

Will Federal Health Reform Render Utah's State-Level Reform a Waste of Time?

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Comprehensive health system reform is the hottest policy issue in the country right now. Legislation is being pushed rapidly through Congress, which raises some important questions:

Will federal health reform legislation usurp Utah health reform efforts and render state-level reform a waste of time? Will Utah reforms currently in place and future plans dovetail with national reform?

UtahPolicy.com asked those questions to several Utah health care experts and we received cogent and insightful responses from experts with a wide range of viewpoints. Among those whose responses are published here are Utah House Speaker David Clark, two doctors involved in health reform groups, an academic expert, the Health Department's reform expert, and representatives of other key groups.

Speaker **David Clark** (who has led Utah legislative reform efforts): Over the past several years, Utah has been laying the foundation for true long-term reform of the health care system. This foundation includes the opportunity for employees to purchase insurance based on individual need rather than employer preference, the availability of lower cost plans, the capacity to calculate the costs of treatment across entire episodes of illness, the ability to share medical data electronically among patients, doctors, and labs, and the possibility for consumers to more efficiently compare insurance plans and medical providers.

When completed, we expect this foundation and the additional reforms we build upon it to slow the long-term growth of health care spending. This cost containment will be key to ensuring that those already covered are able to retain their insurance and those without insurance are able to get the coverage they need.

Is the path of reform we are traveling in Utah threatened by policymakers in Washington? Yes. Why? Because Congress does only two things particularly well: nothing at all, and overreact. We are all watching Washington like seismologists watching a fault line. We can see the tension build as powerful interests are pressed against one another. And we hear preliminary rumblings. But we don't know how the pressure will be resolved or what damage the rupture may do.

I expect that much of what we have already done in Utah will survive any Congressional rearrangement of the health care landscape. However, I expect that we could end up with some new and very real obstacles to further reform at the state level. These obstacles could include an increased financial burden imposed on states in order to expand enrollment in public health care programs prior to fixing the cost escalation problem, more limited regulation of insurance, and other results which effectively shift control of health care policy from the states to Washington. This would be an unfortunate result that would further erode our system of federalism which was designed to keep most government decision-making at the level closest to the people.

While we urgently need Congress to make certain reforms that only it can make---like changes to the formulas used to pay doctors and hospitals under Medicare---we do not need it to overreact and further limit the ability of states to craft solutions that reflect their own values and priorities. I would rather Congress left health system reform to the states, but I doubt it will be able to resist the urge to meddle

and attempt a quick, miraculous fix. In the wake of such incomplete or ill-advised Congressional action, states have too often been left to pick up the pieces and try to fill the public policy void.

Regardless of what comes out of Washington in the next few weeks and months, the need for state reform will continue. Without question, states will have to respond to not only the opportunities which Congress may create, but also the string of other intended and unintended consequences. As a state legislator, I see that states are and should be the point of primary interaction between citizens and their government. In that position we don't enjoy the luxury of punting the ball at the 50-yard line or otherwise failing to make it all the way to the goal line. We must keep our policy promises and get the job done. All the way.

Norman Thurston (State Health System Reform Coordinator, Utah Department of Health): The Democrats have been public about their desire for health reform to be bi-partisan. However, I don't see much Republican support for any of the three proposals (Senate Finance, Senate HELP, and House). It also appears that there is not even consensus among the majority party in either house about how to proceed.

Based on the inherent difficulty of creating compromise within and across party lines, I think significant federal action is unlikely any time soon. But if members of both houses begin to act like true success relies on bi-partisanship, the most likely outcome will be a plan that appeals to the "common denominators" of all of the various factions.

One of the big sticking points seems to be cost, which suggests that if anything comes out of Congress this year it will be significantly scaled back and would be much more likely to allow for and respect state reform efforts. To summarize, we'll either get nothing significant (most likely) or we'll get a significantly scaled-back compromise bill. In both cases, Utah is best served by pushing forward with proposed state reforms.

