



Newsletter of the Capital District Alliance for Universal Healthcare

Volume 5

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Calendar of Events

- April 4:** Wednesday, April 4, 7:30 pm.
CDAUH Monthly Meeting, B'nai Sholom Reform Congregation, 420 Whitehall Road, Albany. All are welcome. 482-0420 for information.
- May 2:** Wednesday, May 2, 7:30 pm.
CDAUH Monthly Meeting, B'nai Sholom Reform Congregation, 420 Whitehall Road, Albany. All are welcome. 482-0420 for information.
- May 8:** Tuesday, May 8, **Single Payer Lobby day**. Lobby your representatives in the State Senate and Assembly. Briefing at 10:00 am at the Westminster Presbyterian Church, 85 Chestnut St., Albany. To sign up and for more information contact Dunleamark@aol.com.
- May 16:** **CDAUH's Spring Forum – "A Practicing Physician Views the Healthcare System"**. Albany Public Library, main branch, 160 Washington Avenue, 5:00-7:00 PM. For more information call 518-482-0420

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Comments from the Chair

The three days of hearings before the United States Supreme Court on the constitutionality of the Affordable Care Act have now concluded. While the pundits have been engaged in lots of speculation as to the outcome, we will just have to await the decision anticipated to come sometime in June. It's always hard to predict outcomes based on the number and type of questions asked at oral argument, or the perceived performances of the advocates.

The first day of argument focused on whether, because of the Anti-Injunction Act, lawsuits contesting the constitutionality of the Act must be delayed until 2015 when the first penalties will be imposed on those who do not have health insurance. The second day dealt with the constitutionality of the individual mandate to obtain insurance. The third day was spent on arguments about what should happen if the mandate is struck down, and then on the issue of the constitutionality of the provisions expanding the eligibility and coverage thresholds for Medicaid.

It appears clear that the individual mandate is the focus of the most attention, and concern, not just whether it is constitutional, but what happens to the rest of the Act if the mandate is stricken. Are the provisions forbidding insurers from turning applicants away, and barring insurers from taking account of pre-existing conditions so intertwined with the mandate that they must fall as well if the mandate is ruled unconstitutional? These provisions as well as some of the others which are already in effect are popular with consumers. If they remain in effect yet the individual mandate is stricken, what will be the financial implications for those with health insurance? Will it mean a dramatic increase in the number of uninsured as the cost of premiums rise to even more unaffordable levels? And how do we address our healthcare crisis if the entire Act is voided?

There is a positive aspect to all the media coverage given to these unprecedented three days of Supreme Court arguments. While the strident voices of the opponents to the Act continue, others appear to recognize that our health care crisis is real and even if the Act is voided, in whole or in part, the problem remains. How do we provide quality affordable healthcare for all? Some commentators are even beginning to suggest that a single payer system might be the solution. Certainly if the government were to adopt such a system, the Supreme Court would not be spending time addressing the constitutionality of an individual mandate. It is already well recognized that government can require us to pay for many things we might individually chose not to if we had the choice – needless wars, for example. Government forces us to pay for education, whether or not we have children in a public school system; for police and fire protection; for libraries that all might have access to information; and the list goes on.

The wisdom of providing affordable quality healthcare for all cannot be seriously questioned. While we have the quality component, it is becoming increasingly unaffordable under our current system. We need to keep pushing, advocating, and educating that a single payer healthcare system is the real solution. Please join us at two upcoming events: the Single Payer Lobby Day being held in Albany on May 8, and our spring CDAUH forum in Albany on May 16. Details are in the Calendar of Events!

Richard Propp, MD, Chair

Letters to the Editor

Please feel free to email your letters to the editors at crangy@aol.com or euthemia@nycap.rr.com.

Reprints of Interest

Each month we will try to reproduce articles or columns we have read that we think are of interest to everyone. If you see something on the web or are sent an article that you think we should include, please feel free to forward it to either crangy@aol.com or euthemia@nycap.rr.com.

The following article is a reprint from Don McCanne's March 30, 2012 *Quote-of-the-Day*, "Profusion of single payer responses to Supreme Court deliberations". Don McCanne's *Quote-of-the-Day* is available free from Physicians for a National Health Program. To subscribe to McCanne's excellent daily health policy comment, log onto <http://two.pairlist.net/mailman/listinfo/quote-of-the-day>

NOTE: Wait! Don't go away! You are not expected to read today's message in its entirety. This is merely a sampling of the plethora of new articles that suggest that single payer may be the answer to the constitutionally-challenged Affordable Care Act. They represent the views of enthusiastic liberals, reluctant conservatives, and everyone in between. If you read only one entry, I would suggest the very last one, which is my response to today's New York Times Economix blog by Uwe Reinhardt. Although at times it seems like we single payer activists are hollering in the wind, the profusion of responses demonstrates that single payer is now widely recognized as a model that would work for all of us. Keep hollering!

Health Affairs Blog
March 29, 2012

Renee Landers On The Individual Mandate: Towards A Single-Payer System Or Public Option?

By Renée Landers

Early in the arguments, in an exchange with the Solicitor General, Justice Kennedy raised the idea that one alternative available to Congress may be to "use the tax power to raise revenue and to just have a national health service, single payer."

Toward the end of the day's arguments, Justice Sotomayor pressed Mr. Carvin on the same point: "I want to understand the choices you're saying Congress has. Congress can tax everybody and set up a public health care system."

These discussions leave the Court, conservatives, and the public with a curious dilemma. Through the Affordable Care Act, Congress has tried to regulate private insurance markets to solve the market problem of making health insurance affordable for the uninsured, whatever their individual health status. If that market-based approach does not survive a Commerce Clause challenge, what alternatives are left to Congress? One alternative is to do nothing, which does not seem to be economically responsible given accelerating health care costs and certainly leaves tens of millions of Americans in a precarious and untenable situation.

The other option would be for the government, as the last resort, to create the "public option" that was so controversial during the debates over the Affordable Care Act, or to move entirely to a single-payer system, eschewing markets.

