The Future of the Affordable Care Act: Trials, Tribulations, Terror and Triumphs that are U.S. Health Care Reform

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Purposes of this Presentation

- Summary of reform efforts
- Focus on Affordable Care Act (ACA) impacts
- Review of ACA “replacement” concepts and possible impacts
- Why is health care reform so difficult?
- Discussion and questions/answer
HEALTH CARE REFORM
(SUPPOSITORY)
Health care reform has a long history

• Health care reform efforts (of varying enthusiasm) have been attempted by four (Bush Sr., Clinton, Obama and Trump) of the last five presidential administrations
• A widely accepted “solution” remains elusive
• Health care reform is highly politicized
• Health care is big, big business in the U.S. with many highly invested interest groups working at cross purposes.
• Not clear that the American public really supports change and reform (or even knows what reform would mean)
• Not clear that there is a consensus vision for what the U.S. health care system should look like
Basics of the ACA
Basics of the ACA

- ACA is organized by 10 Titles, each focusing on different aspects of health care reform
- Length and complexity of the bill is attributable to pilot projects and experimentation related to reducing costs while increasing value
- Major provisions are:
  - Private insurance industry reforms
  - Individual mandates for health insurance
  - Private risk pooling and purchasing groups (Health Insurance Exchanges) to facilitate insurance coverage increase
  - Private insurance subsidies and Medicaid expansions to increase insurance coverage
  - Initiatives to “bend” the U.S. health care curve through a range of alternative models
ACA impacts: Private Insurance Industry Reforms

- Insurance market reforms were among the most popular provisions of the legislation
- Key provisions:
  - Consumer protections including ban on lifetime coverage limits, cancelation of coverage, discrimination for gender/age/other factors
  - Guarantee issue/ ban on pre-existing condition exclusions
  - Requirement to provide coverage to dependents until age 26
  - Minimum medical loss ratio (85% for plans in large group market and 80% in small group market) and provide rebates if not met
  - Premium rate reviews, risk adjustment, risk corridors, and reinsurance
  - Coverage of preventative services
"If you can’t keep up, we could go broke, then you’d have to bail us out, and that could lead to European-style socialism!"
ACA impacts: Private Insurance Industry Reforms

- Provisions have been successful at achieving policy goals, and have largely been preserved in most repeal/replace proposals.....
- Exception: Mandated preventative services
  - Private insurance plans must provide coverage for preventative health services without cost-sharing
  - Included adult and childhood immunizations
  - Preventative services for children and youth (screenings for impairments and diseases, behavioral assessments
  - Preventative services for adults (cancer screenings, care plans) with additional focus on preventative health services for women
- Mandated benefits intended to assure ‘quality’ coverage for enrollees
- But also faced conceptual (big government!) and cost increase opposition (minimum benefits meant no catastrophic policies)
ACA Impacts:
Individual Mandates for Health Insurance

• ACA included mandate for private insurance coverage as method to stabilize risk pools and expand coverage
  – Tax penalty of the greater of $695 per year up to a maximum of three times that amount ($2,085) per family or 2.5% of household income
  – Phased-in according to the following schedule: $95 in 2014, $325 in 2015, and $695 in 2016 for the flat fee or 1.0% of taxable income in 2014, 2.0% of taxable income in 2015, and 2.5% of taxable income in 2016
  – Exemptions for financial hardship, religious objects, for those were the lowest cost plan option exceed 8% of income, or with incomes below a threshold ($9,350 for singles and $18,700 for couples)

• Slow and moderate phase in, but major conceptual push-back
  – Conservatives argued against any type of individual mandate
  – Insurance experts feared the penalties were not strong enough and premiums were not low enough to enroll young and healthy
Individual Mandate as Unconstitutional

- ACA suffered policy limbo for about 2 years over challenges that “Individual Mandate” was unconstitutional
  - Constitutional issues raised regarding the mandate, severability of the mandate, and the definition of the mandate as a tax

