

Consumer-Directed Health Care: Better Care or a Passing Fad?

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Overview

- Emergence of consumer-directed health care (CDHC)
 - Market competition model
 - Health care as a commodity
- New policy/legal considerations
- Panacea or latest fad?

CDHC: I

- Definition
 - High-deductibles
 - Tax-favored health savings accounts
 - Out-of-pocket limits
 - Risks shifted to patients
 - Different configurations

CDHC: II

- Patients control their health care spending
 - What health plan to buy
 - When/where to seek tx
 - What treatment to receive, from whom

CDHC: III

- Theory
 - Patients will be cost-sensitive
 - Quality up, costs down
 - Efficiencies will reduce rate of uninsured
- Dependent on
 - Information
 - Patients' ability to make wise choices

Conceptual Considerations: I

- Pros
 - Reliance on patient preferences/values
 - Patient choice/responsibility
 - Awareness of health care costs
 - Market-based
 - Decouples health insurance from employment
 - Reshapes thinking about health care

Conceptual Considerations: II

- Cons
 - Information deficits
 - Fragmented risk pools
 - Favors healthy/wealthy
 - Patients may avoid prevention
 - Inadequate account amounts
 - Health care as commodity

Empirical Considerations: I

- AHIP
 - 27% previously uninsured
 - 73% replacing previous coverage
 - 4.5 million now enrolled (Jan. 07), up from 3.2 million (Jan. 06)
 - Growth in large group market
 - Slower growth in individual market

Empirical Considerations: II

- *Wall Street Journal* (Fuhrmans, 12 June)
 - 2.4 million workers in 2005; 2.7 million in 2006
 - 40% because no choice
 - 19% when choice exists
 - Lower satisfaction
- McKinsey (2005)
 - CDHC patients more likely to ask about costs
 - Choose less expensive treatment option

Empirical Considerations: III

- Increased cost-sharing likely
- No evidence yet re: cost reductions/quality increases
- No decrease in uninsured rates
- RAND Health Insurance Experiment

CDHCs: Changes With Legal and Policy Significance

- Shifting risk to patients
 - Changes physician-patient encounter
 - Changes fiduciary obligations
 - Emphasis on patient preferences
 - Implications for legal standard of care
 - Information disclosure
- Legal implications differ by stakeholder

CDHCs—Key Legal Questions

- Shift from tort liability to contract?
- Changes to legal standard of care?
- Erosion of ERISA preemption?
- Responsibility for information disclosure?
- How will CDHC cases be litigated?
- Judicial receptivity to new legal doctrine?

CDHCs—Key Policy Questions

- Change in what differentiates health care from other markets?
 - Health care as a commodity
- Information disclosure
- Patient protections
- Regulatory issues
- Mediating claims

Why is This Fad Different?

- Nothing else has worked anyway
- Gaining market share
 - Give market competition a chance
- Era of individualism and market dominance
- Political support
- Health care as a commodity

Why This Fad Will Fail

- History of previous failed reforms
- Assumes highly educated patients
- Favors healthy and wealthy
- Lack of empirical support for enhanced quality at lower cost
- Fragmented insurance pools

Why This Fad Will Fail: II

- Triumph of hope over experience
 - Every fad as the solution
 - Every fad abandoned
- Won't and can't redress systemic flaws
 - Costs too high for uninsured populations
 - Won't change quality
- Information limits

Why This Fad Will Fail: III

- Public resistance to health care as commodity
 - Remember managed care?
 - *Caveat emptor* is not a good marketing campaign

Conclusion

- CDHC is different from other fads
 - Market reliance
 - Great patient involvement
- CDHC is like every other health care fad
 - Will not achieve higher quality at lower cost
 - Will not substantially lower uninsured rates

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