<http://healthaffairs.org/blog/2012/03/29/renee-landers-on-the-individual-mandate-towards-a-single-payer-system-or-public-option/>

The Washington post
March 29, 2012

A stronger prescription for what ails health care

By Eugene Robinson

Our only choice is to try to hold the costs down. President Obama tried to make a start with a modest approach that works through the current system. If this doesn't pass constitutional muster, the obvious alternative is to emulate other industrialized nations that deliver equal or better health care outcomes for half the cost.

I'm talking about a single-payer health care system. If the Supreme Court strikes down ObamaCare, a single-payer system will go from being politically impossible to being, in the long run, fiscally inevitable.

<http://news.investors.com/article/606069/201203291839/single-payer-next-if-obamacare-struck-down.htm>

The Washington Post
March 28, 2012

Judicial activists in the Supreme Court

By E.J. Dionne Jr.

The irony is that if the court's conservatives overthrow the mandate, they will hasten the arrival of a more government-heavy system. Justice Anthony Kennedy even hinted that it might be more "honest" if government simply used "the tax power to raise revenue and to just have a national health service, single-payer." Remember those words.

http://www.washingtonpost.com/opinions/activist-judges-on-trial/2012/03/28/gIQAKdE2gS_story.html

San Francisco Chronicle
March 28, 2012

My Mom, the Supreme Court, and the Affordable Care Act

By Emil Guillermo

My mom died before the Clintons attempted their push for reform, and before Obama came up with his intricate compromise. Before then, Mom's old fashioned Medicare plan worked just fine.

So I know this crazy Supreme Court debate to overturn the Affordable Care Act would have surely given her chest pains.

She'd ask, "Why can't the government just extend Medicare to all?" (Seniors have a way of getting to the point. Unlike lawyers.) Medicare is a single payer system that doesn't have people crying "Socialism!" It doesn't get conservatives' dander up about individual liberty and the broad powers of the federal government.

And it works. Everyone gets the care they need.

Done.

If only mom were alive and in charge.

<http://blog.sfgate.com/eguillermo/2012/03/28/my-mom-the-supreme-court-and-the-affordable-care-act/>

The Washington Post
March 29, 2012

If Obamacare is overturned, will that lead to single payer? And would that be a good thing?

By Ezra Klein

Eventually, we end up with something close to a single-payer system, as a majority of Americans — and particularly a majority of Americans who have significant health risks — are covered by the government.

http://www.washingtonpost.com/blogs/ezra-klein/post/if-obamacare-is-overturned-will-that-lead-to-single-payer-and-would-that-be-a-good-thing/2012/03/29/gIQAQwypiS_blog.html

The American Prospect
March 30, 2012

Single-Payer or Bust

By Steve Erickson

Striking down the individual mandate leaves only one of two options: adopt a system in which government pays for health care, or do nothing.

<http://prospect.org/article/single-payer-or-bust>

Scripps Howard News Service
March 29, 2012

RedBlueAmerica: Will 'Obamacare' survive?

Joel Mathis: The insurance mandate was a half-step toward that goal. Let's take the full step: Single-payer health insurance, run and administered by the government, with no private-sector middlemen to add costs and reap profits from taxpayers.

Ben Boychuk: The problem with the single-payer fantasy is it makes promises the government cannot keep. The health-care budget is not unlimited. Government would make choices about your health care based not on what you need, but how much a procedure costs. In truth, that's becoming the case more and more under our existing system, which is why reform remains essential.

<http://www.scrippsnews.com/node/68356>

BBC News
March 29, 2012

What if Supreme Court strikes down Obama healthcare act?

By Mark Mardell

(A Democrat strategist I've spoken to) adds that defeat might make Democrats more radical and argue that what is called here a "single payer system" - a tax-funded national health system as we have in the UK - is the only real answer, rather than President Obama's market-sensitive half-way house.

<http://www.bbc.co.uk/news/world-us-canada-17540685>

The Star Ledger
March 25, 2012

Obamacare health-insurance exchanges are set up to fail

By Paul Mulshine

The real threat is not that Obamacare will take over Medicare. It's the other way around, says Mike Cannon, a health-care expert with the free-market Cato Institute in Washington.

"These exchanges are built to fail," said Cannon. "They'll drive private insurance companies out of the market. When they do, the whole thing will collapse."

At that point, some sort of single-payer system would be needed to cover the people the private insurers don't want. Those who've been arguing Medicare should be extended to everyone would probably win at the polls.

http://blog.nj.com/njv_paul_mulshine/2012/03/obamacare_health-insurance_exc.html

The New York Times
March 28, 2012

If Health Law Is Overturned, What Will Liberals Do?

By Michael D. Shear

If Democrats make little progress on alternatives, some purists might decide it's best to just renew the case for a single-payer system in which all Americans receive health care paid for by the government.

Sidney M. Wolfe, the director of the Health Research Group at Public Citizen, an advocacy group, has been pushing for government-run health care for decades.

<http://thecaucus.blogs.nytimes.com/2012/03/28/if-health-law-is-overturned-what-will-liberals-do/?hp>

SunSentinel
March 26, 2012

Overturing heralth care law could lead to a single-payer system

By Peter Morici

Conservatives, by persuading a majority of Justices to overturn the individual mandate, could reverse Washington's relentless push to over regulate individual and business behavior, but they could ultimately instigate their worst nightmare — a single payer system akin to the British system.

http://articles.sun-sentinel.com/2012-03-26/news/fl-morici-single-payer-health-0326-20120326_1_individual-mandate-health-insurance-affordable-care-act-requirement

National Journal
March 29, 2012
After the Ruling
By Maggie Fox

There is one easy solution to the issue—a single-payer health system that strictly controls costs and administrative fees, using evidence-based science to determine which interventions, drugs, and diagnostic tests are worth the money and effort.

http://www.nationaljournal.com/daily/after-the-ruling-20120328?mrefid=freehplead_3

MedPage Today
March 29, 2012
ACA Alternatives Waiting in the Wings
By Emily P. Walker

While Republicans are crafting limited-government alternatives to the Affordable Care Act (ACA), some on the other side of the political spectrum are trumpeting a single-payer, government-run system as the preferred alternative to the ACA.

