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Abstract

President Clinton started a historic effort to find an acceptable new balance of competing public demands, to reinvent health care in ways that provide somewhat less freedom for patients and doctors and somewhat more cost control. In its mind-boggling complexity, the debate is whether his program or any of its rivals can do what they claim.

About the author : Writing this paper for a Business Law class, for Gretchen Roetzer '95, the core of the entire debate on the health care plan was whether health care was to be considered a right or a privilege. It was this aspect that she wanted to emphasize in her paper. Gretchen (a business major) works as a part-time office assistant to a local dermatologist where her duties include handling medical insurance claims. She sees the insurance field, along with marketing, as being one of her career options.

A LETHAL COMBINATION THAT CANNOT BE IGNORED: PRESIDENT CLINTON AND NATIONAL HEALTH INSURANCE

Gretchen K. Roetzer

The health care debate launched by President Clinton, will occur along the ruffled border between ethics and economics. Since World War II, Americans have come to consider good health care as a right: something that people should receive when they need it. It's not like buying a car or a compact disc player: if you can't afford it, tough luck. Unfortunately, this feeling that people ought to have health care on demand fosters the illusion that health care is free. Someone has to pay and that someone is us, which we don't like either. The result is that our ideal health care system is a logical impossibility.

We know exactly what the system should do: 1) provide universal insurance coverage-- no one should be denied essential care; 2) allow absolute freedom of choice-- we should be free to choose our doctors, and they should have the ability and motivation to select the best treatments for us; 3) control costs-- government, businesses and families shouldn't be bankrupted by soaring health spending. The trouble is that no health care system can fully achieve all of these goals. Universal insurance coverage, along with absolute freedom of choice, would make costs uncontrollable. Every crank psychotherapy would qualify for insurance coverage. Every new lifesaving technology, no matter how huge the expense or brief the benefit, would be used. We can control costs only if some people or some treatments aren't covered by insurance. Some things have to be made unaffordable. We either make these choices directly or tolerate a medical system that makes them for us.

What President Clinton has started is a historic effort to find an acceptable new balance of competing public demands, to reinvent health care in ways that provide somewhat less freedom

for patients and doctors and somewhat more cost control. In its mind-boggling complexity, the debate is whether his program or any of its rivals can do what they claim. In a larger sense, the debate represents an awkward attempt to come to terms with the ambiguous nature of modern medicine (Thompson, p.4). We once praised every medical breakthrough as a triumph of science and a gift to humanity. Now we see mixed blessings of advanced medicine. Its growing sophistication also makes it more costly and bureaucratic. We can get better care, and feel less cared for. We are shuffled between specialists and are subject to large amounts of tests. When Americans say they want "choice," it means that they don't want health reform to make the system even more impersonal. People still crave a trusting doctor-patient relationship. When people get sick, there is a need to reach out to someone.

Our health care problem is not that we are less healthy or have become enormously unhappy with our medical care, it is just the opposite. Despite urban violence and the onset of AIDS, most of us are healthier than ever. In 1950, life expectancy was 68 years, now it is 76 years. About 80% of Americans say they are satisfied with their personal health care. Between 1977 and 1992, the amount of Americans without coverage rose only slightly, from 13% to 17%. Between 1965 and 1992, health spending rose from 5.9% to 14% of Gross Domestic Product (GDP). If unchecked, it could hit 20% in a decade (Morganthau, p.35). This uncontrolled spending corrodes confidence in the entire medical system. Americans correctly sense that a vicious circle is at work. The costlier insurance becomes, the more difficult it is for individuals and small businesses to afford it. As companies decrease in size, more workers worry that they'll become uninsured if laid off. The best illustration of what is wrong with American attitudes about health care is that television ad for an insurance company in which some guys are sitting in an office, looking like they just returned from a funeral. It turns out that a co-worker broke his ankle in a company softball game. 'Won't our insurance pay his medical bills?' someone asks. 'Not deductibles or co-payments', comes the grim reply. Oh, the horror! This poor guy, a prosperous-looking fellow with a steady job could be out two or three hundred bucks. How will he feed his family? How will he pay his cable television bill? The ad exploits the widespread feeling that we are entitled to unlimited health care for nothing, a feeling Clinton does not plan to challenge.

