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Lawmakers Should Approach Wyden–Bennett Health Bill with Caution

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By introducing the Healthy Americans Act (S. 334), Senator Ron Wyden (D–OR) and his chief co-sponsor, Senator Robert Bennett (R–UT), have courageously challenged the status quo on the federal tax treatment of health insurance and public health programs for the poor. The bill correctly targets the inequitable tax treatment of health care that favors coverage obtained through the place of work. It also recognizes the weakness of the existing public health programs, Medicaid and the State Children's Health Insurance Program (SCHIP). The bipartisan bill has attracted a dozen co-sponsors, drawn equally from both parties.

Still, as the chief sponsors point out, the bill is a work in progress, intended to stimulate discussion. And despite many attractive tax reform aspects, a troubling feature of the bill is that it would replace the current health system with one that is heavily regulated by the federal government: Individuals would have access only to plans permitted by the government and would be required to purchase such a plan.

Instead of adopting features of the bill that turn to government regulation in an effort to squeeze out efficiencies in the system, lawmakers attracted to tax features of the Wyden–Bennett bill should look at a better way of achieving efficient and affordable insurance. Specifically, Congress should replace the existing system of public and private third-party arrangements with a robust consumer-based system in which individuals and families, not the government, are the key decision-makers and change is driven by the free-market principles of personal choice and genuine competition.

Key Provisions. S. 334 would overhaul the American health care system in a number of ways.

- **Reforming the Tax Treatment of Insurance.** S. 334 tackles the central flaw in America's health care financing: the inequitable tax treatment of health insurance. Current law provides unlimited tax relief for coverage obtained through an employer but no comparable relief for those who purchase coverage outside their places of work. A growing number of experts, both liberal and conservative, recognize that this is a major problem.

  S. 334 would replace the current tax preference for employer-based health coverage with a new individual-based system. The bill would end the tax exclusion in the personal income tax for employer-based health insurance benefits and instead use a combination of subsidies and tax deductions for health insurance. Individuals and families earning at or below 100 percent of the federal poverty level (FPL) would receive a subsidy to offset the full cost of coverage. Individuals and families earning up to 400 percent of the FPL would receive a partial subsidy based on a

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sliding scale. In addition, the bill establishes an "above the line" tax deduction for health care. The deduction begins to phase out for individuals earning above $62,500 and families earning above $125,000. It is fully phased out for individuals earning $125,000 and families earning $250,000.

Comment: The tax reform repealing the unlimited tax exclusion for employer-based coverage is a bold step in the right direction, but the new tax structure would replace one inequitable structure (the exclusion) with another. As noted, only individuals earning below $125,000 and families earning below $250,000 would receive relief for health insurance under this plan. Ideally, the current employer-based tax structure should be replaced with a fair and equitable universal tax credit. An across-the-board, fixed-dollar health care tax credit, for example, would offer *every* American federal tax relief for health care.

- **Reforming Public Health Programs.** S. 334 would do away with the current structure of public programs for the poor and the indigent that segregate low-income Americans into financially troubled programs. These programs generally deliver lower quality health care and struggle to meet their obligations. S. 334 would eliminate Medicaid and SCHIP and mainstream these populations into the same new system designed for the rest of their fellow citizens.

  The bill would also extend special protections for these populations by limiting expenses and providing them with additional benefits and services.

  Comment: In principle, this is good health care policy, but the legislation should be further refined. Financial assistance for low-income populations should be direct and transparent, and any additional services should be based on a specific health need, not merely on income. Ideally, the Medicaid and SCHIP programs should be replaced with a system of direct subsidies (vouchers) that supplement a federal tax credit. Moreover, any additional benefits and services should be focused only on those in need, such as the chronically ill or disabled.

- **Regulating Health Insurance.** S. 334 would have the federal government standardize the entire insurance market. The federal government would decide, for example, which health plans are permitted for purchase. The bill would set as its standard benefits package the dominant health plan in the Federal Employees Health Benefits Program (FEHBP), the BlueCross BlueShield Plan. In 2007, the plan's estimated annual premium was $4,282 for an individual and $10,546 for a family.