Utah has not pursued significant public program expansions or dramatic increases in public funding for health care. Those sorts of provisions in some of the proposed federal plans would be new for Utah and would likely create a real strain on the state budget. Our health insurance reforms could still be workable under most scenarios, unless federal legislation requires a national exchange or places significant regulation on state exchanges or insurance markets. Other efforts in Utah, such as increasing transparency, reducing administrative burdens, and promoting wellness should be largely compatible with the types of federal plans that are likely to come from the compromise process.

Bill Crim (Vice President, Community Impact & Public Policy, United Way of Salt Lake): It's hard to imagine that what Congress *might* pass will eliminate the need for Utah to continue state-level reforms (it's actually very hard to imagine that Congress will pass any legislation that adequately deals with the fundamental challenges in our system of unsustainable cost, inadequate quality, and contracting coverage and access).

As a country, and as a state, we've been down this road before - many times in fact. The process always starts with broad public and bipartisan recognition of the need for reform, but in the end we usually end up with changes at the margins, if anything changes at all. Often these changes expand access to a particular group, but fail to bring everyone into the system and ultimately fail to address the underlying cost drivers in a system that soon will consume 20% of our GDP - without producing the health outcomes we expect or the financial security we need.

Regardless of what happens at the national level, Utah must continue on the path we have set for comprehensive reform, and we must pick up the pace. We should, however, pay close attention to the national debate - not only to the details of any proposed or enacted policy, but to the politics and colliding interests at play.

I hope to be proven wrong, but if federal reform passes, it will likely do so in a form that fails to address the underlying cost drivers in the current system, or Congress may stalemate completely as it did in 1994. Either way, it won't be because we don't know what is needed to fix our system. It will be because of our collective failure to face the difficult political choices that must be made and set aside narrow political or economic interest in order to develop a sustainable system that works for everyone.

The same forces will be at work when we get to the point of making difficult decisions at the state level. If we cannot learn from the political mistakes being made at the federal level, we are bound to repeat them here.

One of the ironies of the local critique of proposals being debated at the national level is that the main Congressional proposals are remarkably similar to Utah's own reform structure. If you strip away the rhetorical embellishments of both sides of the debate (and for the moment some of the contentious details), the essence of what is being debated at the federal level is far from a socialist, government takeover of the health care system.

The major bills propose a free market, employer-based health care system which promotes greater personal responsibility, and that attempts to improve health care delivery, coverage, and outcomes. To be sure, there are flaws in the federal proposals, but I would argue that for the most part they are the result of attempts to please the myriad of special interests and avoid making politically difficult decisions.

It's unfortunate that the politics of the debate are obscuring what may be an unprecedented level of agreement about the overall framework of reform. Utah's reform efforts begin with that same level of basic agreement among key stakeholders, but will likely run into the same political challenges evident in the Congressional debate once we face the more difficult choices that are necessary for effective reform.

Rep. **Brad Daw** (a leader in Utah legislative reform efforts) I predict that federal legislation won't mean Utah's efforts are obsolete, but that prediction is based on the assumption that it won't pass. At this point it is a prediction with a fair amount of uncertainty. While the federal plan itself is loaded with flaws, the president has shown a fair amount of ability at ramming controversial legislation through. My prediction is laced with some hope that the national plan will ultimately be distasteful enough that a couple of more conservative Democrat senators will jump ship and that no Republican senator will switch sides.

The fact is that other than stated goals, Utah's reforms are diametric opposites of the national reforms. Where Utah's efforts deal with increased consumerism through giving the consumer more options and paving the way for small businesses to be able to offer health insurance by cutting down some red tape, the nation effort is focused on mandates, tax increases, and a vastly increased bureaucracy. Utah wants to increase access and affordability through free market principles. The national government wants to reach the same ends through centralized planning and heavy-handed mandates.