Clinton came into office pledging to ensure universal access to medical care and to control costs. From the details released as of this month, he'd be most likely to accomplish the first of those two. Currently, companies may write off all premiums, and employees need not report them as income, making health benefits tax-free. This is an incentive for workers to take their pay in insurance rather than wages, since the government taxes wages. It's also an incentive for employees to demand, and employers to provide, the most expensive policies (Goodgame, p.55). Clinton

has obviously resolved not to be accused of stinginess. His plan reportedly would guarantee coverage to everyone for just about everything: hospitalization, emergency-room visits, physician services, preventive measures like inoculations and mammograms, eye care, dental care for kids, prescriptions and some mental health services. Nursing homes, more psychiatric services and adult dental care will be put off, but only until the year 2000. Fee-for-service plans would feature a low deductible (\$200 per person or \$400 per family) and a 20% co-payment. People choosing an HMO would pay only a \$10 fee per doctor's visit. Facelifts and sex-change operations are among the few procedures not included. (McCuen, p.8)

Generous health coverage for all is a fine thing, but it presents a major obstacle to another fine thing: containing soaring expenditures on health care, which are one big cause of the federal deficit. The President has actually said that budgetary discipline is impossible without health care reform, and he's correct. ("Health", p.9) But this plan does nothing to discourage spending, only the opposite. If you provide the best, most expensive insurance not only to everyone who is now insured but also to everyone who is now uninsured, you'll fuel the demand for care without increasing the supply, which is a formula for medical hyperinflation, (Broder, p.7). The President's approach suits the public mood. When a poll asked Americans what they want health care reform to accomplish, over half said controlling or reducing costs, (Chapman, p.8). What they obviously have in mind is not the nation's costs but their own. The melancholy truth, though, is that whatever reduces our individual costs will only increase our "collective expense". How can we expand access without spending more? By restoring the original purpose of insurance, protection against ruinous expenses, not routine ones.

People don't get insurance to cover normal car maintenance and minor repairs. Why would people need insurance for the human equivalent? If Americans had to pay for ordinary medical bills themselves, they'd be less apt to get treatment of marginal value, which in turn would help to reduce overall medical expenditures, health insurance premiums and taxes (Broder, p.7). The worst defect in our health care system is that those without insurance can suddenly be buried in medical bills they can never pay. That risk can be removed by catastrophic coverage--an option that has received no attention in the current health care debate. Clinton's plan goes well beyond protecting people against medical disaster. It does so in order to attract the mass of people, who are entranced by the prospect of getting more and more for less and less. He hopes to buy support of the voters with their own money, a trick Americans have seen before but have not yet learned to avoid.

The economists say the numbers don't add up and if this program becomes reality, this country is going to be hit with a huge tax hike to pay for it. They say it won't be just the silent, embarrassed rich who pay, everybody with a paycheck will be clobbered. That has a domino effect. Higher taxes lead to

less spending, less spending leads to less demand for goods and services, less demand leads to lower production, lower production leads to more layoffs and fewer jobs, and fewer jobs leads to more people in need of free health coverage. (Chapman, "15 Percent", p.1) Since nothing is free, somebody is going to have to pay for it. The economists and doctors say the Clinton Plan would be the end of medical care as most Americans know and like it. The vast majority of Americans, without the help of politicians or the federal government, have managed to provide their families with health care in some fashion. You now have a family doctor you trust? You now take your kids to a pediatrician you trust? And that's the way you like it? Sorry, but that would quickly become something from the good old days you can tell the grandchildren about. Once the government takes over health care, you will go where Big Brother (Clinton) and Big Sister (Hillary) tell you to go. Sneaking off to a private physician, if you can even find one, might even be a criminal offense. Big Bro and Big Sis will wind up rationing health care. Research and development will suffer as has happened in other socialized systems. Lifesaving new technologies will lag. Big Bro and Big Sis will decide how many doctors can be specialists. If you have a rare disease and there happens to be a shortage of specialists, it is quite probable that you couldn't call Big Bro and Big Sis to ask for assistance. In time, they will decide just about everything from your hangnail to your tumor to when the plug should be pulled.

Specifically, Clinton's plan would push Americans away from private doctors and into less expensive group medical practices such as health-maintenance organizations. It would hold down the income of many doctors, hospitals, insurers and drug manufacturers through stringent federal cost controls. It would dramatically cut health care costs for many large, high-wage companies such as automakers, but those costs would increase for many mom-and-pop businesses that now pay nothing toward their workers' health insurance and would be forced to do so under Clinton's proposal. (Goodgame, p.54) The President's plan would cost \$700 billion over the next five years, half of which represents new spending. Meanwhile, the plan promises quite a few "improvements". (Goodgame, p.57)

The first promise is to guarantee a generous, minimum package of health insurance to all Americans. The people who now lack health insurance would be covered either through their employer or through expanded welfare schemes. The package would include extra benefits for primary and preventive care. The next promise is to safeguard the security and "portability" of health insurance, even for workers who change jobs, get laid off, or develop chronic illnesses. The Clinton plan would ensure that workers can get insurance at any new employer, at comparable prices, even if they already need medical treatment.

