12-1-2010

Health Care in the United States: A Right or Commodity?

Aaron Lloyd
Grand Valley State University

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Introduction

Health care in the United States has reached a cross roads. The United States currently spends over $2 trillion or 16% of its gross domestic product on health care. With this vast sum of money that is spent, the people of the United States should expect to get a good return on their money. Why is it the case that the United States has a lower life expectancy at birth than 38 other countries or an infant mortality rate that is higher than 32 other countries?[1] Even with so much money spent on health care, many people in the United States receive little or no health care at all. Unlike all other industrialized nations, the United States does not guarantee basic health care to all of its citizens. With the continued rise of health care costs and as the number of uninsured climbs, the United States will face serious challenges in providing affordable and accessible care to even a majority of the population. If costs continue to increase at this unsustainable rate, health care in the United States will return to a majority out-of-pocket payment system and health outcomes will suffer as a result.

This paper will examine the pretexts of universal health care in the United States, and the precedent that the Emergency Treatment and Active Labor Act has set. In order to provide cost effective universal care, the United States will need to undertake significant changes to the structure of the health care system. This could happen in many different ways, but the most important aspect of the reform process is that it is started. Discussion, innovation, and improvement must become integral parts of health care in the United States at a structural level. The first step in a process of health reform will require open and transparent discussion that should consider all ramifications of the current system. Discussion should try to focus on the health care structure using a systems approach.

Essentially, a systems approach would look at the problems within health care as parts of a whole system. The problems occur as a result of the interactions that take place within the system. Consequently, any changes to one part of the system will also have effects on other parts of the system. This is essential because in a complex social structure, like health care, nothing happens in isolation. Decisions regarding one aspect of the provision of care can have significant effects on other aspects of health care. For example, changes to health care financing can have effects on access to and quality of care.

The process of discussion should examine changes that can be made for each group of participants in the health care system. The roles of hospitals, insurance, coverage, providers, delivery systems, and other health care participants should all be examined, and structural changes that would meet the needs of the health care system should be determined for each of these groups. The determined structural changes would also need to be prioritized. Immediate implementation would be highly difficult and potentially damaging to the health care system, because of the complexities involved. The process of implementing the structural changes should involve staggered steps to facilitate a smooth transition. These steps should be prioritized based on the difficulty of implementing the change, taking factors such as preparation time needed, effects on access to care, and required financing of proposed changes.

The dissemination of information to all parties involved will also play a key role in determining how successful health reform is. All participants must clearly understand what is required of them and appropriate incentives or penalties should be implemented to ensure compliance. This paper also examines some suggestions for what a reformed system might

include, specifically with the issues of universal coverage and high cost as major discussion points.

Universal Coverage in the United States

Is Health Care a right or a commodity? This is a question that the people of the United States still continue to ask today. Many Americans will make the argument that health care is a private good. A private good is something that is considered rivalrous and excludable. This is to say that consumption by one consumer precludes use by another, and it is reasonably possible to prevent a group of consumers from having use of the good (ex: those who don't/can't pay). The argument follows that health care is best managed this way because capitalism is always the most efficient means to deliver a private good in a market.

There is a problem with this basic presumption in the United States though. Several years ago, EMTALA was enacted. The Emergency Medical Treatment and Active Labor Act, which passed Congress in 1986, requires hospitals and ambulance services to provide care to anyone needing emergency health care treatment regardless of citizenship, legal status or ability to pay. There are no reimbursement provisions. As a result of the act, patients needing emergency treatment can be discharged only under their own informed consent or when their condition requires transfer to a hospital better equipped to administer the treatment. This creates complex and costly problems for providers and states. Many providers argue that the word "emergency" is too loosely defined and places a large burden and liability on them.[2]

This Act of Congress suggests that Americans believe that there is a level of health care that everyone should receive. The act would have been repealed years ago if Americans did not believe this. Based on the fact that this Act exists, it is reasonable to claim that the United

States, like the rest of the industrialized world, has defined health care as a common good. The use of health care is rivalrous in the fact that a doctor's visit by one person precludes another individual from seeing that doctor at that time. It is non-excludable, in the sense that an individual who needs care, although only emergency care currently, can go to a hospital.