- The logic of the Individual Mandate was to protect Exchanges from extreme risk selection and moral hazard
  - If people only buy insurance when they are sick, there is no opportunity for spreading of risk, which is the whole idea of insurance
  - By requiring all individuals with minimum incomes to have at least minimal insurance, moral hazard is mitigated

- Provision was critical to gaining provider (especially hospital) and insurance industry support -- would bring younger, healthier individuals into the market
Individual Mandate as Unconstitutional

- *Federation of Independent Business v. Sibelius*
- Multiple Federal court cases, mixed rulings
- Decision announced June 2012 ruled 5 to 4 in favor of the ACA in general and individual mandate
  - Upheld on this logic that the individual mandate is essentially a tax (which Congress has the authority to wager) as opposed to regulation of interstate commerce
  - Rather surprising basis, given that the Administration had argued the individual mandate was NOT a tax
  - Swing vote provided by Chief Justice Roberts, considered a major blow to conservatives
- Court ultimately ruled the Medicaid expansion is unconstitutionally coercive of states because states did not have adequate notice to voluntarily consent, and the Secretary could withhold all existing Medicaid funds for state non-compliance.
- **Legal challenge cost the ACA momentum at a critical time**
ACA impacts: Health Insurance Marketplaces

- To achieve goal of expanded coverage, ACA created Health Insurance Marketplaces, or Exchanges
- Exchanges were intended to be state-based as a way to counter “big government take-over” of health care system
- Purpose was to create large, more diverse insurance risk pools in each state
  - Larger risk pools would attract private insurers
  - Exchange would improve purchasing power of small groups/individuals
  - Private insurers would compete to offer best product at lowest premium
  - Offer easy-access through web portals
NAILED IT!

Awesome Website, Huh?

“...Just wait until we're running your HEALTHCARE!”
ACA impacts:
Health Insurance Marketplaces

• Marketplace/Exchange concept faced catastrophic technological challenges
  – Federal government predicted/was prepared to operate 5-10 market places
  – Ended up directly supporting 34 state marketplaces
  – Major technological issues kept enrollment relatively low and skepticism high
  – Even when marketplaces were operating, consumers found the choices complex
ACA impacts: Health Insurance Marketplaces

- Marketplace/Exchange offerings were volatile and highly variable
  - Premiums and options varied year to year
  - Modest premium increases, but variation among states with highest increases publicized
  - Old challenges in rural states, states with high risk populations, lower than expected enrollment among young and healthy re-emerge
  - Insurance analysts weren’t surprised, but public wasn’t feeling patient
  - Even anticipated issues were exploited: “Exchanges are about to explode!”
ACA impacts: Insurance subsidies and Medicaid expansions

- Aimed at achieving goal of expanded insurance coverage
- Goal to put the “affordable” into “health care”
- Premium subsidies available through marketplaces for
  - Income between 100% and 400% FLP and do not have employer/public coverage
  - Subsidies through system of tax credits and cost sharing reductions
  - System is relatively complex conceptually and in practice.
  - Many consumers are unaware of available premium support
  - Still, as of 2015, almost 90 percent of marketplace enrollees received premium subsidies
- Options for state Medicaid expansions, funded primarily by federal government
ACA impacts: Private Insurance Subsidies

- Premium subsidies to support private coverage
- Premium subsidies available through marketplaces for
  - Income between 100% and 400% FLP and do not have employer/public coverage
  - Subsidies through system of tax credits and cost sharing reductions
  - System is relatively complex conceptually and in practice.
- But many consumers are unaware of available premium support
  - Still, as of 2015, almost 90 percent of marketplace enrollees received premium subsidies
- Perception remains that premiums are still unaffordable
  - Required max premium contribution is 2.01% income for 100-133% FPL
  - Required max premium contribution is 9.56% income for 300-400% FPL
  - 400% FPL for family of 4 is currently $97,200
ACA impacts: Medicaid Expansion

- ACA proposed Medicaid expansion as primary coverage expansion mechanism for low income population
  - Intended to offer coverage for adults without dependent children
  - Goal was to establish a national minimum income eligibility at 138% FPL in all states
  - Expansion population was 100% federally financed 2014-2016; phased down to 90% match in 2020
- While there are some provisions to streamline Medicaid application, enrollment and renewal process, eligibility determination is still complex for this population
MEDICAID EXPANSION

