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Dissecting the Kennedy Health Bill

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Last September Sen. Barack Obama promised that under his health-care proposal "you'll be able to get the same kind of coverage that members of Congress give themselves." On Monday, President Obama repeated that promise in a speech to the American Medical Association. It's not true.

The president is barnstorming the nation, urging swift approval of legislation that is taking shape in Congress. This legislation -- the Affordable Health Choices Act that's being drafted by Sen. Edward Kennedy's staff and the Health, Education, Labor and Pensions Committee -- will push Americans into stingy insurance plans with tight, HMO-style controls. It specifically exempts members of Congress (along with federal employees; the exemptions are in section 3116 , p. 114).

Members of Congress "enjoy the widest selection of health plans in the country," according to the U.S. Office of Personnel Management. They "can choose from among consumer-driven and high deductible plans that offer catastrophic risk protection with higher deductibles, health saving/reimbursable accounts and lower premiums, or fee-for-service (FFS) plans, and their preferred provider organizations (PPO), or health maintenance organizations (HMO)." These choices would be nice for all of us, but they're not in the offing. Instead, if you don't enroll in a "qualified" health plan and submit proof of enrollment to the federal government, you'll be tracked down and fined (sections 3101, p. 104 and section 6055, pp. 107-110).

For a health plan to count as "qualified," it has to meet all the restrictions listed in the legislation and whatever criteria the Secretary of Health and Human Services imposes after the bill becomes law. You may think you're in a "qualified" plan, but the language suggests that only plans with managed-care controls such as the "medical home" will meet the definition (sections 3101 and 2707).

"Medical home" is this decade's version of HMO-style insurance, according to the Congressional Budget Office, with a primary-care provider to manage your access to costly services such as visits to specialists and diagnostic tests. Medical home providers in "qualified" plans, states the Kennedy bill, will have a "payment structure" based on

"incentives" rather than payments for each doctor visit or procedure (section 3101, pp. 57-58).

These requirements are reminiscent of the unpopular controls HMOs imposed two decades ago that caused public outrage and led to state laws reining in abuses. In December 2008, a Congressional Budget Office report evaluating early drafts of major federal health insurance proposals noted that "medical homes" were likely to resemble the HMO gatekeepers of 20 years ago if cost control is a priority.

That report specifically referred to a payment incentive called the "withhold." When HMOs became dominant in the early 1990s, they would withhold 10% or more of physicians' fees until the end of the year and give it back only to the physicians who met targets for limiting how many referrals to specialists or diagnostic tests their patients used.

The targets were so stringent that, if they were exceeded, what a doctor prescribed for you came out of your doctor's own pocket at the end of the year. This set up a conflict of interest between you and your doctor.

Mr. Obama tried to put a positive spin on such cost controls in his June 13 weekly radio address. He said "if doctors have incentives to provide the best care, instead of more care, we can help Americans avoid unnecessary hospital stays, treatments and tests that drive up costs." Fair enough -- if you want your doctor paid to police your care and to be financially penalized for that extra test or referral you get.

It is reasonable to require that people who accept a government subsidy for health insurance tolerate cost controls to protect taxpayers. But according to the terms of the Kennedy bill, you must enroll in a "qualified" plan or face a fine, even if you and your employer are paying the entire cost of the plan you already have (section 161, pp. 111-115).

The president has promised that if you like your plan you can keep it. Kennedy's bill says that too. It's doubletalk, as the consequences of nonenrollment make clear. How big a fine will you face? The bill doesn't specify or set a limit. It says the fine will be enough to "accomplish the goal of enhancing participation in qualifying coverage" (section 161, p. 104).

If legislation similar to the Kennedy bill lands on Mr. Obama's desk, he has an obligation to keep his promises to the American people and veto it. And whatever health-insurance law is passed should apply to members of Congress. If it isn't good enough for them, it shouldn't be imposed on the rest of us.

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