The irony is that while the public option wasn't popular enough to pass, no one disputes the Supreme Court wouldn't be considering the case if a single-payer plan had passed, because expanding Medicare and taxing everyone more would have been well within the powers of Congress.

<http://www.medpagetoday.com/Washington-Watch/Reform/31930>

California Healthline
March 29, 2012
Experts: Medicaid Expansion Will Stand; Mandate's Fate Unclear
By George Lauer

Some see the potential for a quicker move toward single payer solutions if all or part of the ACA is ruled unconstitutional.

While he didn't go so far as to call for provisions of the ACA to be struck down, Bill Skeen, executive director of the California chapter of Physicians for a National Health Program, did see potential for progress in such a scenario.

"If the ACA is dismantled, I don't predict there will be an easy road for single payer, but there is the sort of last-man-standing feeling that -- OK, the plan Congress put together isn't holding up. Single payer is the last best option."

<http://www.californiahealthline.org/features/2012/experts-medicaid-expansion-will-stand-mandates-fate-unclear.aspx>

Mediaite
March 29, 2012

Chris Matthews, Ezra Klein Identify Strategy To Impose ‘De Facto Single Payer System’

by Noah Rothman

On Wednesday, Hardball host Chris Matthews and Washington Post columnist Ezra Klein discussed the potential for all or part of President Obama’s health care reform law to be ruled unconstitutional in the Supreme Court and the ways in which progressives could move forward with health care reform in a post-Affordable Care Act world. Klein confirmed conservative’s latest fear: striking down the health care law could pave the way for a single payer system that could be implemented over time through the budget reconciliation process in the Senate.

<http://www.mediaite.com/tv/chris-matthews-ezra-klein-identify-strategy-to-impose-de-facto-single-payer-system/>

MinnPost
March 29, 2012

Growth & Justice lays out its case for Minnesota single-payer health care

By Beth Hawkins

What if single-payer were feasible?

On Wednesday, the St. Paul-based progressive-leaning think tank Growth & Justice made its case, releasing a first-of-its-kind analysis showing that a unified system of health care could provide all Minnesotans with guaranteed cradle-to-grave care at a projected savings of about \$190 billion over 10 years. By 2023, overall savings could be 12 percent to 33 percent per year, it said.

During his gubernatorial campaign, Mark Dayton supported a single-payer system for Minnesota, Smith added. The advent of ACA presents a good opening to put the topic back in the public discourse.

“This option needs to stay on the table,” he said. “It is an attempt to change the conversation. ... This is one of the last big hurdles for a fair and just society. You can’t just check out of the social contract.”

<http://www.minnpost.com/health/2012/03/growth-justice-lays-out-its-case-minnesota-single-payer-health-care>

The Daily Beast
March 29, 2012

The Wall Street Journal: Unwitting Advocates of Single-Payer

By David Frum

The crazy thing about the litigation over the Affordable Care Act is this... nobody disputes that Congress has full authority to set in motion a national healthcare program. Congress could tax all American at any rate — or any schedule of rates, no matter how confiscatory for those at the top — and then use the money to fund a British-style National Health Service.

<http://www.thedailybeast.com/articles/2012/03/29/wall-street-journal-single-payer.html>

The Huffington Post

March 29, 2012

If Health Care Reform Falls, Look in the Mirror

By Karen Dolan

Candidate Barack Obama campaigned on universal coverage. He told would-be supporters that, if he were "starting from scratch," single-payer would be ideal. Indeed, he even understood that the only true reform, that would sufficiently control costs and actually achieve universal coverage, was a single payer, government-sponsored health care system. The evidence is overwhelming that only such a system can achieve those goals.

Isn't it time to fight for Medicare for all?

http://www.huffingtonpost.com/karen-dolan/health-care-reform_b_1388082.html

Forbes

March 28, 2012

How Obamacare's Rejection Would Lead to Single Payer

By Josh Barro

Strike down Obamacare, and single payer instantly becomes the number one organizing cause for liberals in America. This Congress won't pass a single payer insurance law, but you can bet Democrats would the next time they control both the legislative and executive branches.

<http://www.forbes.com/sites/joshbarro/2012/03/28/how-obamacares-rejection-would-lead-to-single-payer/>

The New Republic

March 28, 2012

Single-Payer Briar Patch

By Timothy Noah

The professional Obama-hater Dick Morris said today on Fox News that if President Obama is elected to a second term after the Supreme Court strikes down Obamacare (as is looking more likely) then "he'll move to a single payer system."

<http://www.tnr.com/blog/timothy-noah/102125/single-payer-briar-patch>

GQ

March 27, 2012

Take It From Me: Defending Obamacare is Super-Hard

By Reid Cherlin

It would have been easy for Verrilli—or any of us—to explain single-payer health care. "Look," we could have said, "the government is paying for everyone to have coverage." End of story. But single-payer is not what our brilliant, world-leading political system gave us.

<http://www.gq.com/news-politics/blogs/death-race/2012/03/take-it-from-me-defending-obamacare-is-super-hard.html>

WBUR
March 28, 2012
Lawmakers Propose Single-Payer System For Mass.
By Meghna Chakrabarti

A major national story is playing out in the halls of Beacon Hill: this week's Supreme Court hearings on the national Affordable Health Care Act.

Some lawmakers want the state to push health care reform to the next level. They've introduced a bill that would bring a "single-payer" system to the Bay State.

<http://radioboston.wbur.org/2012/03/28/single-payer-proposal>

Newsday
March 29, 2012
What's really wrong with Obamacare
By Cathy Young

If the Affordable Care Act is struck down, the eventual outcome may be better health care reform -- or it may be a more socialistic road, such as a single-payer system.

Libertarian and conservative voices are essential to the health care debate. But they should be careful not to lapse into a defense of freeloading or unconstrained spending on expensive (and not always beneficial) medical procedures. Freedom is a key conservative and libertarian principle; so is responsibility.