HOSPITALS WANT IT

POOR WORKING FAMILIES WANT IT

OBAMA WANTS IT
ACA impacts:
Medicaid Expansion

- Medicaid enrollment has grown by almost 11 million
- But Medicaid expansion did not proceed as planned
- As of last year:
  - 29 states have adopted expansion
  - 7 states are considering expansion
  - 15 states have no plans to expand
- States saw Medicaid expansion as an incursion of big government, an unaffordable new entitlement, and/or an unfunded mandate
- As a result, about 3.7 million poor uninsured adults fall into a coverage gap between Medicaid and Marketplace subsidies
ACA impacts: Bending the U.S. Cost Curve

- ACA mostly relies on market-based strategies (the Marketplaces/Exchanges) to leverage plan competition
- Provider incentives (rather than regulation and mandates) are the primary strategy behind accountable care organizations, medical homes and other value based purchasing
- A wide range of provisions supporting pilot projects to test the impact of value-based purchasing, accountable care organizations, care coordination, consumer directed care and other models to use market forces to control costs
- ACA has no government price setting used to control costs
ACA impacts: Bending the U.S. Cost Curve

• On a macro-level, some success
  – U.S. National Health Accounts, savings of about $2.6 trillion on health care expenses over a five-year period (2014-2019) compared to initial projections
  – Reductions in growth rather than lower costs/expenditures
  – Average annual growth rate from 2010 to 2013 was about 3.6% compared to the 5.4% that had been projected in 2010
  – Some signs of savings noted through ACA supported alternative models (ACOs, other innovative models)

• For individuals, costs may have appeared to go up
  – Competition within the exchanges weren’t lowering costs in most areas
  – Enrollees used to catastrophic plans saw higher premiums (and didn’t necessarily understand/value improved benefits
  – Sluggish economy post 2008 also contributed to lower spending….but didn’t reflect improvements in efficiency
Conservative Approach to Healthcare

• Conservative approach relies on market competition to lower costs and increase options

• American Health Care Act focused on the following concepts:
  – Preserve insurance market reforms
  – Replace pre-existing condition mandate with continuous coverage mandate
  – Replace federal premium subsidies with more general (and net lower) tax credits
  – Replace Medicaid expansion with state block grants
  – Remove/scale back benefit package requirements
  – Personal Health Savings Accounts with tax savings
Conservative Approach to Healthcare

- Continuous coverage mandate
  - Might be successful in compelling healthier individuals to keep health insurance
  - However, as seen with the individual mandate, success may depend on the magnitude of the penalties and the affordability of coverage

- Repealing federal premium subsidies and Medicaid expansion
  - According to CBO, would have a negative impact on insurance coverage
  - Uninsured would rise to 14 million in 2018 (before full repeal)
  - Uninsured would rise to 21 million in 2020
  - Lowers federal spending, but does not reduce costs per se
  - Likely impact is return to uncompensated care, private insurance cost shifting
Conservative Approach to Healthcare

• Uncertain impact on lowering costs
  – Market competition has not generally proven effective in lowering costs
  – Areas with small population, higher than average health risks are unlikely to attract sufficient insurer entrants to drive competition

• Repeal of mandated benefits
  – May lower premiums in some areas for some services
  – Lowest premium products tend to be associated with catastrophic only policies rather than lower costs
  – Catastrophic policies tend to be poorly understood by consumers

• Health Savings Accounts
  – Can assist consumers in paying health care with pre-tax dollars
  – Has greatest financial benefit to those in high tax brackets
  – Even accounts that accrue value of premiums ($5K to $10K) may not go far in paying major medical expenses
Why is U.S. health care reform so difficult?

