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A primer on problems with Congress' health reform bills and a preview of possibilities with patient-centered reform

By Grace-Marie Turner

Independent studies show legislation before Congress fails to achieve its most basic goals of lowering costs, allowing stability of coverage, and improving the country's economic outlook. Further, the legislation would create an avalanche of unintended consequences throughout the health sector and the rest of the economy.

Here is a refresher that may be useful to those attending the Blair House summit to answer those who still insist the Democratic leadership's bills must be passed so they can "do something" on health reform. The American people know we need reform, but they simply do not want this legislation, as evidenced in the latest Rasmussen poll showing that 61 percent of those polled saying Congress should start all over on health reform.¹

Problems with legislation before Congress:

- ♦ Health costs will continue to rise
 - ♦ Federal health spending will increase
 - ♦ People will lose the coverage they have today
 - ♦ Taxes will increase, hitting the middle class
 - ♦ The bills just don't work
 - ♦ The deficit will increase
 - ♦ Doctors and hospitals will become insolvent
 - ♦ Job creation will suffer
- *Health costs will continue to rise:* The Congressional Budget Office (CBO) says health insurance premiums will continue their steady upward climb under the Reid bill.² Families purchasing insurance in the individual market would see an increase of \$2,100 in the year 2016, over and above increases they already will be facing as health insurance premiums continue to rise at about twice the rate of general inflation.

That means those families would be paying \$15,200 in 2016 for health insurance if the Senate bill passes, and \$13,100 if it doesn't. Families who get health insurance through

small businesses will be paying \$19,200 in six years, and those working for large firms, \$20,100.

PricewaterhouseCoopers released a study, commissioned by America's Health Insurance Plans, which showed the cost of a family plan in 2019 would be \$4,000 a year higher if reform passes.³

- *Federal health spending will increase:* Chief Medicare Actuary Rick Foster estimates that under the Senate bill, "Federal expenditures would increase by a net total of \$279 billion" between 2010 and 2019.⁴
- *People will lose the coverage they have today:* Steep cuts in Medicare Advantage would mean that at least one-third of seniors likely would lose their comprehensive Medicare Advantage coverage as their plans are forced to withdraw from the program, cut their benefits, or raise premiums.⁵ And at least 10 million people with employer-sponsored insurance could lose their current coverage, according to the CBO.⁶ Some members still insist they want legislation to create a new "public plan" option, but The Lewin Group found that this would mean up to 83 million Americans could lose their private coverage.⁷
- *Taxes will increase – on the middle class:* The House and Senate bills call for nearly \$500 billion in new taxes, including taxes on insurance companies, Cadillac health plans, medical devices, and "the rich" -- taxes that will hit the middle class and increase prices and health insurance costs for consumers.

And the mandate that all individuals must carry health insurance comes with tax penalties for non-compliance. That is indeed a tax, according Thomas Barthold of Congress' Joint Committee on Taxation. He told the Senate Finance Committee that the penalty for not complying with the requirement to buy health insurance is an excise tax that will hit the middle class.⁸

- *The bills just don't work:* The American Academy of Actuaries, in a 21-page letter to Congress, critiqued the House and Senate bills and said major changes must be made to avoid a series of damaging consequences.⁹

As just one of many examples, the actuaries described the significant problems with the new long-term care entitlement program the legislation would create, called the CLASS Act. The actuaries said that "given the way the program is structured, severe adverse selection would result in very high premiums that are likely to be unaffordable for much of the intended population, threatening the viability of the program."

Medicare Actuary Rick Foster also concluded that "there is a very serious risk that the problem of adverse selection would make the CLASS program unsustainable."¹⁰

- *The deficit will increase:* Former CBO Director Doug Holtz-Eakin concludes the bills "can claim to be deficit-neutral only because during its first decade it offers 10 years of taxes compared with six years of subsidies, making it look far cheaper initially than it really is (while still costing more than \$800 billion)."¹¹

"The Republican staff of the Senate Budget Committee estimates that, fully implemented, Democratic legislation would cost \$2.4 trillion over 10 years, nearly three times the cost projected by the Congressional Budget Office."

Further, the Congressional Budget Office shows the Senate bill double-counts Medicare savings. Savings to the Medicare program "would be received by the government only once ... they cannot be set aside to pay for future Medicare spending and, at the same time, pay for current spending on other parts of the legislation or on other programs."¹²

Rick Foster makes the same point: A series of accounting maneuvers makes it appear that Medicare's Part A trust fund would be in better shape under the Reid bill, but that's not so. "In practice, the improved Part A financing cannot be simultaneously used to finance other Federal outlays (such as the coverage expansion under [the Reid bill]) and to extend the trust fund," Foster writes.¹³

Further, Foster says that making the cuts to Medicare that Reid's bill requires would "represent an exceedingly difficult challenge."