<http://www.newsday.com/opinion/oped/young-what-s-really-wrong-with-obamacare-1.3632152>

The Nation
March 27, 2012
If the Mandate Fails, Single Payer Awaits
By George Zornick

One obvious option, besides just doing nothing and allowing health care costs to continue their exponential growth while more people lose coverage, is a single-payer health insurance plan. There is no doubt about the constitutionality here — the government is clearly allowed to levy taxes to fund public benefits.

So if health care reform goes down, the next logical step may well be just extending Medicare to everyone.

<http://www.thenation.com/blog/167071/if-mandate-fails-single-payer-awaits>

The Hill
March 26, 2012

Kucinich: Single-payer healthcare on its way regardless of how Supreme Court rules

By Julian Pecquet

The Supreme Court's review of President Obama's healthcare reform law is just another step on the inevitable path toward a single-payer medical system, Rep. Dennis Kucinich (D-Ohio) said Monday.

<http://thehill.com/blogs/healthwatch/legal-challenges/218185-kucinich-single-payer-healthcare-on-its-way-regardless-of-how-supreme-court-rules>

The Huffington Post
March 26, 2012

Health Care Jujitsu

By Robert Reich

But with a bit of political jujitsu, the president could turn any such defeat into a victory for a single-payer healthcare system -- Medicare for all.

http://www.huffingtonpost.com/robert-reich/single-payer-health-care_b_1381382.html

Bloomberg
March 28, 2012

Individual Mandate Is Ryan Tax Credit by Other Name

By Ezra Klein

The real fight is over whether the Affordable Care Act should exist at all. Republicans lost that battle in Congress, where they lacked a majority in 2010. Now they hope to win it in the Supreme Court, where they hold a one-vote advantage. The argument against the individual mandate is a pretext to overturn Obamacare. But it's a pretext that could set a very peculiar precedent.

If the mandate falls, future politicians, who will still need to fix the health-care system and address the free-rider problem, will be left with the option to move toward a single payer system or offer incredibly large, expensive tax credits in order to persuade people to do things they don't otherwise want to do. That is to say, in the name of liberty, Republicans and their allies on the Supreme Court will have guaranteed a future with much more government intrusion in the health-care marketplace.

<http://www.bloomberg.com/news/2012-03-28/individual-mandate-is-ryan-tax-credit-by-other-name.html>

The New York Times
Economix
March 30, 2012

The Supreme Court and the National Conversation on Health Care Reform

By Uwe E. Reinhardt

Once again America is having one of its “national conversations” on health care reform. This time the buzz is over arguments before the Supreme Court on the constitutionality of certain provisions in the Affordable Care Act. The justices’ rulings will be landmark decisions, because they will indirectly go much beyond the act itself to our entire system of governance.

The two major substantive decisions the Supreme Court has to make are:

1. Whether Congress has the constitutional authority to mandate every legal resident in the United States to have insurance coverage for a specified package of health benefits (hereafter the “mandate”) or whether that is an issue for the states to decide.
2. Whether Congress has the constitutional authority to expand eligibility for Medicaid benefits from the highly varied income thresholds that currently define eligibility to anyone under 133 percent of the federal poverty level

Reader Comment:

Don McCanne
San Juan Capistrano, CA

The intense attention being given to the constitutionality of the individual mandate and the severability of guaranteed issue and community rating and to the constitutionality of the Medicaid expansion superficially seems to have detracted from the fundamental issue of whether or not the Affordable Care Act itself should serve as a durable model for health care reform.

With the best possible outcome of the Supreme Court deliberations, we'll still be faced with uninsurance (at least 26 million uninsured), underinsurance (low actuarial value plans with spartan essential benefits) and unaffordability (lack of effective systemic cost containment).

Right now we are seeing a surge in commentaries declaring that we will end up with single payer (Medicare for all) if the mandate and guaranteed issue and community rating are struck down by the Supreme Court, simply because that's the only rational financing option left for us.

We will, in fact, end up with single payer, but not because of the pending Supreme Court decision. We will adopt a single payer system simply because we will not be able to continue to tolerate uninsurance, underinsurance and unaffordability.

<http://economix.blogs.nytimes.com/2012/03/30/the-supreme-court-and-the-national-conversation-on-health-care-reform/>

The following article is a reprint from Don McCanne's March 28, 2012 *Quote-of-the-Day*, "Matthews asks Gruber about starting over with single payer".

MSNBC

Hardball with Chris Matthews

March 27, 2012

Chris Matthews: Professor Gruber, I've got a curve ball for you, from the left field, all right? I'm mixing my metaphors here. If the Supreme Court strikes down the individual mandate today, which is the most conservative way to have national health for everybody, requiring people to take responsibility as individuals. If that fails, and the progressive left of the Democratic Party says, no, now's our chance to go for single payer, or what's called the public option - I guess they'll wind up being the same thing because there won't be another option really. Is that a better economic proposition? That the government simply provides health insurance for the country? Single payer. Is that a better economic deal with no profit motive?

Jonathan Gruber: I think that single payer, if you could start over, I think that single payer has a lot to recommend it, but we can't, and I think the bottom line is...

Chris Matthews: But we might have to start over after tonight.

Jonathan Gruber: No. I agree, but if we start over, the problem with failing, if this ruling goes against... this law fails, we'll see the same pattern we've seen for the past century, which when we start over again which will on average be about seventeen years from now, because it's about every seventeen years we start over, it's going to be further to the right of where we are. Every seventeen years... Remember Richard Nixon proposed something to the left of the Affordable Care Act. Every seventeen years we move to the right. If this fails, the next round is not going to be single payer. It's going to be even more conservative than what we have now.

<http://www.msnbc.msn.com/id/3036697/#46873470>

Comment: What is the basis for this conversation about starting over if the Affordable Care Act (ACA) is struck down by the Supreme Court? Implicit is the concept that the Affordable Care Act actually accomplished the reform that we need. Of course, it didn't. So, regardless of the decision, we wouldn't be starting over since no iteration of ACA would hardly even begin to complete the process of reform.

For those who believe that ACA is the most feasible path to reform, there are some issues in this debate that would have the appearance of a make-or-break outcome (even though ACA itself isn't a make-or-break model).

