IT'S TIME TO REPEAL AND REPLACE

Stephen L. Bakke – October 1, 2010

Time is Drawing Nigh!

As we enter the mid-term elections of 2010, you can count on the Republicans seeking a major modification of this legislation. They have pledged just that in their "Pledge to America" which came out last week. Realistically seeking to make changes is made possible because the provisions of the reform don't begin until 2013 (over 2 years away) and probably won't be entirely implemented until sometime in 2015. While this report takes the position of "Repeal and Replace," if Republican Party does win back enough control to seriously attempt to accomplish this, there would still be the likelihood of a presidential veto. In that case, the threat of veto would be somewhat mitigated by a piecemeal approach to altering the reform. The President would have real PR problems if a very logical revision was passed and he rejected the bill for ideological reasons.

The Obamacare legislation is flawed for many reasons, but simply stated, promises about cost savings, retaining coverage, etc. are now proving to be false and empty promises. I will be dealing with those problems in the near future. At this point I just want to emphasize that the Obamacare legislation is so flawed, and the entire health care system is so compellingly important, that I want to restate here the essence of my prior suggestions for comprehensive reform. Please, if you agree with any or all of my suggestions send any or all of them to your Senators or Representatives. You can copy them and make them your own if you like – but do it. If there is a debate coming up, now is the time to start a "conversation" with Washington. I have done it before and will do it again.

Why My Ideas Make Sense!

Obamacare legislation made it structurally and fundamentally impossible to reduce our health care costs, or even "bend the cost curve." This is true because adding over 30 million individuals to insurance roles will, simply because of volume, add to net costs of the system. But a much worse "cost culprit" is that the democrat's approach potentially adds tens of thousands of individuals to the government bureaucracy which will administer, regulate and control our health system. And the inherent nature of the reform, especially considering the government's past tendencies, lends itself to cost increases

My ideas make sense because:

- Costs are saved significantly because NO NEW BUREAUCRACY is created. Check out my suggestions and you will see how the tax code, in combination human nature to accomplish some of the reform.
- I believe the key elements of sound health care reform are competition, consumer control, and free market influences. My suggestions provide those elements. Many of our problems, some of which are serious, stem from departures from free

market principles, tax treatment, costly insurance mandates, and bureaucratic interference.
- There is considerable evidence that consumer-directed programs reduce costs. We now suffer from a lack of "spending consciousness" by consumers resulting from six of seven dollars being spent by third party payers. When the costs drop, insurance premiums drop, and paying directly for care becomes easier. My suggested reform would significantly improve cost transparency to consumers.
- Paying directly (using HSAs) for some services further reduces costs by eliminating the overhead costs of third-party payment systems. Consumer-directed health care initiatives, under which individuals manage their own health care dollars through systems such as Health Savings Accounts (HSA), are superior to traditional first dollar coverage through an insurance company.
- I believe my changes deal realistically and effectively with the chronically uninsured, e.g. two years or more – those that have truly "slipped through the cracks." Most Americans agree that everyone should have ACCESS to affordable health coverage. But the debate really is centered on: How do we expand the number of insured? Who will pay the costs of expanded medical care? And, what is the proper payment arrangement? My suggestions provide some answers.

For all its success at helping people live longer and healthier lives, America's system does seem too costly, confusing, inefficient, and uneven in its results, and it leaves too many people not accessing benefits. Correcting those faults while maintaining the history of innovation and creativity is what we must achieve. Ours is the system which develops virtually all new medical technologies, new pharmaceuticals, and which has the best treatment outcomes on the planet. We must maintain a free market system of providers, insurers, technology development, pharmaceutical development, manufacturing of equipment and drugs, and marketing of all these products and services. We must retain the best of what we have while we fix the problems.

Moving in the direction of a government health care system and public insurance option is not the way to do it! We must continue to reject that! **I invite any reader to contact me if you feel my suggestions are more costly, less workable, and less practical than either our old system or Obamacare. You can't "just disagree" – specific reasons and related logic must be provided. If I agree with you, I will "tweak" my opinions. I do that all the time.**

Summary of Reform Elements

Here is my idea of a framework for workable health care reform:

Changes Affecting the Insurance Industry and Insurance Coverage
- Individuals should be the key decision makers in a reformed system. Individuals should own their own health policies. Prices for coverage, services, or products should be transparent to the individual. Once consumers actually control the treatments and costs, they will collectively apply pressure to maximize value. This separates coverage from employment and provides portability.

