Obamacare: An Update on Affordable Care

or

Have no Fear: Affordable Care is Here!!

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Obamacare: An Update

• Conflicts of Interest:
Obamacare: An Update

- Review Current Models of Government Health Insurance
- What the ACA Proposed
- What has Happened (so far)
- Current Legal Challenges
- Possible Changes
Either it will cure you or it will kill me.
US spends two-and-a-half times the OECD average

Total health expenditure per capita, public and private, 2010 (or nearest year)

USD PPP

1. In the Netherlands, it is not possible to clearly distinguish the public and private share related to investments.
2. Total expenditure excluding investments.
Information on data for Israel: [http://dx.doi.org/10.1787/888932315602](http://dx.doi.org/10.1787/888932315602).

Source: OECD Health Data 2012.
Affordable Care Act

- **American Health System**
  - Fee for service practice
  - Consumer directed/demanded health care
  - Malpractice/Litigation

- **Obamacare:**
  - Provide insurance coverage to those without
  - Control costs
  - Competing goals
  - Unpopular
  - Confusing
Medicare

- Federal, nationwide program
- Aged and certain disabled
- 44 Million older Americans, 8 Million disabled
- Expenditures in 2011 $549 Billion
- Income in 2011 $530 Billion
- Increase in number of enrollees
- Dramatic increase in longevity
Affordable Care Act of 2010 - Medicare

- **Phases out** the Part D donut hole by 2020
- **Freezes** Part C Medicare Advantage Plans and provides bonuses to plans with high quality ratings
- Creates new **Independent Payment Advisory Board** to recommend ways to reduce Medicare spending
- **Reduces** annual increases to Medicare providers
- **Increases** HI from 1.45 to 2.35% for individuals with incomes over $200,000
- **Increases** premiums for Part D for higher income for those over $85,000/year
- *Removes $800 Billion over 10 years*
Medicaid

• **Federal-State Partnership** for Healthcare (doctor visits, hospital stay, custodial care, prescriptions etc.)
• For **Indigent** (low income and low resources)
• Children
• Aged
• Disabled or Blind
• Non-disabled adults – parents caretakers and pregnant women
Medicaid Facts

• Covered 54 million people in 2010
• Cost $404 billion in 2010
• **Federal** share was $272 billion or 68%
• **State** share was $131 billion or 32%
• Federal pays sliding share (low of 50% to high of 83%) depending on poverty rate of state
Affordable Care Act - Medicaid

- 2014 – all people with incomes below 133% of federal poverty level will be eligible for Medicaid in every state
- States have options to expand that coverage
- Expansion of Medicaid is key component for reducing number of people without insurance
- Estimate an additional 26 million people will be added to Medicaid by 2020 under ACA
The Patient Protection & Affordable Care Act

111th Congress of the United States
H.R. 3590
Goal of Affordable Care Act is to provide health care insurance to 2/3 of those without it – about 30 million people by 2018.
Eligibility for ACA Insurance?

Low income – Poverty Line – should get free or very low cost

100% to 400% of poverty line – eligible for tax credit subsidy on health insurance ($46,000 individual, $94,000 for a family of 4) are eligible for some subsidy (tax credits).
How will people get health insurance?

Either – Expanded state Medicaid

or

EXCHANGES of private insurance run by states or federal government – where people can receive subsidized health insurance
How do people actually sign up?

Go to www.healthcare.gov
create a Marketplace account
(must have email address)
or call 1.800.318.2596
What options for health insurance are available on the exchanges?

Bronze
Silver
Gold
Platinum

All have different premiums, deductibles and copayments.
All plans will cover essential health benefits:

Addiction treatment, care for newborns and children, chronic disease treatment (diabetes and asthma), emergency services, labwork, maternity, mental health services, physical therapy, prescription drugs, preventive and wellness services, etc.
What is the penalty for not having healthcare insurance?

In 2014 penalty is $95 or 1% of taxable income.

Goes up each year.

By 2016 it will be $695 for each adult or 2.5% of taxable income.

The fines cannot be higher than the cost of purchasing health insurance.

Penalty paid in following year’s taxes.
GEE...
LOOK AT ALL THE WARNING LIGHTS...

OBAMACARE

ON-THE-JOB TRAINING
ACA: The Realities

• **Newly Insured:**
  - 11 to 16 Million New Individual Policy holders
  - CBO estimates that 8 Million will lose coverage

• **Decrease Pace of Growth in Medical Spending:**
  - 30% from ACA
  - 70% from economy
ACA: The Realities

- **Cost:**
  - Society of Actuaries: policy costs will increase 32%
  - WI, MN, CO: increases of 19% to 30%
  - ME, OR NE similar
  - CA 20%
  - Average increase $3000-$6,000
  - High deductibles $4000-$12,000
Paying More for Obamacare
Average annual deductible for exchange and employer-based plans

Source: Kaiser Family Foundation. Figures for ACA plans refer to federally run exchanges for 2015 plan year.

*Employer-based figure is for 2014 plan year.
ACA: The Realities

• HSA contributions **dropped** from $5000 to $2500
• Threshold for tax deductible medical costs **increased** from 7.5% to 10%
• **Tax** on the sale of your primary residence!!
• 4 Other **Taxes** being implemented
• IRS ruling Employers are not required to cover families
• 50% of subsidy receivers **owe money back** this year
• Who is (or might be) **exempt**??
• Limited **networks**
IMPACT ON INSURANCE COMPANIES

Expands the pool of potential customers but rewrites many of the industry rules.

Now have federal and state oversight – used to be state oversight.

Have to spend 80% of premiums on healthcare costs.

Cannot exclude pre-existing conditions or set premiums based on individual health history.

