

The Stanford Daily

Universal Healthcare: Mandates or Not?

February 6, 2008

By Donald J. Harris

The question of whether or not to include insurance mandates as part of a national healthcare policy has emerged as a major issue in the debate about the healthcare proposals offered by the three leading Democratic presidential candidates: Senators Hillary Clinton, John Edwards and Barack Obama. (Edwards has since dropped out of the race.) In seeking to evaluate the different proposals, it is important to place this issue in proper perspective.

The common objective of all the proposals is to arrive at a system of universal healthcare. The key issue is about how to get there. Mandates are simply one practical measure aimed at meeting that objective, and may not be the most effective among competing alternatives.

More importantly, the process of getting there is essentially a political one. It requires the ability to negotiate the battles within the U.S. Congress and the turbulent waters of competing interest groups lobbying for influence, and to win a widely acceptable legislative package. The really key issue, then, is, who among the candidates has the demonstrated capacity to succeed in this effort?

As to the specific question of mandates, the crucial factors to consider are: compliance, affordability and public perception.

Dependence on voluntary compliance is never sufficient to ensure full compliance with any mandate — think of automobile insurance. Enforcement may require a penalty for noncompliance but still fail to guarantee compliance. A financial penalty imposes an additional cost on those who can least afford it. A jail sentence would likely be considered morally reprehensible by most people.

Affordability is the critical threshold factor determining compliance by low-income individuals and families, a sizeable chunk of the population needing coverage. Provision of income-based subsidies would allow bringing them into the network. That entails an additional charge on the federal budget which cannot be avoided, whatever the policy-measure adopted, if low-income families are to be covered. (All the proposals seek to pay for this, in part, by reversing the Bush tax cuts on higher incomes.)

Some critics express concern about a possible “free rider problem”: absent a mandate, some of those who can afford insurance may choose to avoid buying it until they actually need healthcare. It is argued that this would impose an unfair additional burden on existing full-time payers, who must pay the cost of running the healthcare system. The critics, however, have offered no evidence to indicate how large a problem that is likely to be, or if it will be one at all. If it in fact proves to be one, the solution must also resolve the mandate enforcement problem.

There is a widespread perception that mandates are a way of “forcing upon the public” policies designed by a remote bureaucracy or by “big government.” That perception, whether well founded or not, is a significant barrier to overcome in the legislative process by any policy relying heavily on health insurance mandates.

The proposals offered by the Democratic candidates are strikingly similar in many respects. But, as to the specific role of mandates, there is a substantive difference between them.

The Clinton and Edwards proposals both rely on up-front mandates requiring everyone to buy insurance. Edwards favors automatic enrollment via tax returns, which affects only those who actually pay income tax. Although he provides subsidies for low income families, he otherwise fails to guarantee full compliance and universal coverage. Clinton’s proposal leans towards mandates up front, but says little or nothing about how to ensure compliance. Obama offers a mixed package with built-in flexibility and sequencing of components: an up-front mandate for children but not for adults, automatic enrollment with an opt-out option and (a recent addition) a retroactive premium penalty for “free riders,” subsidies for low income families, heavy emphasis on prioritizing cost reductions throughout the healthcare system as a way of ensuring universal affordability as well as efficiency, followed by mandates for any remaining uncovered population as a last resort if proved to be needed.

I do believe that when the different proposals are examined in depth and scored in terms of the issues of compliance, affordability and public perception, the Obama proposals have the leading edge as the preferred option.

In the final analysis, however, what counts is the capacity to survive the searing battle of the legislative process and emerge with a package widely accepted by the electorate. This is, and should be, the bottom line in judging the proposals. The president — with his or her executive power as the final arbiter of this process and ability to exploit the bully pulpit to gain public support, along with the qualities that the individual brings to the office (transparency, persuasiveness, leadership, determination and forcefulness in dealing with powerful opposing pressures) — is in a unique position to determine the outcome.

For this purpose, the candidates must be judged on the basis of their actual record of experience and performance in the legislative arena. Though Edwards has now dropped out of the race, he must be applauded for having been the first in this campaign to put

forward a detailed set of proposals. Now, though, it comes down to a choice on the merits between Clinton and Obama.

Clinton lays claim to, and can be justly lauded for, long experience in the political arena. But, given the extraordinary opportunity during her husband's administration to make a major breakthrough in healthcare legislation, her own efforts in this most relevant and critical case resulted in a disastrous failure (a paper by UC-Berkeley Economics Professor Brad DeLong, one of the policy-making insiders during that debacle, provides valuable insights into the causes of this failure — <http://www.j-bradford-delong.net/TotW/system.html>). Obama, in his eight years serving in the Illinois legislature and three so far in the U.S. Senate, has shown a well documented and highly regarded record of leadership and successful achievement in enacting significant legislation in many areas of public policy: health care, poverty, crime, civil rights, ethics, foreign policy and the environment. This record bodes well for his ability to do an outstanding job as President and to secure passage of path-breaking healthcare legislation.

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