In defining this belief that everyone should have access to a minimum level of care, the United States has failed to address the fact that health care is a rivalrous good. There are two major limitations on the distribution of health care to all: first, there are a finite number of health care providers; second, there is a finite amount of money that can be spent on health care. The Emergency Medical Treatment and Active Labor Act fails to make efficient or effective use of these finite resources. One major problem with EMTALA as the only source of universal coverage stems from the fact that emergency care is inherently more expensive than preventative care.[3]

Another issue with EMTALA is that there are no provisions for reimbursement. People can use the Emergency Room without taking any responsibility for the payment.[4] This creates a situation where cost shifting is the norm, because it is not economically sensible to assume that a private health care institution could or would absorb the cost of free care without some form of reimbursement. Essentially these hospitals levy a premium or surcharge on those who can afford to pay in order to pay for the care of those who cannot.[5] This is essentially a form of taxation and wealth redistribution even though it is levied in a private setting. Many of the problems treated in the emergency room could be prevented or managed more effectively and at lower cost if preventative medical care was available. Might it not be cheaper to require a

basic level of insurance coverage for everyone, so that they may obtain preventative medical care at a primary care provider?

There are many problems inherent with this “mandated insurance coverage”. Many would argue that the Federal government does not have the authority to mandate that individuals buy a product from a private, for-profit company. Why should the government dictate that citizens buy a product from a company that will profit from the purchase because of Federal law? The purpose of the Federal government is to protect and serve the people, not Big Business.

In the interest of the public good, the government can require that individuals pay taxes, ex: income taxes, Medicare, Social Security etc. The majority of people would say that these things are beneficial to society even if they do not wish to pay. The key factor that influences public perception of these taxes as inherently good for society is the use of these common funds solely to produce social benefit. There is no money specifically designated to produce a return on investment for individual investors.

In determining how to collect and use funds to provide health care, the most important factor considered thus far has been the need for a system that allocates all funds collected directly to health care expenses for society with minimal overhead. There must also be a means to contain costs and prevent further cost shifting. The general public fear rationing by the government in medicine, but it is already taking place at the hands of private insurance companies. The reason that the United States pays the most per-capita for health care is that cost cutting and rationing mechanisms are used ineffectively.[6]

Within this framework, there are numerous ways in which this could be achieved. The example outlined below is but one possible method for approaching the task. As with any problem, the problem-solving process will have to begin with identifying the problem, determining the possible solutions, implementing the best available option, and continuous re-evaluation.

In order to determine what might be the best system for the United States, it is crucial that we examine the values that the country was founded upon and are held to be important. Based on historical documents such as the Constitution and the Bill of Rights, the values of freedom, liberty, and equality certainly have an American appeal that has continued through the last two and a half centuries. The more difficult task is in applying these values to health care.

The process of reforming the health care system based on values is obviously going to be quite difficult due to the immense variety of opinions, backgrounds, cultures, and circumstances of Americans. The most easily accepted reforms will be those that are familiar to the majority. Complete reform will almost certainly be difficult to achieve, because of the fear and uncertainty that it generates. Reform that introduces systems that are completely foreign to Americans will also cause more harm than good. The learning curve of a new system, lack of knowledgeable managers, and public distrust would lead to outrageous costs and poor efficiency. Using familiar terminology to introduce new concepts would be very helpful in convincing the public and achieving reform.[7]

The next step in a process of reform would be to develop a system that will fit all the criteria determined above. To sum this up, the crucial factors considered so far have been

universal minimum coverage provided in a system that does not generate a profit for investors, mandatory coverage, equality of minimum coverage, freedom to choose level of coverage above the minimum, and a system that is at least somewhat familiar to the majority of Americans. Essentially a public-private hybrid system will need to be implemented to deliver health care services within a framework that will provide effective cost-control for required health care expenses.[8] With criteria defined, a two-step research process for constructing a reformed system might be one possible method for approaching the problem at hand. First, analysis of current health systems, foreign and domestic, could be conducted. Using existing systems to construct a new system for the United States allows one to pick and choose components that have been tested successfully in other situations. The next step would be to take these components and use them to build a framework that fits the goals outlined. By following a process similar to this, a custom solution to the unique situation and requirements of U.S. health care could be crafted. This is not to say that the result will be perfect, but it allows for choosing components that will produce efficiency, effectiveness, and fit within the current constraints of the economic, social, and cultural environments of the United States.