Must provide free preventive care services.

Must allow parents to enroll children up to age 26.
IMPACT ON EMPLOYERS

Companies with 50 full-time (over 30 hours a week) employees will have to provide health insurance or pay penalties.

Penalty pushed back to 2015.

Moving to part time

May just pay the penalties

https://www.healthcare.gov/fees-exemptions/exemptions-from-the-fee/
Obamacare Litigation

1. **Individual Mandate**
   - 2012 Supreme Court **Upheld** the Individual Mandate
   - Classified as a Tax

2. **Medicaid Expansion**
   - Ruled **Unconstitutional**
   - Unwarranted coercion
   - Cover all citizens 133% of the Federal Poverty level
   - Constituted unfair interference
THEN

IT IS ABSOLUTELY NOT A TAX!

NOW

HOORAY! IT'S A TAX!!

OBAMACARE INDIVIDUAL MANDATE

OBAMACARE SUPREME COURT RULING
Beyond the Pledges: Where the **States** Stand on Medicaid

29 States Moving Toward Expansion—September 17, 2013

Notes: Based on literature review as of 9/17/13. All policies possible to change without notice.

HHS has announced that states can obtain a waiver to use federal funds to shift Medicaid-eligible residents into private health plans.

The District of Columbia plans to participate in Medicaid expansion and will operate its own exchange.


Learn more about the impact of the Supreme Court ruling at: advisory.com/MedicaidMap

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Obamacare Litigation

3. **Contraception Mandate**
   - carve out for religious employers
   - exempted houses of worship
   - allowed religiously affiliated organizations to shift the cost to their insurers

   *Hobby Lobby* decision 2014
   - ACA was a **Violation** of the Religious Freedom Restoration Act
   - Led to the development of the Religious Accommodation Rules
Obamacare Litigation

- Challenge to the religious accommodation
  - does not resolve the dilemma of their conscience

- Tenth Circuit Court of Appeals
- Also in the Seventh Circuit Court

- 29 separate such cases

- New religious accommodation rules written August, 2014
  - Move the burden from the insurers to the government
  - Not much different, according to most institutions
Obamacare Litigation

4. Federal Exchange Subsidies
   - Americans up to 400% poverty level are eligible for subsidies to pay for health insurance
   - Plaintiffs claim that the ACA is written to only fund State exchanges
   - Federal government decision to fund those states that did not set up exchanges may be wrong
   - 36 states have no exchange, 14 do
   - *Halbig* decision: DC Circuit Court of Appeals ruled against the IRS and the ACA
Obamacare Litigation

• Similar case *King*: Fourth Circuit Court of Appeals ruled in favor of the ACA

• November, 2014 the Supreme Court agreed to hear the case
• Writ of Certiari

• September, 2014 District Court Oklahoma ruled against the ACA *Pruitt*

• Now expedited at the Tenth Circuit Court of Appeal

• State of Indiana Oral arguments in October, 2014 another Federal court
Obamacare Litigation

• Implications
  • Insurers are now including cancelation clauses
  • 5 million customers
  • 86% receive subsidies
  • Allows purchase 76% less on a monthly basis
  • Loss of subsidies would raise premiums 43% and drop enrollment 68%
Here Are The States Where The Supreme Court Could Make Obamacare Subsidies Disappear

Obamacare enrollees in as many as 37 states stand to lose the tax credits the Affordable Care Act provides to low- and moderate-income households for health insurance. A lawsuit before the Supreme Court says those subsidies should only be available on state-run health insurance exchanges, not federally operated ones.

- State-run exchanges
- State-run exchanges using HealthCare.gov
- Federally run exchanges
- Federally run "partnership" exchanges*

*Not applicable to the District of Columbia.
Obamacare Litigation

5. **Origination Clause**
   - US Constitution requires all revenue-raising measures to originate in the House. The first Supreme Court decision made it a tax
   - ACA originated in the Senate, therefore is unconstitutional
     - *Sissel v Burwell*

   - Turned down by the DC Court of Appeals July, 2014

   - Being Heard by the full DC Court

   - Similar case *Hotze* Fifth Circuit Court of Appeals
Obamacare Litigation

6. Other Issues
   • Coons v Lew
     • Challenges legitimacy of the Independent Payment Advisory Board
     • Hotze alleges violation of the Fifth Amendment Takings Clause
   • House of Representatives
     • Usurpation of Congressional Authority by delaying implementation
     • Congress never approved Offset payments ($4 billion)
Repair versus Replacement
An Off-Ramp From ObamaCare

If the Supreme Court follows the law, there will be an opening for a sane health-care alternative.
Replacement Plans

- Successful proposal would retain:
  - Children staying on parents policy until 26 years of age
  - Eliminating Lifetime Benefit Limits
  - Guaranteeing coverage for pre-existing conditions
  - Subsidizing coverage for
    - Individuals earning up to $35,000 per year
    - Families earning up to $58,000 per year
Replacement Plans

• Changes might include:
  • Choice of plans will be up to consumers
  • No individual mandate
  • No employer mandate
  • No impact on companies with fewer than 50 employees
  • Deduction up to $12,000 for individuals
  • Deduction of up to $30,000 for families
  • Taxable healthcare benefits on generous plans
  • Block grants to states for Medicaid
  • Vouchers: use Medicaid dollars for choice
Obamacare: Out on a Limb

**Gone:**
1. $800 Billion from Medicare
2. Small Business Mandate
3. Contraceptive Mandate
4. Cadillac Tax
5. IRPB

**Improved:**
1. Increased Medicaid Expansion
2. Increase HSA Contributions, Decrease Taxes

**Unknown:**
1. Exchanges: June, 2015
3. Other: Stayed Tuned!!