The next promise is to make health insurance more affordable. At the heart of the Clinton plan is the concept of "managed competition." Health insurance buyers would band

together in large alliances to bargain with competing networks of doctors, hospitals, and other health care providers for the best service at the best price. The theory is that such bargaining will encourage lower costs and greater efficiency (fewer unnecessary tests, etc.). However, the Clinton plan would also strictly enforce limits on health care spending through a powerful new National Health Board. The Board would decide when health care providers were charging "too much." Some providers warn that such cost controls will result in development of fewer new drugs and in rationing of care, (example: requiring that elderly patients in declining health be denied such operations as hip replacements and cardiac bypasses). Many officials feel this theory would not work. Managed competition may fail to control costs. The history of state and federal efforts to contain costs is synonymous with failure. When the Feds limited fees in the past, doctors responded by ordering more treatments. When the Feds tried to limit the spread of high-tech, high-cost facilities like cardiac-care units, hospitals and doctors ganged up to beat the regulators. (Morganthau, p.33) Although managed competition attacks the cost problem at a deeper level, it is perfectly possible that industry will get even. It could do so by forming provider plans so big that the bargaining power of the health alliances would be neutralized.

Another promise is to require all employers to contribute to the cost of their workers' health care. Employers would pay 80 percent of whatever an average health-insurance plan costs. Workers would pay the remaining 20 percent of the premium. Those who want a more expensive plan would have the option of paying more out of their own pocket and those willing to settle for a no-frills (HMO) plan could pay less. The plan promises to require that all Americans be given a greater choice of insurance plans at different levels of price and service. The most expensive would be the traditional fee-for-service medicine from an individual doctor. Less expensive would be the so-called preferred-provider organizations (PPO) that many companies are now using. These require that workers go to specific doctors and hospitals that are part of the plan. An even cheaper option would be the HMOs that provide health care for a fixed price, although often with some waiting and rationing of specialist's services.

Clinton promises to relieve consumers from the nightmare of medical billing and insurance-claim forms. His plan envisions a world of instant electronic billing before the patient leaves the doctor's office. Clinton promises to allow states flexibility in choosing various health-care plans. A state may implement a Canadian style "single-payer" system, in which the state pays its residents' medical bills from tax revenues. (Goodgame, p.56) Clinton promises to provide financial relief for companies that currently spend the most on health care. The employer contribution to workers' health insurance would be capped at a certain percentage of payroll. Clinton promises to subsidize the health care premiums of small businesses that employ low-income

workers. Clinton promises to offer new benefits for mental-health care. The plan proposes significant new benefits, like covering 30 visits a year for psychotherapy.

In addition, Clinton promises to provide new federal subsidies for prescription drugs. Patients treated in lower-income group medical networks would pay only \$4 a prescription. Those in more expensive health plans would be insured for 80% of the cost of prescriptions, after paying a \$250 annual deductible. (Ulbrich, p.7)

Part of the political problem with this plan is that there is little consensus either in Congress or among the public about the "something" that should be done with health care. Lawmakers are splintered in different directions among liberals who want a government-run, Canadian-style single-payer system; conservatives who prefer minimalist reforms to the insurance market; and those in the middle who support various versions of managed competition. This leaves Clinton somewhere in the center with a plan that incorporates some market mechanisms and a lot of government regulation, cuts in some spending programs, and health benefits in other areas. (Ulbrich, p.7)

Who are the real winners and losers in this possible health care revolution? The working poor are the biggest winners. Because they work, they don't qualify for Medicaid; because they're unskilled, they have the types of jobs that don't come with health benefits. Now preventive, not just emergency, medicine could be at hand. Employers who currently provide health insurance and nurses are also winners. Companies already in the habit of paying their workers' medical bills should feel some relief and companies with generous benefits could scale them back in line with the more basic health package. The plan also envisions a wider role for nurses as cheaper primary care providers and as well-informed quality control officers enforcing HMO practice guidelines.

Employers who don't provide health insurance, the poor, and specialists are the real losers. Despite government subsidies, the cost of insuring workers would lead to major cutbacks. Predictions run as high as a million layoffs. The poor would seem to be winners because of the universal coverage provided for in the plan, but like the elderly, they would initially remain under the protection of Medicaid and Medicare--targets for the harshest cost-cutting. If financing falls short, the poor would most likely feel it first. Specialists, because of their expertise, have traditionally been the most respected and highest paid doctors in the country. The new plan's emphasis on HMOs would sharply increase demand for the general practitioners who staff them. That means fewer positions for specialists.