- There are a number of issues we have yet to really confront:
  - We don’t have consensus on what a reformed health care systems should achieve
  - We tend to focus on ideological constructs rather than policy goals
  - Many Americans may not really want a different health care system (even if they should)
  - We don’t have a real plan on how to reduce costs
  - We continue to focus on market based approaches without consistent evidence health care can operate successfully as a commodity
  - Like the stock market, health care markets are impacted by perceptions……and there are a lot of them out there
We don’t agree on what we want

• The ACA had a primary goal of reforming health care industry practices and increasing insurance coverage
  – But even the “Affordable Care Act” was very thin on specific policies to control expenditures and make health care more affordable
  – In the end, inability to control costs and premiums is a major weakness

• The AHCA had few clear health policy goals
  – Major provisions were aimed at repealing Obamacare rather than a clear alternative vision
We substitute ideological constructs for policy goals

- Reform efforts tend to become identified with an ideological constructs
  - “Market Based” versus “Big Government”
- Or political camps
  - “Obamacare” versus “TrumpCare”
- Even recent survey’s suggest that the public favors repeal of Obamacare but supports the ideas of the “Affordable Care Act”
- This make the job of policy reform more difficult
We may not really want it anyway

- Many Americans think our health care system is very good
  - Even if it costs more than any other developed nation
  - And delivers relatively poor outcomes for the money
- Individuals who have insurance have few incentives to consume only ‘needed’ services
- Individuals without insurance tend to be aware of care available at emergency rooms
  - Focus groups with patients suggest they view emergency room care as adequate and convenient
  - Programs aimed at providing well-coordinated primary care aren’t necessarily valued by consumers
- Individuals therefore do not tend to connect unhealthy habits with high costs of care
We need to reduce costs but aren’t really willing to do much different

- Fee for service is still a dominant payment model
- Alternative payment models show some promise
  - But so far savings from ACOs and other alternatives are modest
  - Burden of change tends to be on health care providers
  - Investments in game changing ideas and technology are limited
  - Patients/consumers have little ‘skin in the game’
- Models that may reduce costs are currently unpalatable (and therefore, untried)
  - Despite rapid increases in prescription drug prices, price bargaining by Medicare (the world’s largest health insurer with the most market power) remains a controversial concept
  - “Public” insurance option that would create a large risk pool across state lines and low-cost benchmark against which private insurer would have to compete
Market based solutions may not be the best solution for health care

- In order for market competition to be effective in controlling costs and providing value, health care has to operate as a commodity

- Health care may not operate like a commodity
  - Little evidence that patients can choose medical services based on price, convenience and value
  - Consumers lack the information to make choices
  - Consumers generally don’t know when health care is high “value” for them
  - Even with information, individual patients are (at best) mediocre health care consumers

- Policy makers want to give consumers more choice, options and freedom
  - A number of surveys suggest patients want quality, convenient care at a low cost
**SLOWPOKE**

**IF BUYING BROCCOLI WERE LIKE BUYING HEALTH INSURANCE**

Because some Supreme Court justices can’t seem to tell the difference.

**HIGH-RISK BROCCO-POOL**

You might need a lot of broccoli someday, so that’ll be $500 a head.

**BEWILDERING JARGON**

- Stalk pay... $10
- Sprout rider... $200
- Floret fee... $50
- Cruciferous subtractor... $100

**DENIAL OF VEGETABLE**

I’m sorry, ma’am. You can’t buy that because you have pre-existing chlorophilia.
• The health care market is influenced by both policy reality and perception

• Perceptions of “instability” in policy is potentially damaging to the way market based health care can operate
  – Competing health care plans – both for profit and not for profit – plan benefit, premiums and market locations more than a year in advance
  – Lack of clarity on policy influences those decisions and contributes significantly to market instability
  – Market instability generally increases the cost of doing business

• No current evidence that ACA exchanges will soon “explode” but simply the perception that they might may have a serious negative impact
Who Knew Health Care was so Complicated?
Things to think about……

• What are the most important goals to achieve in the next round of health care reform?
  – Reduced health care costs?
  – Reduced health care premiums?
  – More consumer choice?
  – Fewer, simpler consumer options?
  – Higher rates of insurance coverage?
  – Less dependence on government subsidies?
• Is preservation of a market-based system a central goal? Or is a lower cost system of equal value?
• It’s hard to pick the right path if we don’t know where we want to go