



Michael Cannon: Nuclear Option Opens Healthcare to Dem Control

By: Lisa Barron – November 25, 2013

The Senate's deployment of the so-called nuclear option does not apply to legislation, but critics say it still makes it easier for the White House to use Obamacare's Independent Payment Advisory Board.

The IPAB, established by the Affordable Care Act, is to be composed of 15 presidential appointees empowered to reduce Medicare spending to certain stipulated targets through proposals and recommendations that could automatically become law.

Michael Cannon, the Cato Institute's director of health policy studies, wrote on Forbes.com on Monday, "With the nuclear option, Democrats now have it within their power to ensure Democratic control of IPAB, and with it, essentially the entire healthcare sector, at least through the first term of President Obama's successor and the next three Congresses, even if Republicans capture the presidency, retain the House, and take control of the Senate."

That is because IPAB members serve terms that are nominally six years, but actually last until they are replaced, so a board member who is confirmed in 2014 will serve at least through 2020 and possibly longer.

The nuclear option allows the Senate to approve executive branch and lower-court nominees to pass with a simple majority — just 51 votes instead of the 60 votes required previously.

And, explains Cannon, "Only one member need be seated for the 'board' itself to do business." In addition, a president can remove IPAB members "for neglect of duty or malfeasance in office, but for no other cause."

Obamacare allows the IPAB to exercise its powers only if Medicare's actuaries project its outlays will grow faster than a certain rate, which is currently not the case, but that could change, Cannon argued.

And if so, "Obamacare mandates certain procedures that Congress must follow if it wants to overrule IPAB's, ahem, 'proposals,'" he wrote.

"The people's elected representatives must clear certain hurdles, some as high as IPAB wishes to set them, if they want to retain their authority as the ones who write laws regarding healthcare."

The upshot, Cannon said is that, "to the extent Democrats use the nuclear option to pack IPAB with Democratic appointees in 2014, and are able to retain the White House or the Senate in 2016 and

beyond, they will be able to ensure one-party authoritarian control of the U.S healthcare sector.”

“That’s not just unfair or partisan or economically inefficient or unconstitutional. It’s also undemocratic,” he added.