All of these promises may sound fine and dandy. It would be a great day when benefits come from nowhere, maybe falling from the sky. In reality though, exactly who among Americans is going to pay for this fine and dandy plan? Clinton's dilemma was how to expand health coverage to millions of Americans without raising the kinds of taxes that would win him an early retirement in

1996. Sin taxes seemed like fair game, but the White House gave in to the pressure from beer, wine and spirits lobby. To keep the pressure on, Anheuser-Busch is covering its trucks with cards urging Bud drinkers to dial 1-800-BEER-TAX. Cigarettes will go up by 70 to 80 cents a pack, bringing in about \$70 billion over five years, and at the last minute, Clinton threw in a 1 percent tax on corporations that choose to be out of the health plan, picking up an additional \$35 billion or so. This still leaves the administration at least \$300 billion short of what it needs to pay for health reform and still reduce the federal deficit. So Clinton seemingly reached deep into the voodoo bag of Ronald Reagan and came up with the old favorite of cutting waste, fraud and abuse. (Chapman, "Clinton", p.8)

Clinton claims that \$285 billion can be slashed from Medicare, Medicaid, and federal employee health benefits. No one denies the need to contain these costs. They have been growing many times the rate of inflation for some time. (Chapman, "Cuts", 1) Congress has been trying to short-change Medicare and Medicaid for the past decade, mostly by cutting fees to doctors and hospitals, yet the projected savings never seem to turn out. New technology, new procedures, and more patients just keep driving up costs. There is little evidence that Congress will have better luck now, especially now when the health industry is asked to get smaller while it might be forced to grow bigger.

The only way Congress might reach Clinton's targets for cutbacks is by taking steps he doesn't even mention, or want to mention: cutting health worker salaries, closing hospitals, rationing medical care, limiting malpractice and other lawsuits, and sharply scaling back medical research. There is a call for real sacrifice, either higher taxes or fewer benefits.

People have different views on health care across the world. How does the Canadian system work and is it a model to follow? When Canadians need medical care, they go to the doctor, clinic, or hospital of their choice and present their enrollment card (issued to all residents of a province). Doctors bill the province; patients do not pay directly for medical services and they are not required to fill out forms. There are no deductibles or co-payments. Most doctors are in private practice and are paid on a fee-for-service basis under a fee schedule negotiated between the provincial medical association and the provincial government. About 95% of the hospitals in Canada are non-profit and are operated by voluntary organizations or other agencies. (McCuen, p.162) Hospital administrators have complete control of the day-to-day allocation of resources as long as they stay within the negotiated budgets of the province and are accountable to local boards of trustees, not a federal bureaucracy. Canadian physicians are protected from unlimited liability by a Supreme Court-imposed ceiling on pain and suffering damages and usually charge smaller fees than American doctors.

How do they do it in Canada? The answer is that they do not do it. Many Americans have a false view that Canada has a

perfect health care system that we should view as a model. These same Americans apparently do not have all the facts included in their knowledge. Patients may pay extra for semi-private and private hospital rooms since the basic service covers only ward accommodations. Patients may also pay for services that aren't covered by the hospital plan, like out-patient physical therapy. The total cost of health care is controlled by limiting the number of procedures of certain types, by limiting access to technology and diagnostic machinery, and by compensating physicians so that they are discouraged from responding to the demands of their patients. (Chapman, "Does", p.582) There are consequences of this supply limitation in the form of lines or waiting lists for surgery. Being insured in Canada is no guarantee that you will receive medical care when you need it, even if the treatment is standard. Having national health insurance does not mean equal access to health care, or equal health. There are big differences between provinces. One woman in Newfoundland might wait 37 weeks for restorative surgery after a mastectomy, while she would wait only 13 weeks in the more affluent province of British Columbia. The difference is even larger for potentially life-preserving cardiac surgeries. (McCue, p.174).

While it is true that Canada has a good health care system, that system does not contradict the general rule that government production of services is expensive. Canada spends less of its Gross Domestic Product on health care, not because they have found a way to produce health care at lower unit costs, but because they have found a way to limit the total supply of services made available and the access to health care between provinces.