Suggestions for Components of Reform

One significant challenge for developing an efficient heath care system in the United States has been attaining the right amount of balance between the Federal and State governments in legislation, administration, financing, and regulation of health care. Many European countries have emphasized the importance of Decentralization in health care reform. By controlling health care on a regional or local level, the community can be involved in decisions, resources can be better allocated, and improvements to service delivery can be made

more readily available.[9] It is also easier to recognize and address inequities in health care provision on a smaller scale rather than at the Federal level. Recent empirical analysis in Switzerland has shown that decentralization of the health care sector has generated significant differences between cantons (states) in terms of per-capita health expenditures, funding equity, and supply structure.[10] This is also the case in America. There are significant differences in terms of expenditures and funding equity between the different states as well.

In order to ensure equitable universal coverage, there must be national regulations set by a Federal authority. As discussed above, decentralization also plays an important role in administering health care at the regional and local level. To meet these requirements, a Federal Health Board could be established to set and continue to improve the national framework for health care. Within this national framework, state governments would have authority to set their own health care systems. This would guarantee a set of basic, uniform health standards that could be administered according to local needs.

The idea of a Federal Health Board is not a new one. Many foreign health care systems use centralized boards to determine various aspects of the health care environment (NICE in the United Kingdom). The idea of a Federal Health Board has been promoted by former US Senator Tom Daschle, the Secretary of Health & Human Services under President Barack Obama, as well as other prominent health leaders in the United States. The basic structure of the Board would be very similar to the Federal Reserve Board, which controls monetary policy in the United States.

This Federal Health Board would be composed of a board of governors drawn from the ranks of clinicians, economists, researchers, health benefit managers, and other experts in the

field of health care. The individuals on the Board would be nominated by the President and confirmed by the Senate for lengthy terms (longer than eight years). The Federal Health Board would be charged with setting the national framework for health care in the United States. By creating a Board composed of appointed officials, it is possible to enable those governors to be able to make the tough decisions that are necessary to push forward the provision of health care in the United States without the influence of lobbyists or upcoming elections tainting those decisions.[11]

The most important responsibility of a Federal Health Board would be to determine a national framework for health care in the United States. The board would be responsible for making decisions regarding how to provide health care for different groups of people (ex: Medicare for those over 65, Indian Health Service for Native Americans, or by designing new systems). In addition to determining how to provide health care coverage, the Federal Health Board would also be responsible for determining how to finance the care of different groups of people. Such decisions as who would qualify for government subsidized coverage would be part of this task. Under the assumption that a universal coverage mandate would be put in place, the board would be responsible for determining the minimum coverage or care requirements that could be purchased or offered.

The Federal Health Board's responsibilities would also extend to cost containment mechanisms. Implementation of technology and uniform administrative procedures (paperwork, billing, etc.) would be specific areas in which the Board could exercise its power to help lower the overall costs of health care. As a national agency, the board could also partner with other entities and organizations to issue evidence-based recommendations for treatment.

These recommendations would be thoroughly researched for efficacy and cost-effectiveness and the studies would be completely tax funded. In this way, conflicts of interest with pharmaceutical company funded research would be avoided. The power of the Federal Health Board could also extend to making recommendations to Medical Schools as to how and what type of training should be offered.

In the interest of creating a fair system of review and compensation for medical errors, the Board could also undertake efforts to reform Medical Tort Law. This would benefit both patients and doctors, and would have the potential to improve communication and quality of care if done well. Other responsibilities could be assigned to the Board accordingly. These are just a sample of issues that a Federal Health Board might be able to tackle. By removing the impediments of politics and prejudiced lobbying, the quasi-independent Federal Health Board would be able to tackle the tough questions that plague our health care system currently.

