush administration on how the hospital wage money would be distributed.

He said he was personally given assurances that hospitals in North Dakota would benefit in a telephone call with the Health and Human Services Secretary Tommy Thompson, who was contacting members of Congress to build support for the bill. There was no specific quid-pro-quo in exchange for his vote, Conrad said. But Thompson's assurance, he said, "was certainly a factor" in his support of the bill. In all, nine North Dakota hospitals appeared on the list of 121 hospitals across the country.

A spokesman for Thompson, Bill Pierce, said the department did negotiate with members of Congress to set up the detailed specifications for which hospitals would qualify. He said Thompson or other Health and Human Services officials did not get involved with the work of the independent board that awarded the money, called the Medicare Geographic Classification Review Board.

"We didn't know those decisions until they were released," Pierce said.

Some people said the process looked like it favored certain institutions.

"When you look at the distribution of the money, it looks like the regulations were set up to favor some hospitals," said John Thorpe, a Texas health-care consultant who hopped a jet to the Baltimore offices of the Medicare administration to hand-deliver a successful application for a hospital in Wichita Falls, in the district of Republican US Representative Mac Thornberry. The hospital will get $2.2 million over three years.

"It's gotten so political it's hard to tell who's on first," Thorpe said.

The losers win, anyway

Even senators who ended up opposing the Medicare bill worked to include money for their districts. Prominent among them were Massachusetts Senators John F. Kerry and Edward M. Kennedy, who lobbyists said were instrumental in giving a financial lift to Boston's prestigious teaching hospitals.

Nationally, teaching hospitals secured $400 million in bigger medical education payments over five years to help train young doctors. Of the total increase, Massachusetts hospitals will receive $22.5 million.

To help secure the Massachusetts share, the Coalition of Boston Teaching Hospitals paid $260,000 to a team of lobbyists that included Christopher R. O'Neill, the son of the late House Speaker Thomas P. "Tip" O'Neill Jr. The Boston hospitals worked closely with the Association of American Medical Colleges, which reported $580,000 in lobbying expenses.

Kennedy and Kerry defended the provision as critical to the future of medical education. "Considering the overall size of the bill, there was broad, bipartisan support for helping academic health centers," said Andy Davis, a Kerry spokesman.

Getting that bipartisan support took some work. A big hurdle, according to lobbyists who worked on the issue, was to convince Representative Thomas, the Republican House Ways and Means chairman, to support the measure.

Many of the nation's teaching hospitals are situated in Democratic strongholds like Massachusetts, New York, and Illinois. For them, they key was to identify the few major teaching hospitals in Republican states, such as Texas, that also would benefit from the higher reimbursement rates and get their CEOs to pressure their lawmakers.

The Methodist Hospital in Houston and the University of Texas Medical Branch in Galveston were among the Texas hospitals that contacted the office of GOP Texas Senator Kay Bailey Hutchison, who in turn went to bat for the institutions in a Senate floor speech, Hutchison's office confirmed.

The teaching hospitals also had to convince the Bush administration to give them the additional money. Dr. Peter Slavin, CEO of Massachusetts General Hospital, and Ellen Zane, now the chief executive of Tufts-New England Medical Center, who at the time was president of Partners Community Healthcare Inc., the physician's network associated with MGH and Brigham & Women's, visited the White House in July 2003 and met with Bush's health-care adviser, Douglas Badger.

They brought along executives from teaching hospitals in swing states in the presidential election, Pennsylvania and Ohio. Among their key points: Hospitals had been hit hard by cuts in funding in 1997, and the money needed to be restored. To set up the White House meeting, Zane called an acquaintance whom she had met while serving on the Stonehill College board of trustees, Bush Chief of Staff Andrew Card. The meeting occurred within days after the phone call, Zane said.

"We were constantly putting the pressure on everywhere we could," said Dick Knapp, executive vice president for the Association of American

Medical Colleges, who coordinated the lobbying effort. "Once CEOs get engaged with their senators, it gets there."

Details

Lawmakers secured a plethora of smaller expenditures for pet programs, local reimbursement increases, and home-state demonstrations.

Democrat Harry Reid of Nevada, who voted against the bill, pushed for and won a $200 million construction loan program for cancer institutes that will benefit an institute that is being built in Las Vegas, a spokeswoman confirmed. The loans will be forgiven for institutes with Native American outreach programs, such as the one at the planned Nevada facility.

The Reid spokeswoman, speaking on condition of anonymity, said the Nevada institute is not alone. In all, 10 to 12 other cancer institutes around the country will qualify for forgiven loans under the Native American provision.