Based on the first two days of deliberation before the Supreme Court, it appears that the individual mandate to purchase private insurance may well be struck down. If it is, then both sides (plus an amicus from America's Health Insurance Plans) agree that guaranteed issue and community rating should be declared inseverable and struck along with the individual mandate.

Though an intact ACA falls intolerably short on reducing uninsurance, underinsurance, and unaffordability, a decision eliminating guaranteed issue (eliminates pre-existing condition exclusions) and community rating (prevents insurers from gouging those with greater health care needs) would leave yet many more uninsured, especially those with greater health care needs plus the healthy invincibles whose funds are needed for the insurance risk pools. That should be enough to cause ACA supporters to take another look at single payer, though the mess we have with an intact ACA should make them reconsider anyway. ACA did not turn out to be the affordable-care-for-everyone model that supporters had hoped for at the beginning.

So we wouldn't be starting over again since ACA was merely a misfire that gained us very little. A misfire is not enough to restart the seventeen year clock, not to mention that the clock is only an illusion anyway.

And Gruber's contention that our next reform efforts will move further to the right because that's the way history has led us? Really? Was Social Security a move to the right? Was Medicare a move to the right? Was the Civil Rights Act a move to the right?

Does health care really fall at some point along a linear, bipolar, one-dimensional span between right and left? Of course not, though we should tell the ideologues in Congress who believe this that such in-the-box thinking is why we are replacing them in the forthcoming election. We want not just the elderly but everyone in America to be able to say, "Leave my Medicare alone!"

The following article is reprinted from the March 23, 2012 edition of “*The American Prospect*”.

Single Payer and the Supreme Court Surprisingly, several groups seek to challenge the Affordable Care Act from the left

By Robert Kuttner

When the Supreme Court begins its extraordinary three days of hearings on the constitutionality of the Affordable Care Act, one of the oddities will be an amicus brief challenging the act's individual mandate from 50 doctors who support national health insurance. They point out the inconvenient truth that, contrary to the administration's representations, the government did not need to require citizens to purchase insurance from private companies in order to meet its goals of serving the health-care needs of the populace. Congress could have enacted a single-payer law.

Since the Constitution unambiguously gives Congress the power to tax there has never been a serious constitutional challenge to our tax-supported systems of health insurance, Medicare, and the services of the Veterans Health Administration system. In the words of the brief:

"Amici thus submit this brief for the purpose of disputing the primary tenet of the Government's position, that Congress cannot regulate the national healthcare market effectively unless it has power to require that citizens purchase insurance from private insurance companies. On the contrary, as set forth herein, Congress has already demonstrated that it can regulate healthcare markets effectively by implementing a single payer system such as Medicare or the VHA."

Much of the brief is devoted to demonstrating the superior efficiencies of single-payer systems, but it also offers a formidable summary of the constitutional argument against the government's view of what the Commerce Clause permits.

"Government contends that the provision is not only 'reasonable' but also 'necessary' to its broader regulation of the national healthcare market. Brief for Petitioners. In particular, the Government contends that the individual mandate is 'key to the viability of the Act's guaranteed-issue and community-rating provisions.' But while it might be true that these provisions will adversely impact private insurers profits, and that the individual mandate offsets this adverse impact by guaranteeing the private insurers a large stream of new customers who are required by law to purchase insurance, that is not sufficient to render the individual mandate constitutional. If it were, Congress could 'reform' any private industry – whether it be automobiles, coal, pharmaceuticals or any other – by enacting legislation requiring every that American purchase the industry's goods or services in exchange for some perceived public good the industry provides. Yet Congress has never before enacted such a mandate."

Ouch.

The brief further contends that none of the cases cited by the government “support the conclusion that the commerce power permits Congress to enact any regulation it finds necessary to the viability of a larger scheme regulating interstate commerce.”

It would be more than a little ironic if a majority of the Court struck down the Affordable Care Act by relying on these arguments. These points have been made by others, of course. But what's nery is that some single-payer advocates are

tactically allying themselves with the political right in a momentous Supreme Court battle.

The brief is filed in the name of two groups, Single Payer Action and It's Our Economy, and was written by attorney Oliver Hall. It explicitly asks the Court to uphold the ruling of the Court of Appeals for the Eleventh Circuit finding the individual mandate unconstitutional.

This tactic must have given some single-payer advocates pause, since the most prominent single-payer group, Physicians for a National Health Program (PNHP) and such noted proponents of national health insurance as Drs. David Himmelstein and Steffie Woolhandler of Physicians for a National Health Program are not on the brief.

If the Affordable Care Act were to be struck down, it would be a political blow to the Obama administration, as well as another case of overreach by the Roberts Court.

But the Court could well uphold the act. Some observers have suggested that the conservatives on the Court are having second thoughts about the unintended consequences of the Citizens United decision on unlimited political giving. Justices Scalia and Kennedy, moreover, have gone both ways on prior cases involving the reach of the commerce clause and may decide that this is not the time to further risk the Court as an institution, which severely impaired its credibility in *Bush v. Gore*.

On the other hand, if the Court struck down only the individual mandate, the rest of the act would live on. And the administration and Congress would have to find other ways to prevent uninsured people from free-riding on the system. As my colleague Paul Starr has proposed, a Court finding that the mandate was illegal would not necessarily kill the whole law. Other incentives and disincentives could be created so that most people would find it attractive to purchase insurance.

The amici have a point. A single-payer program would be more efficient and unambiguously constitutional, and even the Affordable Care Act need not be such a gravy train for the insurance industry. This brief, though risky, could turn out to be constructive mischief.

<http://prospect.org/article/single-payer-and-supreme-court>

The following article is a reprint from Don McCanne's March 5, 2012 *Quote-of-the-Day*, "So it's the prices, but what do we do?"

The Washington Post
March 2, 2012

High health-care costs: It's all in the pricing
By Ezra Klein

There is a simple reason health care in the United States costs more than it does anywhere else: The prices are higher.