In order to gain public trust and support of the Federal Health Board, the development, implementation, and continued operation of the Board must be unimpeachably transparent. Any decisions by the Board should be announced and discussed in a public forum. The governors of the Board would also be tasked with maintaining ongoing dialogue with the people of the United States. In this way, all decisions will be public knowledge with opportunities to offer further suggestions and criticism. Health reform will become an ongoing process, which will allow for continued improvements as the needs of the people of the United States continue to change.[12]

The Federal Health Board would be a policy setting agency. The policies set by the Federal Health Board would be adopted and carried out by all public health programs. Although

the Board would have no regulatory power, per say, its influence over public health programs would have a significant effect on the health care system. As of 2007, 46.2% of all health expenditures were from public funds.[13] Some estimates peg the percentage of national health expenditures that are from public funds at even higher levels. One estimate claims nearly 60% of all health expenditures in the United States are tax financed. This discrepancy is due to the fact that the accounting frameworks used by the Centers for Medicare & Medicaid neglect to count public employees with private insurance paid for by the government and other such cases.[14]

Regardless, with so much of health care spending coming from or heavily influenced by public funds, it is easy to see that a Federal Health Board would hold significant sway. Private insurers would have to adopt Federal regulations in order to participate in Federal programs such as basic insurance plans. It would be inefficient for them to use two separate systems for these plans and other private plans. Federal insurance mandates could be carried out through taxation, and, therefore, enforceable by the Internal Revenue Service. Other more specific regulatory mechanisms could be worked out with the legislative or other governmental bodies if necessary as well.

Being a quasi-independent government board, a system of checks and balances would need to be in place to ensure that this organization is serving the will of the public. An explicit purpose and set of defined duties would need to be laid out to ensure that Board members know what they are tasked with achieving. The Board members would be chosen by the President and approved by Congress as well. As an organization that is appointed by the

President and Congress, the Federal Health Board would be subject to Congressional oversight and could also be dissolved by Congress if this was deemed necessary.

The Board would be composed of highly respected individuals with diverse health care backgrounds and broad knowledge of the system. The highly technical and complex decisions of health care would be made by individuals with specific knowledge of the field, rather than by politicians with little or no knowledge. These Board members would also have the research and technical support of a dedicated staff, just as the Federal Reserve Board has numerous economists and other researchers who actively provide data and research. With this wealth of information and knowledge at hand, a Federal Health Board would be well equipped to make informed, rational, and beneficial decisions for the good of the United States health care system.

The United States is not the only country in recent years to grapple with health care reform. In 1994, both Switzerland and Taiwan passed health reform laws. Both of these industrialized nations adopted laws that provided for universal coverage. They both spend less on health care as a percentage of GDP than does the United States.[15] Taiwan spends only 8% of GDP, while Switzerland spends nearly 11% of GDP. Switzerland's health care expenditures are relatively high, but still significantly lower than the 16% of GDP spent by the US.[16] The United States will most likely continue to spend a significant amount of its GDP on health care, but costs will have to decrease in order to be sustainable.

The Swiss model of health care might be particularly useful in constructing a system for the United States. The Swiss use a system of private health insurance plans and providers that would be familiar to most Americans. Instead of requiring individuals to buy from a for-profit

company, the Swiss employ a system that requires insurance companies to be non-profit providers of a valuable social service. Free-market supporters will argue that this takes away any incentive to run an efficient business if there is no profit. In Switzerland, the insurers are required to provided a federally mandated, basic level of insurance coverage to everyone and not earn a profit on the premiums for this coverage. They can offer complementary coverage that goes beyond the basic mandate at a risk-based, for-profit premium. Under this system, universal coverage is extended while still maintaining the profit-driven competition of the free-market.[17]

Premium rates for basic insurance would be set for all using a community rating system set at a local level (State, County, Township, etc.), which could be determined by the Federal Health Board. Premiums could vary based on deductible level and the amount of supplementary benefit coverage chosen as well. The insured would be required to pay the basic premium rate up to a percentage of their annual income, after which the government could provide a subsidy to pay for the rest.[18] The individual would be responsible for paying costs up to their deductible amount as well as a percentage of the costs above the deductible up to a certain maximum. Preventative services would be exempt from the deductible and would only require a small co-payment. There could also be a cap instituted on the amount of co-payment allowed for a single visit as well.

