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# Ethical Aspects of Insurance

Louis F. Buckley

The nature and ethical basis for insurance in general will be briefly discussed. Reference will then be made to alternatives to insurance as a means for meeting the cost of medical care. Finally, the ethical aspects of private insurance and social insurance will be analyzed as means for paying for health services.

*Professor Buckley is professor of economics at Loyola University. He has done yeoman duty in providing key essays for both this and the May 1970 issue of The Linacre Quarterly. Prof. Buckley is the author of numerous articles and has served in government both here and abroad.*

*His initial essay for Linacre was a carefully reasoned evaluation of the papal social encyclicals and from this material we were able to establish the thesis that health care is a fundamental human right deriving from the right to life via a right to health.*

*As a reprise, he was invited back to comment on the use of insurance, considered under a variety of its aspects, as a moral means to underwrite health care service. He has contributed again an outstanding essay to our forum.*

**Nature of Insurance**

Insurance is simply a social device or method of distributing the monetary losses that would otherwise be experienced by some individuals among a large number of individuals through some risk-bearing organization or system. The economic function of insurance is to give the members of the community the opportunity to substitute a small, known loss—the premium—for an uncertain and perhaps, catastrophic loss. Insurance may be utilized when it is possible to predict with a reasonable degree of accuracy how many individuals will suffer a particular hazard and the total cost which will result. This is based on the regularity in the occurrence of many phenomena where large numbers are involved. This regularity has been described as the Law of Large Numbers.

Since insurance involves a promise to pay a larger sum (the amount of the loss) in exchange for the prior payment of a smaller sum (the premium), it was thought at first to violate the canonical prohibition of usury and has often been erroneously confused with betting.

The insurance method appears to be sound from the viewpoint of ethics. The means and objectives are good and socially oriented because the insured individual is enabled through mutual action to protect himself from the possibility of incurring large loss which he is not in a position to assume and which could have serious consequences to him.

Participants in the insurance device who never suffer a loss and whose relatively small contributions reimburse those who incur a large loss are also greatly benefited. For although they pay their premium regularly and receive no cash benefits, they have guarantees against losses which they might otherwise suffer, and against the economic burden of uncertainty. Consequently there is no question of a violation of commutative justice which requires that each be rendered his due in accordance with strict equity in commercial transactions. Participants in insurance programs obtain a reduction in their burden of uncertainty as the result of the payment of a premium.

There are many readily apparent benefits of insurance to society, the economy and to the individual. Insurance contributes to the effective operation of our economic system in many ways. By reducing the risk of individual loss, insurance increases the willingness to invest capital in business enterprises and to engage in occupations where the risk is greater than the individual is in a position to assume. Physicians are aware of the importance of medical malpractice insurance in this respect. Insurance enables individuals to protect themselves and their families in case of contingencies which cut off their earning power, such as unemployment, sickness and accident, and premature death, or which increase their expenditures, such as the cost of medical care.

**Alternatives to Medical Care Insurance**

In considering the application of insurance as a device for meeting the cost of medical care, the ethical principle of subsidiarity provides some guidance. Under this principle, action should be taken at the lowest possible level to resolve a problem. For example, only when the individual and the family cannot meet specific problems on their own initiative should there be resort to intermediate bodies, such as insurance organizations, or finally to governmental units. Experience has demonstrated that the assumption of the risk of the cost of medical care by individuals and families does not provide a solution to the problem of

payment for medical care. These expenses are not distributed equally among individuals and families or in relation to their ability to pay for such services. Consequently, reliance on the individual or family to pay the entire cost of medical care cannot be justified ethically under the principle of subsidiarity.

As the result of the inability of an increasing number of individuals and families to meet the cost of medical care, the burden was shifted in many cases to physicians, hospitals, and private philanthropic groups and later to local, state and Federal public assistance programs, including Medicaid. These methods are objectionable from an ethical viewpoint because they often have a demeaning, degrading and humiliating effect on the dignity of the individual patient and result in embarrassment to the individual or his family since it implies a public confirmation of failure. The most difficult assignment I performed a number of years ago (before Medicare) was to inform an elderly friend who had worked and saved all her life that she had to apply for public assistance because her medical bills had exhausted her modest savings.