The German health care system has many intriguing characteristics as well. Their hospitals are considered among the best in the world. (McCuen, p.25) Germans are free to choose their own doctors and hospitals, everyone has insurance coverage, and healthcare in Germany costs less than health care in the United States. How does Germany provide all of its citizens with excellent health care for much less money? The government keeps expenditures down by pressing drugmakers, doctors, and hospitals to contain fees. These groups do not have the strong lobbies of their counterparts in the United States. The government orders the insurance funds to cover only the cost of generic drugs. There are annual caps on payments to doctors. Doctors in Germany earn about \$95,000 a year before taxes. Malpractice suits are less common. Extraordinary measures are rarely taken to prolong the lives of the terminally ill. All things are not perfect in Germany, either. Medical costs have been rising rapidly because of higher demands for medical services. In an attempt to control these costs, the government enacted a law last January. Instead of increasing premiums, which would have been politically unpopular, the new law limits the cost of prescription medicines and doctors' fees ("Reforming Health Care", Lecture series).

Is health care a right or a privilege? There is no clear

cut answer provided to Americans. The question is not answered out of a textbook. Americans have their own views and reasoning behind them. The U.S. Catholic bishops believe in the fundamental premise that health care is a "basic human right which flows from the sanctity of human life." (McCuen, p.32) Care should not be a luxury available only to those who can afford to pay. Ultimately, the bishops maintain, concern for one's health lies with the individual and family, but society also has a responsibility for providing adequate health care. All people, therefore, should have equal access to health care regardless of their socio-economic status or ability to pay. Access to health care is necessary for the proper development and maintenance of social or legal status. The benefits provided in a national health care policy should be sufficient to maintain and promote good health as well as to treat disease and disability and to provide incentives for preventive care. Most mainline American churches take the position that health care is a basic human right that ought to be universally available to everyone.

A candidate in a U.S. Senate race in Pennsylvania, Harris Wofford, made a comment while standing in a hospital. He said that the Constitution guarantees criminals the right to a lawyer, and that if criminals have this right, then working Americans have the right to a doctor. (McCuen, p.36) This is a non sequitur, an illogical statement. It makes criminals look privileged and honest people look deprived, while suggesting that our health care problems can be remedied by simply recognizing that medical treatment is a right. There is no logic to this reasoning. You could use Wofford's formulation to justify almost anything. If criminals have the right to a lawyer, working Americans have the right to (take your pick) affordable child care, a college education, safe streets, clean air, an honest Congress--the list is endless and senseless.

Criminal suspects have the right to a lawyer only because of the unique circumstances in which they find themselves, in the custody of the state, deprived of their normal liberty, perhaps prevented from earning a living, facing imprisonment or execution. The government puts them in jeopardy. If criminals have a right to a lawyer and working Americans don't have a right to a doctor, it is because the government didn't make the Americans sick. If the government did cause the illness, it would be obligated to compensate you.

It is tempting to say that because Americans want and need medical care, they have a right to it. This is an error. One reason is that it distorts the understanding of rights enshrined in the Constitution, which are summarized as "life, liberty, and property". This view essentially means the government is obligated not to do certain things to you, not that it is obligated to do anything for you. The First Amendment guarantee to freedom of the press means it may not stop you from writing and publishing whatever you want, not that it must give you a printing press.

A right to medical care, on the other hand, means the government has to provide you with things that are far more expensive than a printing press. It is a blank check drawn on the bank accounts of the taxpayers. Instead of protecting your liberty and property, as rights are meant to do, this one lets you infringe on the liberty and property of others. Thanks to Medicare, Medicaid, public hospitals, tax-subsidized employee health insurance and other government programs, Americans have gotten the idea that every person has a right to the best care at someone else's expense. (Morganthau, p.35) If the medical care is a right, it's deeply unjust to demand any financial sacrifice from its recipients.

Health insurance covers many "volitional illnesses", damage people do to themselves by behavior they should know is harmful. (Royko) Few would argue that someone whose hobby is Russian roulette has a right, let alone a "civil right" to insurance against the risk. Certain illnesses more closely resemble injuries resulting from Russian roulette than illnesses deriving from the unavoidable lottery of life, illnesses unrelated to risky habits. Letting the government assume all or most of the responsibility for paying for every citizen's medical care is supposed to save us all huge sums in administrative costs by substituting a single payer for the hundreds that exist now. If you believe this, you'll believe that cars would be cheaper if only one manufacturer were allowed to sell them. That's no stranger than thinking the demand for medical care won't soar once patients are freed from the burden of payment.

The health care debate is ultimately a giant guessing game about what kind of system best balances society's need for economic discipline with individuals' need for dignity. No reform can give us everything we want: lower costs, more medicine and total freedom. If we deny choices, we cannot have an honest debate. The debate will have lasting value only if it makes us more accepting of the shortcomings of any health care system. We cannot have an ideal system, but maybe we can have a less imperfect one.

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