



Health Care Replay?

Events this year could send reforms back to the drawing board again.

This year's elections, the U.S. Supreme Court's "Obamacare" decision and the economy appear likely to determine whether we will be looking at a repeat of Washington state's 1990s health care reform experience.

After the 1992 elections, comprehensive health care reform, known as the Washington Health Services Act, was enacted by the 1993 state legislature. Reforms were far reaching and were to be implemented over several years, like the current reforms. Similarly, the 1993 version relied upon government-mandated coverage that applied first to employers and then to individuals. An Employee Retirement Income Security Act (ERISA) waiver was needed, which was plausible because the 1992 election produced Democratic control of Congress, including Washington's delegation.

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Those comprehensive reforms appeared incapable of being unwound. However, circumstances quickly changed. Between passage of the reforms and the 1994 elections, a reform backlash developed. Reforms were characterized as overly complicated, bureaucratic and expensive government-imposed solutions that essentially failed to get at the actual drivers of health care costs, and instead simply shifted more of the costs onto businesses, carriers and providers while jeopardizing the viability of a private health care market.

The 1994 elections largely nullified the 1992 congressional and state legislative election results. An ERISA waiver was not obtainable. A reconstituted state legislature scrapped much of the Health Services Act in its 1995 session. Out went key components, including mandates requiring employers to offer and fund coverage for their employees (and ultimately their dependents), a new state regulatory commission to oversee reform implementation, certification requirements for health carriers, uniform benefit packages that had to be offered to businesses and individuals, cooperatives to introduce more options to the market, and requirements that doctors and hospitals deliver health care through highly integrated managed care systems.

The 2011 version of reform includes comparable features and goes further. It takes an already complicated regulatory landscape and enlarges it at both the state and federal levels. The volume of issued

draft regulations, comments and final regulations is breathtaking. The costs of this activity attributable to the regulators and the regulated must be huge.

One can expect funding questions similar to those raised about 1990s reforms. For example, significant funding to pay for subsidization of health care premiums for qualifying employees initially comes from federal agency grants. Later, the state program must be self-sustaining. If the state cannot afford to maintain existing successful programs like the Basic Health Plan or new ones like the Health Insurance Partnership to help uninsured, lower-wage, small-employer workers and their dependents, where will state funding come from to sustain the new programs?

Federal funding of current reforms is supposed to come from sources such as fines and penalties on employers and individuals who don't buy coverage, and from slashing Medicare reimbursements for doctor and hospital services. The fines and penalties are described as "soft" because they start out lower than the anticipated premium costs of getting the coverage. The provider reimbursement cuts are not taken seriously yet, because that's been an unfulfilled threat for years. But if these mechanisms fail to generate the needed funds, money will have to come from somewhere else. In other words, there is a significant risk that these reforms will be portrayed as huge unfunded mandates at a time when existing state programs can't be sustained.

It's hard to avoid seeing parallels between Washington's 1992-95 health care reform period and where we are now. One huge difference, of course, is that we are in a much more perilous economic environment today. It will be interesting to see whether this year's elections, the Supreme Court's ruling and the state of the economy bring about a replay of Washington's 1990s health care reform experience.

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