Another serious weakness of these approaches from an ethical viewpoint is that there is little assurance that the agencies and programs involved can be relied upon with any certainty as a method of providing for the payment of medical care costs. Reductions in Medicaid, for example, are being made by a number of states in the present period of economic recession when other public programs, such as road building, are given higher priority. From the viewpoint of ethics, the right to medical care cannot be assured through dependence on the willingness and ability of individuals, groups and government from general revenue to provide funds for the payment of such care. The marked rise in medical care costs far in excess of other commodities and services in the 1960's increased the individual and family risk involved in paying for medical care and also the cost of financing such services by individuals, groups and public agencies. As a result, those who were financially able to do so turned in increasing numbers to insurance as a device for pooling risks to meet the cost of medical expense.

Due to the problems noted with respect to the approaches discussed above, Pope Pius XI in the encyclical on *Atheistic Communism* issued in 1937 observed that social justice cannot be said to have been satisfied so long as workingmen cannot make suitable provision through public or private insurance for old age, for periods of illness, and unemployment.

**Private Medical Care Insurance**

Private medical care insurance or health insurance has many favor-

able ethical aspects and is not subject to the objectionable features which were discussed with respect to individual assumption of risk and private and public charity as devices for financing medical care. From the viewpoint of the subsidiarity principle, private insurance represents an approach which involves intermediate organizations in contrast to the government. Also, since many different and competitive types of insuring bodies are involved, some protection is provided for choice by the individual in selecting an insurance carrier.

The advantages of private medical care insurance or health insurance are limited, of course, to the individuals who are covered and the extent of protection provided to them. Coverage is influenced by factors such as availability of group insurance at the place of employment, the employment status of the individual, ability of individuals to pay for insurance and to meet the health qualifications for insurance, especially when they are not covered by group policies, and voluntary decisions to be made by individuals as to the purchase of insurance coverage. The extent of protection provided to insured individuals is determined by provisions in the policy with respect to type of medical service provided, such as hospital care, physician services with respect to surgical, hospital, office and home visits, drugs, nursing and dental care, and limitations on reimbursement such as dollar amounts, time periods and type of illness. There is also in some cases the problem of possible cancellation by the insurer or failure to renew policies. These limitations are so serious that they give rise to questions as to the adequacy of private medical care insurance in assuring the payment of costs of medical expenses which are necessary in order to implement the individual's right to medical care.

### Insurance for the Payment of Cost of Medical Care

Social insurance is a social or governmental device by means of which the risks or uncertainties of many persons are combined through contributions to a fund out of which claimants receive benefits as a matter of right. Such insurance usually provides for benefits to assist workers and their families when their wages are cut off because of contingencies such as unemployment, sickness and accident, old age and the death of the breadwinner of the family and for increases in expenditures due to medical care. Health or medical care insurance involves the application of the social insurance device to assist the worker and his family in paying for medical care costs.

Such insurance is not "socialized medicine" which makes direct provision for medical care through governmental employed or contracted professional personnel and government operated facilities such as found in U.S.S.R. and so-called Communist bloc countries. Social medical care insurance also is not

"government medicine" where government supplies medical services from public funds such as in the operation of veteran and mental hospitals and municipal medical facilities in the United States. Social insurance, in contrast to such governmentally operated systems, simply provides a means of paying for health services, not a means of providing them. Workers and their families continue to choose their own doctor and hospital under social insurance. Social insurance is not designed to solve directly other problems such as the quality and distribution of medical services or the supply of medical personnel and facilities.

Many of the limitations of private insurance are overcome by social insurance which has many advantages from the ethical point of view. Although both private and social insurance are devices for the pooling of risk, the latter has the advantage of a much wider coverage and pooling of risks since all workers are required to participate in the social insurance program. This eliminates the problem in private insurance of individuals deciding not to purchase insurance even though they may have the ability and opportunity to do so. With respect to such individuals, my former professor, the late Monsignor John A. Ryan maintained, they are injuring their families, and it is perfectly proper for the state to compel them to perform their duty of providing for insurance. Moreover, he added, the state itself suffers if there is sickness which has to be taken care of by public charity. He concluded that "all the needs covered by social insurance seem to involve dangers to a very large class of people—indeed, to the whole community, which cannot be met adequately in any other way than by compulsory state insurance." It appears reasonable to conclude that since individuals have a right to medical care, they also have an obligation, which should be enforced by law, to take advantage of the insurance device as a means for financing the cost of medical or health care.