- Coverage must be available for all individuals. “Pre-existing condition” provisions and those of “lifetime limits” in insurance policies must be eliminated. To the extent this is found to be actuarially unwise or burdensome for any single insurance company, something like a “reinsurance cooperative” should be created which would be owned jointly by the many insurance companies in the country.
- Individuals should not be “required” to purchase health insurance. I believe there is a legitimate constitutional issue based on the Commerce Clause – but that’s a topic for another day. However, significant tax incentives should be made available specifically for the purchase of major medical/catastrophic coverage. The old system is closely tied to the very expensive “first dollar coverage.” The new emphasis would be on higher deductible insurance policies, e.g. $5,000 or $10,000 (or whatever the consumer chooses), and would be surprisingly inexpensive. Of course, this works best if combined with the wide use of HSAs for “first dollar coverage.”
- Eliminating “pre-existing condition” limitations, and because individuals would not be “required” to purchase coverage, combine to introduce a big problem – exploitive individuals would still try to “game” the system by waiting until care is needed to purchase insurance – this in spite of the generous tax treatment which would also be available. I would limit this by not allowing perpetual access to guaranteed coverage – e.g. a person would have to accept or reject coverage at a point in time, and would not again be eligible for guaranteed coverage for a specified period of time. This could be set at 3 to 5 year intervals, for example – or whatever. Additionally, after declining to purchase available coverage one time, when such coverage is ultimately obtained there should be a waiting period before non-emergency treatment would be covered – say 6 months to 1 year. Also, the administration of these periodic applications could be “spread out” by making them available only in the month of the individual’s birthday.
- Individuals should be allowed to buy insurance across state lines. State borders now act as unnecessary regulatory walls. This would permit shopping among a robust variety of insurers. They all currently exist – we just can’t access them outside of our state of residence. Each consumer now has very few options, thereby limiting competition. This would remove that problem.
- State mandates for insurance coverage should be eliminated and we should move closer to a “shopping cart” approach for buying insurance. This would allow insurers to offer a range of plans – from basic/lower cost to comprehensive/higher cost coverage – which would meet a variety of individual needs and preferences while making access more affordable. Mandates have been estimated to increase the cost of health care for a typical individual by 50%.
- We should study the possibility of introducing a system which permits a variety of insurable pools (trade associations, civic organizations, professional associations, business groups, etc.). These pools could choose from a variety of carriers for their members. Each consumer would still own their own policy, and could even choose from a variety of pools for negotiating the best deals.

Changes Affecting the Tax Code

- We should change the tax code to allow all medical related expenditures, up to a generous maximum, to be deductible (not severely limited as it is now). We should implement a system of tax credits as part of this tax reform. We should encourage concepts such as health savings accounts (HSAs) through the tax code, and permit the consumer/owner of the HSA to accumulate a tax deductible/tax sheltered "next egg" to be used in future years for expenses, or if unemployed.
- The tax provisions should strongly encourage widespread use of HSAs in tandem with a relatively inexpensive, higher deductible insurance policy designed to cover major medical or catastrophic expenses.
- Taking care of children is a "hot button" (witness SCHIP). We should implement tax credits, with generous limits, for expenditures for those under 21 in families below the median U.S. income. This would replace the existing SCHIP program which provides government paid health care to the children of families well above the poverty level, **and even above average income levels**.
- Tax legislation should assist the poorest taxpayers by having a sliding scale of subsidies based on income. **The levels of tax deductibility, tax credits and refundable tax credits would vary with income.**

Other Changes

- Tort reform should occur by eliminating abusive and unnecessary lawsuits and settlements. This should include a cap on non-economic damage awards. The result would be more reasonable awards and also a reduction, over time, in defensive medicine and the resulting insurance premiums.
- Health care providers should be encouraged to offer affordable care at convenient locations such as retail clinics at malls, walk-in centers, etc.
- All persons using emergency rooms or walk-in centers should, as part of their treatment, be directed to the parts of our system from which they could benefit.
- I understand there is a shortage of doctors and nurses in our system – particularly for "primary care". This is troublesome because there could be many millions becoming insured as a result of reform. Dealing with this will be very difficult and will take time. If there are artificial barriers to the number of professionals our system develops, they must be eliminated. That would include expanding medical and nursing school enrollment or even encouraging more medical schools in certain areas of the country. This could be done partially through our tax system whereby personal and corporate incentives would be developed. Imaginative planning would come up with many constructive programs.
- There are more elements which should be mentioned here such as streamlining provider administration through "paperless office" practices and administrative technologies. Also, "wellness" programs should be encouraged by using the same tax incentives mentioned above. **But it is becoming ever more apparent that preventive care and wellness programs will make us healthier, but are not likely to reduce system wide health care costs in the long run.**

Focus on the Uninsured
How should we deal directly and specifically with the approximately 47 million uninsured? I believe the following would do so in a “smart” way. Some of these are incorporated in what has been discussed above.

- Access to insurance for the transitional uninsured (between jobs or temporarily unemployed) would largely be handled by the change to individual ownership of policies. Payments would be made by the insured with generous refundable tax credit allowances – perhaps some specifically designed for the unemployed.
- Some citizens, for various reasons, choose to “roll the dice” and not spend for health care coverage – even though they could afford it. The approach I suggest should convince many that these provisions make coverage cheaper, more attractive and, I believe, they would buy it. This is where use of HSAs, unbundled major medical coverage, tax deductions and credits, price transparency, etc. would make a difference in the number of uninsured.
- We should aggressively deal with the chronically long-term uninsured (e.g. over two years and “nothing else works”) through a system which combines the revised tax credit provisions with the creative use of vouchers for a private insurance pool set up for this purpose. Or we could issue the medical equivalent of food stamps (using restricted debit cards) for their use, thereby subsidizing their catastrophic health insurance premiums – but through private insurance companies, not a government alternative. I believe this would comprehend approximately 10 million people.
- We should limit illegal immigrants to taxpayer paid coverage provided in hospital emergency rooms or at walk-in centers only. Any person residing in the U.S., however, should be free to purchase their own coverage on the open market.

So ends a general description of my concept of appropriate health care reforms.

Once again, **I would like to hear from any reader who feels this is more costly, less workable, and less practical than either our old system or Obamacare. You don’t get to “just disagree” – specific reasons and related logic must be offered.**