Joseph Q. Jarvis MD MSPH (Chair of the Utah Healthcare Initiative) So far, congressional efforts at health system reform have not been comprehensive. Most of the discussion has been about covering the uninsured (and how to pay for that). Lip service only has been given to cost control. It seems likely, therefore, that any legislation which eventually does pass will be an effort to federalize coverage of the uninsured and will have a remarkable price tag, as documented by the Congressional Budget Office.

White House and Congressional leadership prevarications don't change the simple fact that inefficiency and quality waste make our current health care system unsustainable. Therefore, even should some version of 'health reform' pass Congress, real and comprehensive health system reform will still be necessary, and soon.

Logically, states would be the venue for health system reform via waste elimination after such a federal failure. At least one version of health care legislation on the House side of Congress explicitly allows for states to step in and take charge of health system reform, though a Senate committee recently voted against a similar provision. In a real sense, national health legislation cannot 'usurp' state or regional health care policy since health care delivery has an inherent local or regional nature.

State health systems vary greatly in quality, access, and cost. No national program will uniformly fit conditions in any region, though successes in one state may well provide opportunities for improvement in others. My prediction: Congress will pass and Mr. Obama will sign health legislation which attempts to cover some of the uninsured but fails to control costs. This will leave the economy and the health system in peril and states will continue their efforts to improve health system function. Ideally, the federal government will leave an open door for these state reform efforts.

Utah's reform efforts are not materially different from those proposed nationally. Both are 'coverage' efforts, though Utah's are on a miniscule scale compared to federal proposals. Both begin with the premise that health 'reform' should build on 'what works', meaning employment-based health benefits financed through health insurers.

Federal efforts feature finding new public revenues to fund coverage for some of the uninsured, while Utah's 'reform' overtly rejects public funding and favors new insurance products which are 'more affordable', hoping thereby to induce the uninsured to purchase insurance. To the degree that federal 'reform' makes public funding of health coverage available to Utah's uninsured, some increase in coverage will occur in Utah. Very little, if any, increase in coverage will occur with Utah's 'health reform' legislation, passed earlier this year.

Neither Utah's nor currently proposed federal health 'reforms' will actually make a difference by solving health system problems. In this failure, they fit together well. Both will fail because both begin with a false premise: we cannot build on what works in our health system, because nothing works. The business model of private health insurance is a failure, as is the concept of basing health benefits on employment status.

Mark H. Showalter (Professor of Economics at Brigham Young University; former Senior Economist for Health Policy on The President's Council of Economic Advisers, Washington D.C.) If health reform were a fish story, Ahab's hunt for *Moby Dick* would describe Washington's current gyrations, while a leisurely day trout fishing on Strawberry Reservoir could describe Utah's efforts. There is some commonality between the two stories, but the overlap is small.

I do not think the national legislation will usurp Utah's legislation, at least on broad principles. And I certainly don't think that Washington's reforms eliminate the opportunity Utah has to improve the functioning of health care markets in the state through state-level changes.

Washington is engaged in an effort to overhaul the entire health care system. Proposed changes include significant modifications to the income tax code, to the Medicare and Medicaid programs, to industries such as pharmaceuticals and health insurance, to physician and hospital compensation, and to employer-employee relations.

Utah's reforms by comparison are relatively modest, dealing mostly with improving the functioning of the individual/small group insurance market, and making some efforts at providing more transparency and information for the health system as a whole. The scope of changes at the federal level does raise the possibility that some state efforts might be contradicted or subsumed by federal changes.

But the outlook for national reform is very uncertain. Last week brought bad news from the Congressional Budget Office. Testimony from Director Doug Elmendorf suggests that none of the current legislative proposals will slow health care cost growth, and all will add to the long term fiscal crisis already facing the country. Poll numbers suggest the public is losing faith in Obama's ideas on economic issues in general and on health care reform in particular.

Congress may indeed pass some type of health reform legislation this year, but it is looking unlikely that it will be transformative. I don't see the wisdom in delaying reforms efforts here in Utah due to legislation that may or may not pass in Congress.