There are many possible explanations for why Americans pay so much more. It could be that we're sicker. Or that we go to the doctor more frequently. But health researchers have largely discarded these theories. As Gerard Anderson, Uwe Reinhardt, Peter Hussey and Varduhi Petrosyan put it in the title of their influential 2003 study on international health-care costs, "it's the prices, stupid."

"The United States spends more on health care than any of the other OECD countries spend, without providing more services than the other countries do," they concluded. "This suggests that the difference in spending is mostly attributable to higher prices of goods and services."

On Friday, the International Federation of Health Plans — a global insurance trade association that includes more than 100 insurers in 25 countries — released more direct evidence. It surveyed its members on the prices paid for 23 medical services and products in different countries, asking after everything from a routine doctor's visit to a dose of Lipitor to coronary bypass surgery. And in 22 of 23 cases, Americans are paying higher prices than residents of other developed

countries. Usually, we're paying quite a bit more.

"Other countries negotiate very aggressively with the providers and set rates that are much lower than we do," Anderson says. They do this in one of two ways. In countries such as Canada and Britain, prices are set by the government. In others, such as Germany and Japan, they're set by providers and insurers sitting in a room and coming to an agreement, with the government stepping in to set prices if they fail.

"In my view, health is a business in the United States in quite a different way than it is elsewhere," says Tom Sackville, who served in Margaret Thatcher's government and now directs the IFHP. "It's very much something people make money out of. There isn't too much embarrassment about that compared to Europe and elsewhere."

And others point out that you also need to account for the innovations and investments that our spending on health care is squeezing out. "There are opportunity costs," says Reinhardt, an economist at Princeton. "The money we spend on health care is money we don't spend educating our children, or investing in infrastructure, scientific research and defense spending. So if what this means is we ultimately have overmedicalized, poorly educated Americans competing with China, that's not a very good investment."

http://www.washingtonpost.com/business/high-health-care-costs-its-all-in-the-pricing/2012/02/28/gIQAtbhimR_story.html

And...

Health Affairs
May/June 2003

It's The Prices, Stupid: Why The United States Is So Different From Other Countries

By Gerard F. Anderson, Uwe E. Reinhardt, Peter S. Hussey, and Varduhi Petrosyan

The data show that the United States spends more on health care than any other country. However, on most measures of health services use, the United States is below the OECD median. These facts suggest that the difference in spending is caused mostly by higher prices for health care goods and services in the United States.

<http://www.pnhp.org/sites/default/files/docs/Its-The-Prices-Stupid.pdf>

And...

International Federation of Health Plans iFHP 2011 Comparative Price Report

The study aims to help plans better understand why health care costs are so much higher in some countries than others. The survey data showed that average US prices were once again the highest of those in the countries surveyed for nearly all of the common services and procedures reviewed.

<http://www.ifhp.com/news97.html>

And...

The New York Times
March 2, 2012
Economix

Determining the Level of Payments in Health Care

By Uwe E. Reinhardt

In my previous post, I presented the following menu of payment systems for health care and discussed the various bases

(the columns in the chart) upon which payment could be made. Now I'd like to discuss the rows in this chart – the methods by which the level of payments are determined. (The chart is available at the link below.)

Free-Market Determination:

The first row represents what one might call the free-market method, with payment levels negotiated between individual health insurers or self-paying patients on the one hand, and individual providers of health care (doctors, hospitals, and so on) on the other. It is the system long used in the private insurance sector and for uninsured patients.

As I have pointed out in a paper, “The Pricing of U.S. Hospital Services: Chaos Behind a Veil of Secrecy,” and in several earlier posts on this blog, however, this approach to setting prices for health care has had several consequences:

1. On average, the prices for health care goods and services negotiated by private health insurers in the United States tend to higher — about double or more — than prices for identical services and goods in other countries of the Organization of Economic Cooperation and Development.
2. It is in good part so because insurers do not seem to have sufficient market power, especially vis à vis hospitals, to resist very rapid price increases.
3. The varying degrees of market power among private insurers in the United States have led to pervasive price discrimination among payers, with prices for identical goods or services varying among payers by factors as high as 10.

Price-Setting in Quasi-Markets:

To avoid these consequences of individual negotiations over prices, I had recommended in a recent post a so-called “all-payer” system for health care in the United States.

Under such a system, associations of health insurers within a region (e.g., states) would negotiate with corresponding associations of hospitals, doctors and of other providers of health care uniform fee schedules (whether fee for service or bundled payments) that then would apply to all payers and providers in that region.

Unilateral Administrative Price-Setting:

Unilateral price-setting by government is the third distinct method of determining the level of the prices paid for health care. It typically is used by tax-financed, government-run, single-payer health-insurance systems, such as those of Taiwan, South Korea, Japan, Canada and the Medicare and Medicaid programs in the United States.

Unilateral, administrative price-setting shares with an all-payer system the advantage of simplicity in claims processing and, thus, lower administrative costs. Both methods furnish the ideal platform for common claims forms and electronic billing.

A major disadvantage of unilateral price-setting is clear from its name: providers may feel that they do not have sufficient say in determining the level of prices at which they are compensated for their services or products, even though they may be able to influence those fee levels by lobbying Congress.

A further disadvantage is that any administrative mechanism operated by government tends to be less flexible than would be negotiations among insurers and providers. It is not that people working in government agencies are inherently less capable than are their private-sector counterparts. It is so because governments must above all seem fair to all parties in its decisions and also fully transparent. Private parties do not labor under these constraints.

While I am on record as favoring the quasi-market approach to setting fee levels on health care, I recognize that honorable people can differ honorably in their evaluation of these approaches.

I am persuaded, however, that the opaque, price-discriminatory and administratively unwieldy – and hence very expensive – payment system of individual negotiations over fees has not served Americans well during in the last few decades.

<http://economix.blogs.nytimes.com/2012/03/02/determining-the-level-of-payments-in-health-care/>

Response:

Johnathon Ross
Toledo Ohio
March 3, 2012

"Single-payer" means one fund, administered by a non-profit entity accountable to the public would make payment for all medical services.