- *Doctors and hospitals will become insolvent:* Achieving deficit neutrality depends upon Congress making massive cuts to physician and hospital Medicare payments which Congress has virtually no will to do. But if the cuts are implemented, Foster says that in a decade, one out of five hospitals and nursing homes would become unprofitable, threatening patient access to Medicare services. The 21 percent cut in Medicare payments on March 1 is the next death-defying cliff the Congress must figure out how to avoid.
- *Job creation will suffer:* The new taxes on businesses and individuals will further retard jobs creation and the recovery, and the higher health costs will discourage small businesses -- the engine of job creation -- from hiring. US Chamber of Commerce President Tom Donohue said: "Congress, the administration, and the states must recognize that our weak economy simply could not sustain all the new taxes, regulations, and mandates now under consideration. It's a sure-fire recipe for double-dip recession, or worse."

WellPoint mined its own actuarial data to model the basics of the plan incorporated in the House bill, using data from 14 states where it runs Blue Cross plans. In all 14, it found that the legislation would drive up premiums for small businesses and individuals -- the very people who get economies moving.¹⁴

This is the wrong prescription. Government-domination of our health sector is woven into the very fabric of the legislation. It cannot be amended out.

The legislation is so complex and far-reaching that no one can fully comprehend its impact on our health sector. The combined 4,500 pages of the Senate and House bills contain a tsunami of regulations that will sweep away the last vestiges of competition and consumer-choice in our current health sector.

Medicare and regulatory control

We have a preview of how the legislation would evolve by looking at Medicare. When Medicare was passed in 1965, the legislation was 137 pages.¹⁵ The Mayo Clinic did a survey 10 years ago, and it found that this legislation had led to more than 100,000 pages of regulation guiding virtually every aspect of care delivery.¹⁶

These regulations micromanage every aspect of Medicare's coverage and payment policies. The Centers for Medicare and Medicaid Services sets more than 7,000 prices for medical goods and services.¹⁷ Some are too high and some too low, but all distort the health care marketplace. And the distortions are magnified as they cascade through the health sector as other payers base their own payment policies on prices set by bureaucrats in Washington. It is no wonder that health costs continue their steady upward climb.

The government already exerts such strong control over health care that the legislation the 111th Congress developed would have pulled the rest of the health sector into its vortex. It would have led to tens of thousands more pages of regulations, and every citizen, health care professional and facility, and every company inside and outside the health sector would have no choice but to comply.

The result: Instead of an evolving, knowledge-based health economy, the U.S. health sector would become rigid and rule-driven. Doctors and other medical professionals would become much less responsive to patients and more and more beholden to politicians and federal regulators. And they would become ever more fearful of the growing army of medical enforcement authorities on the lookout for violations of the mind-numbing avalanche of federal rules.

Virtually every conference that doctors attend for the next five years would be focused on compliance with the new federal legislation. Innovative ideas about care delivery and medical advances would shut down as doctors desperately try to learn how to protect themselves legally and financially from the impact of the legislation.

Richard Epstein, a law professor at the University of Chicago, says the Senate bill uses "brute regulatory force" to overhaul the health sector. He adds that the combination of squeezing revenues while exposing health insurers to "extensive and uncertain new legal obligations" would likely lead to bankruptcy for many health insurers.¹⁸

Possibilities with patient-centered health reform

Conservatives must be ready to put their own ideas on the table at the summit.¹⁹ The complete overhaul of our health sector that Congress has been trying to pass is the wrong prescription for reform. Rather, Congress should take a step-by-step approach that supports what works and makes careful changes that give doctors, patients, employers, and the economy time to adjust.

Americans value the quality and innovation of health care. This quality and innovation can continue with reforms that would allow individuals and families, not government officials in Washington, to make decisions about their health and medical needs in a properly functioning marketplace.

The U.S. could achieve universal coverage without centralized government control over our health sector, as we described in “Providing Health Coverage for All Through Private Health Insurance.”²⁰ This could be achieved by adhering to three key principles.

Three key principles for patient-centered health reform:

1. Subsidies for health insurance should be fair and equitable and should allow health insurance to be portable from job to job.

2. The forces of choice and competition should be used to make care and coverage more affordable. New incentives for more functional, diverse, and affordable health insurance markets should be created.

3. Access to health insurance could be guaranteed, including for those with pre-existing conditions or high health risks, through a network of programs that engage states, private-public sector partnerships, safety-net programs, and new subsidies and incentives to encourage continuity of coverage.

Some first steps to reform

President Obama said during a forum with House Republicans in Baltimore in January²¹ that many GOP ideas were incorporated into legislation written by the Democratic leadership, including:

- Allowing inter-state purchase of health insurance
- Catastrophic health insurance for young people
- High-risk pools for uninsured people with pre-existing conditions
- Small business health plans
- Incentives for wellness
- Allowing young adults to stay on their parents' policies

Republicans might add to their list key ideas that were incorporated into the health reform platforms of both Senators McCain and Obama during the campaign, including agreement on the importance of:

- Targeted financial help for the uninsured
- Incentives for prevention and early treatment
- Coordination of care and disease management
- Greater use of information technology and electronic medical records
- New approaches to "best practices" in treatment

There are serious differences about how to structure the underlying policy on all of these items. But these lists nonetheless could be a start for a bipartisan conversation.

Health reform must build on the strengths of our health sector, including its diversity, and allow individuals more, not less, control over their health spending and coverage decisions. This means moving in a different direction that tosses aside the hubris of believing politicians could overhaul one-sixth of our economy in one bill and get it right.

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Endnotes

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