Alaska doctors, thanks to that state's powerful Republican senator, Ted Stevens, will receive a 50 percent increase in their reimbursement rates, worth about $53 million for the first two years. Brian Gavitt, an aide to Alaska's other Republican senator, Lisa Murkowski, suggested Alaska's delegation was able to wrest the money for their doctors because the expected close vote gave them leverage to make financial demands on Congressional leaders.

"They were counting votes, and the Alaska delegation was pretty set on it," he said.

A $100 million pilot program for placing computerized patient records systems in doctors' offices emerged in the bill. It said the demonstrations should be set up in four states, and that "one shall be in a state with a medical school with a Department of Geriatrics that manages rural outreach sites and is capable of managing patients with multiple chronic conditions, one of which is dementia."

Arkansas is the only state that fits that description. The provision was tailor-made for Democratic Arkansas Senator Blanche Lincoln, a member of the Senate Finance Committee whose support was crucial to the Medicare bill's passage. Other states in line to receive money under the computerization provision are California, Massachusetts, and Utah.

Lincoln declined to comment on the program, a spokesman said.

Back-room deals

Key members of Congress negotiated details of the Medicare Prescription Drug Improvement and Modernization Act of 2003 -- as the 415-page bill was called -- behind closed doors in the joint House-Senate conference committee.

The committee operated like the proverbial back room, with heavy-hitting members of Congress determining who got what. Republicans, led by Thomas from the House and Grassley from the Senate, controlled the proceedings. In its first weeks of deliberations in August and September of 2003, Republicans and Democrats on the committee agreed on many provisions, including creation of a Medicare drug discount card in 2004 to give seniors cheaper prescriptions until full drug coverage begins in 2006.

But they sharply disagreed on critical provisions, including whether to permit Americans to import prescriptions from abroad and to what extent private insurance companies should be encouraged to compete with the government to cover Medicare recipients. As disagreement grew, the Republicans barred five of the seven Democratic conferees from the room, including all three House Democrats who had been named to the panel, and two senators, Minority Leader Tom Daschle of South Dakota and Jay Rockefeller of West Virginia. That left the lineup on the committee 10 Republicans and two Democrats. It also cleared the way for negotiations on one of the most costly and controversial provisions of the Medicare bill: more money for private health plans.

The vast majority of Medicare business is "fee-for-service," in which providers like hospitals and physicians are reimbursed by the government for treatments. The Bush administration wanted to encourage greater participation by HMOs and preferred-provider organizations, or PPOs, based on the conviction that private enterprise and competition would drive down costs. To make that happen, insurance lobbyists insisted, their reimbursement rates would have to be increased. At the old Medicare HMO rates, the industry claimed, insurance companies could not make programs attractive enough for doctors or patients to participate.

To emphasize their message, health insurance companies and lobbying organizations (now combined under the name America's Health Insurance Plans) spent $27.8 million lobbying Congress in 2003, according to the Globe's analysis. They hired lawyers and flew insurance industry executives to Washington to meet with members of Congress and their staffs.

One part of the effort was a trip by a delegation of health insurance executives from Massachusetts, who met with Kennedy: Charles D. Baker, CEO of Harvard Pilgrim Health Care Inc.; Nancy L. Learning, CEO of Tufts Associated Health Plans Inc.; and Fallon Community Health Plan CEO Eric H. Schultz.

"It was mostly around spending levels and reimbursement," Baker said. Baker said he also participated in a second trip to Washington with insurance executives, providing background information to large groups of reporters and government officials, including a briefing at the White House. Learning said the additional money was important to provide lower premiums for the elderly and higher reimbursements for doctors.

Karen Ignagni, president of America's Health Insurance Plans, declined to describe details of the association's lobbying effort, other than to say CEOs of major health plans from around the country met "one-on-one" with congressional staff and key decision-makers.

In the end, the conference committee gave a big boost to Medicare rates for insurance plans in 2004 and beyond, by an amount now estimated by the administration to be worth $34 billion over 10 years. Republicans also added a $12 billion fund for the administration to offer additional incentives to attract insurance companies to Medicare in regions where they otherwise would show no interest. Republicans called it at "stabilization fund." Democrats led by Kennedy branded it a "slush fund."

The Republican efforts to enhance Medicare rates for insurance plans have come at great cost. The Bush administration has identified the extra money for private health plans as accounting for 23 percent of the difference between the original $400 billion estimate on the bill and the $534 billion price tag that was revealed this year.

Closed-door deals by the conference committee, Ignani said in a telephone interview, should not shock anyone.

"All the major issues are settled not necessarily in the open forums, but by leaders in conference committee, when they get together and decide what they are going to do," Ignagni said. "It's pretty standard operating procedure for the Congress."

This report was prepared with the assistance of Marc Shectman of the Globe library, freelance research manager Maud S. Beelman, and researchers Kevin Baron and Samiya Edwards. Christopher Rowland can be reached at crowland@globe.com. ■