Under social insurance, provision can be made for meeting the cost of all medical services to which the worker and his family are entitled as a matter of right in contrast to the great variations in the nature and extent of medical services covered under various private insurance programs.

Social justice, which is based on the responsibility of the individual to others in society, is realized to a greater extent under social insurance than under private insurance. In order to assure the ability of all individuals to finance medical care, the insurance device must be utilized to relate the individual to the total risk of all covered workers as is done in social insurance rather than the risk of a selected class or group of workers as exists in private insurance. Unless this is done, the "poor" risks, such as those involving

factors like age, sex, occupation, and existing health handicaps, would be charged at rates which would be prohibitive to some individuals. Relating the payment by the worker to a percentage of wages, as is done in social insurance, but not in private insurance, gives consideration to ability of the individual to pay for insurance protection which is necessary if all workers and their families are to receive an amount sufficient to finance their medical care needs. Under social insurance, distributive justice, which obliges government to secure for each citizen what is due him as a member of society, is achieved in that individuals are assured of a means for paying for the health care to which they have a right.

Once the worker has established eligibility for benefits through employment, under social insurance programs his eligibility and that of his family continues during periods when he is not working, such as periods of unemployment, while under private plans the failure to continue regular premium payments or to remain employed will usually terminate eligibility for benefits. It is interesting to note, in this connection, that during the last General Motors strike, the company loaned the United Automobile Workers union a large amount of money to enable the workers to pay their medical care insurance premiums during the strike. Otherwise, the workers and their families would have had no protection from their medical care insurance during the strike period.

The advantages of the social insurance approach over private insurance were summarized on October 29, 1971 in the statement of the United States Catholic Conference before the House Committee on Ways and Means of the U.S. Congress in support of national health insurance programs. The statement emphasized that "the foundation of the financing mechanisms for health care should be a social insurance system as a means of spreading the risk and of encouraging people to plan for their future needs in a provident manner, and assuring the security of contributions."

**Major Ethical Question**

The major ethical question involved with respect to utilizing the device of social insurance as a method of assisting individuals to meet medical expenses is the effect of such a system on rights of the individuals involved. It is contended by some that under social insurance the government will have a monopoly in providing funds for use in the payment for medical care and consequently make decisions as to the quality, quantity, and cost of certain medical services. There is no question that administrators of social insurance, as well as of private insurance, become involved in such matters because they have an important bearing on the medical services for which the financed payments are made. J. F. Follman of the Health Insurance Association of America in his book entitled "Medical Care and Health Insurance"

states, "To be effective, any group, social, or risk-spreading approach to the payment or provision of medical care, whether private or governmental, must exert some reasonable controls over the utilization or cost of care." This can be justified, from an ethical viewpoint, because an injustice would be done to the members of the insured group if they were required to pay for unnecessary services or more costly treatment than is required.

Although I realize that there is a basis for concern over the possible adverse influence of administrators of private and governmental social insurance programs on fees and other payments for medical care, the experience in the U.S. under private insurance plans for some time and for many years (going back to 1883 in Germany) under social insurance systems in Western Europe indicates that this matter can be resolved without serious injustice to the parties concerned. The high regard most patients have for their personal physicians may be a factor in explaining why control of fees under private insurance and under Medicare in the U.S. and under most social insurance programs in countries such as Germany and France has not been a serious problem. A physician in France once asked me how it was possible for the American physician to get along financially without health insurance. He explained that most of his patients were low paid workers who could not possibly afford to pay him for the medical services provided if it were not for the existence of medical care insurance in France.