The private health insurance bureaucracies disappear as middle men. The choice of provider and decisions about care would be made by you and your doctor, not an insurer interested only in the bottom line. Medicare is one example of a functioning successful single-payer plan.

Hospitals receive monthly operating budgets creating huge administrative savings as no individual bills are necessary. Capital budgets cover new buildings and equipment, etc. New capital spending requires approval by local and state oversight boards avoiding duplicate expensive technology. Care givers jointly negotiate a single fee schedule for services lowering their billing overhead and eliminating bad debt. Malpractice costs drop as medical expenses would no longer be part of legal settlements.

Single-payer is about empathy, the soul of democracy, caring for, protecting and empowering each other including freedom to receive lifetime, comprehensive health care and to choose your own caregivers, freedom from fear of denied care, causing unnecessary suffering and death, freedom from worrying about payment if you are a health care provider, freedom to focus on preventive care and well-being, freedom from financial ruin due to medical expenses and freedom to choose any employer, or be your own employer, because everyone receives care. Let's just do it.

<http://economix.blogs.nytimes.com/2012/03/02/determining-the-level-of-payments-in-health-care/>

Comment: Yes, it is the prices, but why, and what do we do about it?

As to why, it is often said that health care prices are high in wealthier nations, and with our great wealth in the United states, we do have the highest prices. But that really isn't so much of an explanation as it is an observation. In fact, much of the wealth is at the top, and median incomes are quite modest and are no longer able to support our very high health care prices. We are not spending a lot more on health care simply because that's where we want to spend it.

So why are our prices higher? As Uwe Reinhardt explains, much of the pricing decision process has remained under control of the private insurance industry - classed as "free-market determination" in that the government has had little input in influencing these prices. As he states, "the opaque, price-discriminatory and administratively unwieldy – and hence very expensive – payment system of individual (private insurer) negotiations over fees has not served Americans well during in the last few decades."

Besides "free-market determination," other options for pricing include "quasi-markets" and "unilateral administrative price setting."

Within quasi-markets prices are set by negotiations between associations of insurers and associations of providers, such as with all-payer systems. Although this can improve fairness of pricing and provide nominal administrative savings, it still leaves in place the most expensive model of financing health care - a combination of a multitude of private plans with public programs.

Unilateral publicly-administered price-setting is by far the most effective method achieving fair prices. It is used by single payer systems through different bases such as fee-for-service, evidence-based bundling, capitation, and institutional budgets with salaried personnel. Again quoting Uwe Reinhardt, "... governments must above all seem fair to all parties in

its decisions and also fully transparent. Private parties do not labor under these constraints."

The reason that publicly-administered price-setting is vastly superior is not simply because prices are more fair, but it is because of the innumerable other advantages of the single payer model of health care financing and delivery.

Former PNHP president Johnathon Ross, in his response to Uwe Reinhardt's blog (posted above), explains precisely why we should use the single payer model to get our pricing right - not only achieving fair prices, but achieving that previously elusive goal of health care justice for all.

The following article is a reprint from Don McCanne's March 22, 2012 *Quote-of-the-Day*, "Controlling costs through HHS rate reviews".

HealthCare.gov

March 22, 2012

2012 Progress Report: Health Reform is Opening the Insurance Market and Protecting Consumers

The Affordable Care Act's Rate Review policies bring an unprecedented level of scrutiny and transparency to health insurance rate increases. They ensure that, in every state, every proposed increase of 10% or more is evaluated by independent experts to assess whether they are based on reasonable assumptions and sound data.

Rate review is expected to help moderate premium increases and provide consumers with greater value for their premium dollar. Additionally, health insurance companies must provide easy to understand information to their customers about their reasons for significant rate increases, as well as publicly justify and post on their website any unreasonable rate increases.

The Affordable Care Act's Rate Review program started for most individual and small group plans on September 1, 2011.

Through March 10, 2012, 186 increases affecting more than 1.3 million people have been posted on companyprofiles.healthcare.gov. Each provides an explanation from the insurer, including the rate increases determined to be unreasonable rate increases.

States are taking a strong lead in reviewing proposed rate increases. Of the 186 requested increases posted on HealthCare.gov as of March 10, 2012, two-thirds (125 filings) of these are being reviewed by rate review programs in the states. Only one-third (61 filings) is under review by HHS.

In the 61 instances to date where HHS is charged with conducting reviews, the Department has completed 28 determinations. HHS has determined that 20 of the 28 proposed rate increases are unreasonable. The most common reason for this determination is that the proposal would result in projected medical loss ratios (MLRs) below the 80% applicable threshold.

<http://www.healthcare.gov/law/resources/reports/rate-review03222012a.html>

Comment: The title of today's message, "Controlling costs through HHS rate reviews," is deliberately deceptive to make a point. Supposedly, the Affordable Care Act (ACA) was designed to help control spending in health care, and the insurance premium Rate Review process was a component of cost containment. In fact, not only does the process have no impact on health care spending, it doesn't even have any federal control over increases in health insurance premiums.

ACA regulations require that any plan with premium increases of 10 percent or more be reviewed. Although states may have some influence over rate increases, the federal government has no authority to do anything about the increases other than expose the insurers to public ridicule.

In the last six months, 20 rate increases reviewed by the federal government have been found to be unreasonable,

primarily because they exceeded the 20 percent of the premium that they could use for administrative services and profits. Many of these insurers in the individual market will find that their inefficiencies are so great that they will be unable to comply with this requirement, so they really don't need ridicule to drive home this point.

In the meantime, insurers will be able to increase their premiums 9.9 percent each year with no questions asked, at least not by the federal government. Compound that rate over several years, and then where will we be?

Obviously this ACA measure to "control costs" will have very little impact, if any, on insurance premiums and absolutely no impact on total health care spending.

There is a much more efficient model of health care financing that actually would slow the increase in health care spending while ensuring health care for everyone. Instead of playing ACA games, we should move forward with an improved Medicare for everyone.

The following article is a reprint from Don McCanne's March 19, 2012 *Quote-of-the-Day*, "Jonathan Haidt's "The Righteous Mind" – good people divided by politics ".