Most of Utah's efforts will likely fit reasonably well with federal efforts to improve the functioning of insurance and health care markets. The particulars may differ somewhat, but the ideas of transparency and accountability are shared by both state and federal legislators. However, federal efforts to expand Medicaid might cause some serious fiscal difficulties for the state and are contrary to the intent of Utah legislation to strengthen and expand private insurance coverage.

Elizabeth Garbe (MSW, Coverage Initiatives Director, Utah Health Policy Project) There are stakeholders who view national reforms as usurping state efforts. I believe it's more accurate to think of national reforms as complementing and strengthening Utah's current efforts. Utah will be required to implement policies that have not yet gained political traction and are critical for long-term success. These policies include:

- Moving to a modified community rating system where insurers are no longer able to deny people coverage due to their health status or exclude pre-existing conditions;
- Defining a *minimum creditable coverage* benefits package to ensure people are purchasing health insurance that covers all medically necessary, cost-effective care;
- Requiring all people to be in the system to minimize the current cost shifting and make the most of cost containment strategies;
- Creating an "exchange" or "gateway" that will allow individuals, sole proprietors and small businesses to pool together which will spread risk more broadly, lower costs, and increase choice;
- Addressing the affordability issue by providing families and small businesses with subsidies to purchase insurance.

These policies are supported by a majority of Utah citizens and businesses. A recent [survey of Utah small businesses](#) found that:

- 79% want to eliminate preexisting condition rules
- 80% support establishing a health insurance pool
- 76% believe a standard benefits package must be created.

It is important to recognize that Utah does not exist in a vacuum. Having consistent laws and rules across the country is essential to creating a system that works for all Americans. National reforms are NOT about usurping state innovation but rather about ensuring consistency in our health care system in which access to affordable, quality health care, strengthening the doctor patient relationship, expanding choice, and increasing competition are paramount. Regardless of the final details, there will continue to be a big role for states on implementation, infrastructure and workforce development, and quality improvement. Utah can and will be a national model in these areas.

National reforms will give the structure and uniformity needed to ensure success. Utah's current path fits nicely with the national reforms and will put Utah ahead of the game on implementation. In particular, Utah is currently developing an Exchange, a mechanism that will surely come out of any national legislation. National policies will provide the additional structure needed to ensure Utah's exchange succeeds. The current delivery of care and payment reform process, health care cost and quality data (transparency), and health information technology such as the Clinical Health Information Exchange will complement national reform efforts and may become national models. To ensure all stakeholders benefit from health reform, there must be a partnership between the state and federal government.

Dr. **Charles Stewart** (practicing plastic surgeon, former Utah state senator, Coalition to Protect Patient Rights) There is no doubt that the federal government is considering some very destructive policies. However, this does not mean that we at the state level should abandon our efforts to improve the way health care is financed. That is really the question. If we stop investigating for solutions, we will cede, by our silence, authority to others to decide for us.

The proposed plan in Washington is doomed to failure just as Medicaid and Medicare and Mitt Romney's Massachusetts experiment are all beyond budget and not providing the promised benefit. Change will come as our system of financing care continues to implode and finally legislators will be forced to be reasonable and practical. When that time comes, ideas and solutions must be available.

I don't think the Utah Health "Reform" committee is doing anything or discussing anything much different than was looked at by Gov. Leavitt's health reform commission. I am afraid that the philosopher who said that "those who do not learn from the mistakes of history are doomed to repeat them" is being proved correct. I think the best thing happening at the State level right now is Dr. Robert Hueffner's group comparing the costs of different procedures at different hospitals, cost comparisons, to give the insurance companies and consumers a choice in where they can receive service. Isn't that a novel idea?

Shop for the best price and service! Insurers and consumers should be encouraged and allowed to do that. But that is not happening in our State. Transparency in cost and quality should then be transformed into freedom of choice.