  Comment: S. 334 would increase the role of individuals in the health care system by replacing the patchwork structure of public and employer-based coverage with a system of individual coverage, but it would do so in a way that would actually reduce personal choice and weaken real competition. Instead of fostering a consumer-based market driven by the forces of supply and demand in which where suppliers develop products based on the demands of their customers, the bill would put in place a regulatory regime to control the supply of health insurance products.

  Many Americans, particularly the young and the uninsured, would consider the federally designated standard plan to be overly expensive and comprehensive, for it is marketed to a federal workforce and retiree population that are comparatively older and financially better off.

  While S. 334 would permit an "actuarial equivalent" option for the standard benefits package, the federal government would still be in the unprecedented position of dictating the overall value of the health plan available to Americans in every part of the country. In other words, no private health plan could offer a benefit package that would not meet the average cost of the BlueCross BlueShield Plan.

  The dependence on standardization as a means to drive down costs completely rejects the fundamental market principle that open competition produces better quality at lower prices. Moreover, such standardization undermines personal choice and market innovation. A better policy would enable insurers to design and develop products that meet the demands of the consumer

and compete directly for customers based on the quality and price of those products.

- **Imposing Federal Mandates.** S. 334 establishes a series of "shared responsibility" provisions. These new responsibilities are best described as mandates. First, the bill would put in place a requirement for individuals to purchase coverage under this new system. The coverage, as described earlier, is set and controlled by the federal government and offers no real choice for individuals to pick a plan that best suits their needs. The purchase of this coverage is enforced through the Internal Revenue Service (IRS). Under the bill, the IRS would automatically deduct an individual's share of the premium.

  S. 334 would also require employers to pay into this new system. Currently, employers voluntarily decide to provide and contribute to their employees' health insurance. The bill would set in place an employer payment schedule based on the number of employees, employer revenue, and an average plan premium. This amounts to a tax on employers to fund this new heath structure.

  In addition to standardizing insurance products, the bill would put in place a series of new benefit and regulatory requirements on insurers. These changes would further standardize insurance products, leaving little if any distinction between plan options, and would require insurers to meet new federal rules and definitions. Essentially, it would transfer authority over the regulation of health insurance from the states to the federal government.

  After defining, designing, and dictating the structure of a new health care system, the bill would pass the implementation and operation of this federal structure on to the states. Although there is a federal default mechanism, the assumption is that states would be the primary administrators for much of the bill. This would undermine state authority over health insurance.

  Comment: Instead of having the federal government force participation among stakeholders, a better approach would be to craft policies that directly empower individuals, employers, insurers, and states to help fix the health care system. A broader range of private coverage options and a fairer tax code would create the right incentives for individuals to purchase their own coverage, give employers more flexibility in funding coverage for their employees, offer insurers the ability to design innovative products, and encourage states to reform their health insurance markets in a market-oriented direction that reflects the unique circumstances and distinct differences of individual states.

Conclusion. Senators Wyden and Bennett and their co-sponsors should be commended for their willingness to put forth a comprehensive proposal to address the shortfalls in the current system, but the legislation needs significant changes if it is to be successful. The proposal's major problems are rooted in its sweeping and heavy-handed federal control over the insurance markets and its replacement of one tax inequity with another. Beyond these shortcomings are other unpleasant policy surprises such as the establishment of Medicare pricing over prescription drugs, permitting prescription drug reimportation, and even mandating that health insurers must cover abortion services.

Senators Wyden and Bennett are not alone in recognizing that the status quo is unacceptable. Other lawmakers, such as Senator Tom Coburn (R–OK) and Representative Tom Price (R–GA), have also introduced legislation that would reform the tax treatment of health insurance but without many of the problematic features of the Wyden–Bennett bill.

Congress should seize this opportunity to engage in a bipartisan fashion to improve the health care system. Members should forge a coalition based on shared principles to push the debate forward on comprehensive health care reform.

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