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Comprehending the Connector

By Diana M. Ernst

- State governors are struggling to provide "universal" health care, some with no cost-effective or quality results.
- The health-care connector model originated with the Massachusetts health plan last year. It expands section 125 cafeteria plans to provide portable, tax deductible health insurance for employees and individuals. We have yet to see its outcome in Massachusetts, but it already faces regulatory challenges in other states.
- By itself, a connector may be a good idea, but the current environment of state health-care mandates and federal law inhibit a connector from serving as a truly cost-effective and competitive model for health insurance.
- We must deregulate health care first, to provide diverse and cost effective health plans in every state for every American, and we must do that before we try to patch up and further complicate health care with new law.

America's governors are brainstorming health-care policy like never before, and in their race for "universal" care, big government is rearing its officious head. State leaders have hatched experiments that include increased federal funding for outsized welfare programs, taxes on tobacco, and even taxes on physicians. A recent reform idea, the health-care "connector" or "exchange" was first proposed in Massachusetts, and soon after in other states including Georgia, Kansas, Michigan, Minnesota, and Washington. Unfortunately, a competitive, consumer-friendly connector may not prove viable while excessive federal and state health regulations remain in place.

The Massachusetts Plan

Last year's Massachusetts health legislation created the Commonwealth Health Insurance Connector, which attempts to minimize the role of employers in health insurance to create portable, tax deductible health insurance for individuals.

The Massachusetts Connector acts as a government-sponsored marketplace where individuals may choose from a select number of portable, competing health plans. Employers with more than 10 employees are required to offer a Section 125 cafeteria plan for employees to purchase health care with pre-tax dollars. If employers choose not to offer health insurance, then employees can use their Section 125 cafeteria plans to purchase health insurance through the Connector.[1]

Real Competition means Real Deregulation

The incongruous "government-sponsored marketplace" prompts our uncertainty about the Massachusetts connector model, which may not be the best for other states. Allegedly "competitive" health insurers within the Connector are still managed by Massachusetts community rating and guaranteed issue restrictions, and 40 mandated health benefits. As Michael Tanner from the Cato Institute said, "Insurers in the Connector cannot compete on the basis of their ability to price and manage risk."[2] Therefore, they aren't truly competing. Also, recent confusion about premium prices and benefits does not bode well for the future.[3]

The other important difference between the Massachusetts Connector and those emerging in other states has to do with a federal law, the Health Insurance Portability and Accountability Act (HIPAA). HIPAA makes it practically impossible for employers to offer

individual, tax deductible health plans for employees, stating that workers cannot purchase individual insurance through Section 125 cafeteria plans *if there is medical underwriting* in that state.[4]

Massachusetts is the second most expensive state in the nation for individuals to buy health insurance, but it dodged the hefty HIPAA law with its Connector by having costly community rating and guaranteed issue regulations, and no underwriting in place.[5]

Washington State and "the Constrictor"

Washington state leaders seek to follow the Massachusetts innovation. Governor Christine Gregoire's health-care commission recently laid the groundwork for her Healthy Washington Initiative, an estimated $142-million investment to insure all Washington children by 2010, and all adults by 2012. Representative Eileen Cody has proposed legislation for a connector that would enroll some 800,000 people into a select number of health plans.[6]

Like Massachusetts, the Washington connector would support a state-designed "marketplace" for health plans. Free-market advocates such as Paul Guppy of the Washington Policy Center label it the "Constrictor"[7] because it would mandate enrollees to drop their existing coverage, enroll in one of the connector's six plans, and buy the full range of health benefits, even though Washington already mandates 50 benefits for individual insurance.[8]

Small businesses and insurers object to the Cody plan. Many don't want to give up their existing insurance plans and don't want their members forced into the state's alternatives. Washington Representative Bill Hinkle has offered a proposal that would have a private group control the insurance connector instead of a state establishment.[9]

Paul Guppy supports a non-profit organization to administer the Washington connector, because it would have a personal stake in the connector's success. He believes a government agency would create adverse incentives that would stifle competition, and Washington is already burdened with plenty of regulations on health care.

"State agencies are insulated from the natural discipline of the marketplace," Guppy says, "and they are seldom held accountable for the failure of the programs they administer."[10]

Minnesota: An Innovative Predicament

Minnesota has taken the connector concept a large step further: what about having more than one? A new proposal contains a provision stating that *any* company authorized to do business in Minnesota could create a health-insurance exchange with the authorization from the state commissioner of commerce.[11]

Minnesota also has a very high number of mandated health benefits for individual insurance, but it does *not* have highly regulated insurance, according to the Council for Affordable Health Insurance (CAHI). Last fall, CAHI rated Minnesota and Utah as the second best states in the nation for health insurance, with the most competitive markets and a variety of affordable choices.[12]

According to the Minnesota connector proposal, health insurance companies that participate in an exchange must follow all federal and Minnesota rating laws for individual insurance. This would likely preserve the competitive nature and low premiums of the Minnesota market.[13] Unfortunately, HIPAA is in the way again.

HIPAA also requires guaranteed issue, meaning that insurers must accept anyone regardless of health status or history into small-group health insurance. The problem with such anticompetitive regulations is that some applicants use very expensive health-care services, thereby drastically raising the average cost of health insurance for everyone.

Small Minnesota business employers who contribute 50 percent of health-care costs to at least 75 percent of their employees will fall under guaranteed issue from any health insurance plan participating in the small employer market. And if one employee has individual coverage, then all employees working for the same employer must also have access to individual plans on a guaranteed issue basis.[14]

Michigan Congressman Mike Rogers cites estimates that guaranteed issue could add about 25 percent to the cost of insurance coverage, which is very hard on small businesses. His proposal, the HSA Accessibility and Portability Act, is not a connector, but tries to avoid these regulatory burdens nevertheless. He calls his bill, "another tool for increasing free-market principles and consumerism in healthcare." The law would apply only to coverage for small group employers to create portability for high deductible plans paired with HSAs.

Rogers' bill would amend the HIPAA guaranteed issue provision for small group markets so that insurers would not have to provide health insurance to eligible individuals after the small group elects a plan. An insurer would, however, guarantee a *continuation* of individual coverage if an individual no longer qualifies for coverage under an employer, at a capped rate that must be less than 150 percent of the standard individual rate in the *state.*[15]

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Connecting Reform with Deregulation

President Bush's tax plan, yet another idea, may outshine recent state reforms by boosting portability in health care with a standard, generous tax deduction for everyone: $7500 for individuals and $15,000 for families. The president's plan would shift health care away from the employer-based system, which uses tax deductions to encourage compensation in the form of costly health benefits. Under Bush's idea, many workers could take home more cash to use at their own discretion, instead of mandatory and perhaps unnecessary benefits.[16]

Restoring health care in this country with too many legal "patches" will further complicate our highly regulated system. Legal quagmires like HIPAA create this regulatory environment, which prevent a *competitive* health insurance connector (certainly not a bad idea by itself) from being effective. We need to scrap the unworkable groundwork first. Other ideas from Michigan and the Bush Administration appear to offer substantive change, using methods of deregulation, which offer more freedom in our highly regulated and complicated system. Deregulation is necessary for competitive health-care delivery to succeed in providing high quality and more health choices at lower costs for individuals who need it most.

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