Pantheon Books

The Righteous Mind Why Good People Are Divided by Politics and Religion

By Jonathan Haidt

We can define moral capital as the resources that sustain a moral community. More specifically, moral capital refers to "the degree to which a community possesses interlocking sets of values, virtues, norms, practices, identities, institutions, and technologies that mesh well with evolved psychological mechanisms and thereby enable the community to suppress or regulate selfishness and make cooperation possible."

The Moral Matrix

Care/harm

Liberty/oppression

Fairness/cheating

Loyalty/betrayal

Authority/subversion

Sanctity/degradation

Liberal Wisdom

The left builds its moral matrix on three of the six foundations, but it rests most firmly and consistently on the Care foundation.

Liberals are often suspicious of appeals to loyalty, authority, and sanctity, although they don't reject these intuitions in all cases (think of the sanctification of nature). For American liberals since the 1960s, I believe that the most sacred value is caring for victims of oppression. Anyone who blames such victims for their own problems or who displays or merely excuses prejudice against sacralized victim groups can expect a vehement tribal response.

Libertarian Wisdom

Some liberals began to see powerful corporations and wealthy industrialists as the chief threats to liberty. These "new liberals" (also known as "left liberals" or "progressives") looked to government as the only force capable of protecting the public and rescuing the many victims of the brutal practices of early industrial capitalism. Liberals who continued to fear

government as the chief threat to liberty became known as "classical liberals," "right liberals" (in some countries), or libertarians (in the United States).

You can see the fork in the road by looking at the liberal moral matrix. It rests on two foundations primarily: Care and Liberty (plus some Fairness, because everybody values proportionality to some extent). Liberals in 1900 who relied most heavily on the Care foundation - those who felt the pain of others most keenly - were predisposed to take the left-hand (progressive) fork. But liberals in 1900 who relied more heavily on the Liberty foundation - those who felt the bite of restrictions on their liberty most keenly - refused to follow. In fact, libertarian writer Will Wilkinson has recently suggested that libertarians are basically liberals who love markets and lack bleeding hearts.

Social Conservative Wisdom

We have found that social conservatives have the broadest set of moral concerns, valuing all six foundations relatively equally. Their breadth - and particularly their relatively high settings on the Loyalty, Authority, and Sanctity foundations - give them insights I think are valuable, from a Durkheimian utilitarian perspective (i.e., recognizing that human flourishing requires social order and embeddedness).

A more positive way to describe conservatives is to say that their broader moral matrix allows them to detect threats to moral capital that liberals cannot perceive. They do not oppose change of all kinds (such as the Internet), but they fight back ferociously when they believe that change will damage the institutions and traditions that provide our moral exoskeletons (such as the family). Preserving those institutions and traditions is their most sacred value.

In sum

Morality binds and blinds. It binds us into ideological teams that fight each other as though the fate of the world depended on our side winning each battle. It blinds us to the fact that each team is composed of good people who have something important to say.

This book explained why people are divided by politics and religion. The answer is not, as Manichaeans would have it (i.e., battleground of forces of light and of darkness), because some people are good and others are evil. Instead, the explanation is that our minds were designed for groupish righteousness. We are deeply intuitive creatures whose gut feelings drive our strategic reasoning. This makes it difficult - but not impossible - to connect with those who live in other matrices, which are often built on different configurations of the available moral foundations.

<http://righteousmind.com/>

Comment: Social psychologist Jonathan Haidt, in "The Righteous Mind," provides us with a background on the evolution and development of the moral matrices that have contributed to our political divide. Although some might want to challenge details of his Moral Foundations Theory, there is absolutely no doubt that moral differences do exist, and he has provided plenty of experimental data to show that political views do correlate with the six moral foundations described.

Single payer supporters certainly identify with the Care foundation. That's what single payer is all about - making sure that absolutely everyone is able to receive needed health care. Care is the most defining moral foundation of liberals. In contrast, Loyalty, Authority, and Sanctity are barely on the radar screen of many liberals.

Social conservatives are driven by all six foundations of the moral matrix, especially Loyalty, Authority, and Sanctity. Although they are also driven by Care, Care can be suppressed to some extent by the "groupish righteousness" of Loyalty, Authority, and Sanctity. Although libertarians are often included on the right with conservatives, libertarians are unique in that they are influenced very little by the moral foundation of Care. Unabashed libertarians likely would never be single payer supporters.

So if social conservatives are partly driven by the moral foundation of Care, would they ever support single payer reform? In fact, many of them do. Most believe that everyone should have health care, and many recognize the efficiency of the

single payer model. However, the groupish righteousness of Loyalty, Authority, and Sanctity often keeps them from breaking ranks with their conservative peer groups. Nevertheless, there does seem to be an opening for conservatives to join forces with liberals in advancing the concepts of single payer.

What about the liberals? They would certainly welcome the opportunity to work with conservatives on single payer. But if we listen to Jonathan Haidt, the liberals have been making a mistake by remaining oblivious to the conservatives' moral values of Loyalty, Authority, and Sanctity - fundamentals of moral capital.

He writes, "If you are trying to change an organization or a society and you do not consider the effects of your changes on moral capital, you're asking for trouble. This, I believe, is the fundamental blind spot of the left. It explains why liberal reforms so often backfire, and why communist revolutions usually end up in despotism. It is the reason I believe that liberalism - which has done so much to bring about freedom and equal opportunity - is not sufficient as a governing philosophy. It tends to overreach, change too many things too quickly, and reduce the stock of moral capital inadvertently. Conversely, while conservatives do a better job of preserving moral capital, they often fail to notice certain classes of victims, fail to limit the predations of certain powerful interests, and fail to see the need to change or update institutions as times change."

As a liberal, I confess that I am fixated on the moral foundation of Care. I also confess that I have a blind spot on the full range of moral capital. However, the conservatives do not have a blind spot on Care, even if they seem to have other priorities. Do you suppose that the conservatives would be willing to help us liberals understand the moral capital hidden in that blind spot, in exchange for liberals helping the conservatives understand better what it means to Care?