After visiting foreign countries and studying the operation of social insurance programs which provide for the payment for health care in foreign countries, I am not impressed with some of the criticism of these programs made by American critics of social insurance. It always puzzles me when such critics maintain that social insurance is responsible for an inferior quality of medical care and relatively low incomes for physicians while I find people praising their medical services in these countries and I note the absence of any strong pressure from medical societies or political leaders to abolish their long established social insurance programs. I am concerned over attempts to mislead individuals by attributing to foreign social insurance programs for the payment of medical care responsibility for physicians leaving a particular country when similar migration is taking place with respect to other professions such as engineers and scientists. Similarly, advances in American medical education and research are sometimes attributed to the absence of social insurance in the United States when such advances are made by medical educators and research people who are not directly involved in social insurance programs.

Unfortunately, considerable rhetoric has been and will continue to be utilized in opposition to medical care insurance on the basis of fear of possible adverse effects which may result. I can recall the strong opposition of the American Federation of Labor to unemployment in-

surance because of the fear it would be used as a strike breaking device. The fear of the insurance industry that the social insurance provided for in the Social Security Act for retirees would ruin the insurance industry was not only without foundation but actually had just the opposite effect by encouraging the expansion of certain types of private insurance to supplement the social insurance programs. Some comments made today in opposition to social insurance programs for medical costs are reminiscent of statements made in 1935 such as that of Senator Hastings who maintained that the enactment of the Social Security Act would mean the "end of the progress of a great country and bring its people to the level of the average European." I recall the criticism made of Medicare in 1965 before its enactment to the effect that hospitals would be filled with patients who would abuse Medicare. This criticism is difficult to reconcile with the headlines in the July 19, 1971 issue of the American Medical News that "Hospital beds are 20% idle" at the present time. Similarly, the argument made in opposition to workmen's compensation (which included compulsory medical care insurance) that such a program would encourage workers to injure themselves for the purpose of collecting compensation was not consistent with the marked reduction in industrial accidents after the enactment of workmen's compensation legislation.

**Doctor-Patient Relationship**

It should be recognized that many of the fears and concerns expressed over social insurance today were raised when voluntary health insurance was being introduced and expanded in the United States. It was not until the early 1950's that over half, (59 percent) of physicians in private practice who responded to an American Medical Association questionnaire favored voluntary health insurance for individuals regardless of income. The danger of interference between doctor and patient relationship by a third party, such as private insurance companies, prompted medical associations to sponsor plans which were controlled by boards composed mostly of physicians.

I do not believe that the fears that Medicare would necessarily result in the loss of the autonomy of the physician in self-determination of his medical income and the determination of the type of medical-surgical procedures he performs has materialized under Medicare. Apparently Medicare has not lowered the quality of medical care as predicted by its oponents. If this had happened, as anticipated by some groups, the public opinion polls would not show the favorable reaction of the public to further extension of social insurance as a means of paying for health services.

I have reviewed some of the highlights of the nature of the opposition to social insurance and even

to private insurance in the past in order to indicate the tendency to exaggerate fears in discussing these programs. Possible abuses by all groups involved including the patient, the purveyors of medical services and the administrators of the program must be considered on a factual basis in rendering an ethical judgment on any proposal for extending social insurance coverage for the payment of medical costs. It appears to me that by taking advantage of experience in the operation of medical care insurance in Europe and in the United States, it should be possible to formulate a social insurance program under which payments could be made for medical care without injustices being done to the parties involved or without unreasonable interference with decisions regarding the necessity for and type of medical-surgical procedures performed or directed by the physician. Past experience should also provide precautionary measures to prevent abuses by purveyors of medical services or by patients under such a social insurance program. Many of the objections raised would require more analysis if we were discussing a program which had not been in effect in a large number of countries for many years and in the United States for those over 65 years of age for six years.

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**Editorial Comment:**

*It is exceedingly important to distinguish between the concept of "social insurance" and that of "socialized medicine" as Professor Buckley has so capably done in this outstanding essay.*

*One is particularly impressed with the fact that the principles of subsidiarity as well as that of distributive justice have been so well brought into balance with the concept of "social medical insurance".*

*To be sure, there are always dangers when the individual (either patient or physician) surrenders an aspect of his personal liberty to a third party. It is my distinct impression, however, that Professor Buckley has emphasized that these risks of loss of personal liberty are proportionate to, if not less than, the potential risks to the common good of a modern society which could result from the lack of an insurance program of this nature. (VHP)*