

Health Care Reform: Where Are We Now?

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After over a year of debate, Congress passed legislation in March to reform the health care delivery system in the United States: "The Patient Protection and Affordable Care Act."

When the Obama Administration initiated its efforts to reform health care, the Administration's goal was to address what it perceived to be three major problems with the health care delivery system in the United States:

1. The cost of health care in the United States is too high.
2. The quality of health care in the United State is too low.
3. Health care in the United States is not sufficiently accessible, particularly to the uninsured.

A fundamental thought for the proponents of this legislation is that every person in the United States should have health insurance. The logic is that, if every person has health insurance:

1. The cost of health care will go down because health care providers will no longer be required to bear the cost of providing health care to the uninsured.
2. The cost of health insurance will go down because health insurers will no longer be required to share in the cost of providing health care to the uninsured.
3. Health care will be more accessible because individuals will no longer be denied care based on their inability to pay.

The legislation passed by Congress will not cause every person in the United States to have health insurance. However, the legislation will cause an additional 32 million individuals to have health insurance through a variety of requirements, prohibitions, and programs including:

1. A requirement that individuals buy health insurance or pay fines, with certain exceptions for low-income individuals.
2. The establishment of federal subsidies to help individuals buy health insurance.
3. A requirement that companies with 50 or more employees pay a fine if any of their full-time workers receive federal subsidies to buy health insurance.
4. The establishment of tax credits for small businesses to help provide health insurance to employees.
5. The establishment of state-based health care exchanges to create a marketplace for the uninsured and small businesses to comparison shop for health insurance.
6. An expansion of Medicaid to cover more individuals.
7. A requirement that insurance companies provide coverage to dependent children up to the age of 26.
8. Prohibitions against insurance companies denying coverage based on an individual's pre-existing condition.
9. A prohibition against insurance companies placing a lifetime limit on coverage.

10. A prohibition against insurance companies rescinding coverage, except for fraud.

The legislation also has a variety of provisions aimed at encouraging preventive care, encouraging primary care, and discouraging activities that lead to disease. For example, the legislation:

1. Requires health insurance companies to cover immunizations for children and cancer screenings for women.
2. Requires Medicare to pay primary care physicians and general surgeons in areas that lack primary care physicians a 10% bonus payment.
3. Imposes a 10% tax on indoor tanning services.
4. Requires chain restaurants and food sold from vending machines to disclose the nutritional content of each item.

The legislation also would close the "Medicare doughnut hole." The "doughnut hole" is a gap in Medicare coverage that requires one in eight Medicare beneficiaries to pay thousands of dollars for prescription drugs from their own pockets. The legislation would close this gap over time.

While the legislation focuses on decreasing health care costs, increasing the quality of health care, and increasing the accessibility of health care, the legislation also focuses on a fourth major issue: how to pay for health insurance coverage for an additional 32 million individuals.

In addition to requiring individuals to buy health insurance and fining companies if their full-time workers receive federal health care subsidies, the legislation imposes:

1. Additional taxes on single people earning more than \$200,000 per year and couples earning more than \$250,000 per year.
2. Billions of dollars of annual fees on health insurance companies and pharmaceutical manufacturers.
3. A 40% excise tax on "Cadillac" health care plans.

The legislation does not contain one much-discussed feature: a "public option." The public option was a proposed federal health insurance program whose purpose was to (1) offer affordable health insurance to the uninsured and (2) compete with health insurance companies, which at times have high market shares and profit margins in certain states and purportedly do not offer affordable health insurance to the uninsured.

The legislation has created more than its share of fears.

One fear is that the legislation with its provision of health insurance to an additional 32 million individuals will cause health care costs to go up, not down. The fear is that among the uninsured there is a pent-up demand for health care services and that, once 32 million additional individuals have health insurance, there will be an enormous increase in health care utilization.

Another fear is that some employers simply cannot afford to provide health insurance to their employees and will face fines for their inability to afford for health insurance. In March, one of the country's largest companies, AT&T, announced that it is taking a \$1 billion write-down as the result of the legislation. The following companies also announced significant write-downs:

Deere & Co. \$150 million
Caterpillar \$100 million
3M \$90 million
AK Steel \$31 million
Valero Energy Up to \$20 million

Another fear is that, when nearly all of a health care provider's patients have health insurance, the federal government and state governments may eliminate or challenge health care providers' tax exempt status, which is predicated in part on providing charity care to the uninsured.

Finally, 14 state attorneys general have filed lawsuits challenging the constitutionality of the legislation. Their argument is that there is nothing in the United States Constitution that permits the federal government to require every individual to buy health insurance. They recognize that, as a condition to driving an automobile, it is permissible to require an individual to have automobile insurance. However, in their opinion, it is not permissible to require every individual to have health insurance as a condition to simply existing.

This story is at its very beginning and is going to unfold over the next several years. Stay tuned.