The insured person would have full freedom of choice among the recognized health care providers competent to treat their condition on the understanding that the costs are covered by the insurance. The Federal Health Board could make recommendations to insurers on how to structure provider compensation. Additional service or care, such as cosmetic surgery or

private hospital rooms, could be paid for out of pocket or via private complementary insurance. Private complementary insurance would most likely be widely distributed. Many European countries with universal coverage mandates have a large percentage of their populations who purchase private insurance as well. For example, 93% of the population in France are associated with a complementary health insurance plan.[19]

One benefit of this type of system is that insurance plans are not tied to employment; therefore, coverage is portable for the highly mobile job force that exists today. Small businesses would suffer less from the discrepancies of using community rating at the employer level in the current system of employer based insurance. This would hopefully result in the creation of more jobs and small businesses to further drive growth in the economy. Removal of employer provided health benefits should also increase take-home pay for workers, although they would have to pay the full premium for their health insurance.

This plan would be universal, and require that everyone participate. This would include government employees. All of those currently under Medicare and the Veteran's Affairs systems would be moved over to the new system, as well, with subsidies to help those who would be unable to afford the costs. The Indian Health Service would not necessarily be integrated into this system. Many of the Native American population groups have very unique geographic and cultural traits that would make integration into this system unrealistic. This is not to say that Native Americans would be excluded from the system, but special considerations would need to be considered for certain populations (e.g. those in remote locations).

Reformers must recognize that one size does not necessarily fit all in a country as large and diverse as the United States. To push for uniformity under the banner of equity can and does lead to inequitable outcomes and greater disparity of health care.[20] This is just one more reason why major health care system decisions need to be one step removed from politics. The political system of the United States is not nimble enough to respond to the requirements of providing an efficient health care system for the heterogeneous population that resides in the United States.

The Federal Health Board would also have the ability to improve efficiency and reduce administrative costs. The national reach of the Federal Health Board would enable it to implement standardized forms and processing procedures, which could create huge efficiency gains and expenditure reductions. The use of new technology in health care administration and record keeping could also be increased and improved. Incentives could be devised to increase the adoption of technology, such as universal smart cards by patients and providers alike.

This system is an example of what could be implemented if a Federal Health Board was put into place. The provision of health care in the United States is an extremely complex operation, but that does not mean that it can't be improved.

Health care changes will also require future Immigration reform to ensure effective cost control and universal coverage attainment. Approximately 10 million non citizens living in the United States are uninsured. This represents over 20% of the uninsured in United States.[21] This is obviously a very significant and complex topic in and of itself, but, none the less, immigration represents a crucial challenge to the viability of any future health care reforms and the struggle for improving health care in the United States. Without universal, sustainable immigration

reform, the United States will be forced to make difficult and, possibly, drastic decisions in the long-term. In regards to the intersection of immigration with health care currently, the United States will need to determine and follow-through with laws and regulations.

In determining who will be covered and how to cover them, the United States could look to Western European countries for examples. For example, tourists visiting Germany are not entitled to German health insurance and must make their own arrangements. Immigrants and those seeking asylum receive basic health care according German asylum application benefit law, and as soon as they are employed, they receive the same insurance coverage as German citizens.[22] Examples like this could be adapted to meet the requirements of U.S. law and the health care system in place. A Federal Health Board would have the knowledge, specialization, and research capabilities to explore potential options such as these, consult experts from around the globe, and weigh out the advantages and disadvantages of potential solutions. The ability of a Federal Health Board to make tough decisions and implement them in a timely manner would be a great asset in confronting the issues in health care arising due to immigration.

Conclusions

Health care costs and coverage go hand in hand. Under a for-profit insurance system, it is impossible to provide universal coverage without government regulation. It is not profitable for the insurance companies to cover certain “uninsurable” people. There is also no incentive to control costs, because they can always be passed on to consumers. Consumers are ineffective at lowering costs due to a variety of factors including cost sharing, lack of knowledge/expertise, and lack of available pricing information. No other industrialized nation has widespread

coverage of their population by insurance under a for-profit insurance model, nor do they pay as much as the U.S. does. Eventually the United States will reach a crossroads with out-of-control health care costs if things continue as they are now. At this point in time there will be two choices: repeal EMTALA and continue with health care only for those who can afford it or require basic insurance coverage for everyone.

One major difference between the United States and all other industrialized countries is that the other industrialized nations have set forth the purpose and goals of their health care systems, while the United States has no specific goals or purpose for health care. As an initial step towards reform, the people of the United States must determine who will be covered by the health care system and to what extent. Once this tough decision has been made and put in writing, all future reform endeavors should serve to produce these defined results.

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