

What Comes Next following the Supreme Court's Health Care Ruling?

A summary of WPC's 10th Annual Health Care Conference

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Key Points by Conference Participants

1. Several hospitals are at risk of being closed, leaving people in rural areas of Washington without access to health care.
2. Governor Gregoire recommends her successor focus on affordability and sustainability in health care.
3. Many companies will stop providing health benefits and will send workers to the state health exchange.
4. The alarming shortage of primary care physicians in the U.S. puts strains the future of quality patient care.
5. Keynote speaker Bill McCollum noted the federal government is disillusioned if it thinks bigger problems will lead to innovation and efficiency.
6. At the end of the day, McCollum stated, the Affordable Care Act is both unaffordable and unworkable health care reform.

Washington Policy Center held its 10th Annual Health Care Conference on July 10th in SeaTac. Four sessions were dedicated to discussing health care reform in light of the national Affordable Care Act and its impact on our nation and Washington state. The day consisted of a legislative update during breakfast, two panel discussions, and a lunch with keynote speaker Bill McCollum, the former Florida Attorney General and a former member of Congress.

Political reporter Jerry Cornfield moderated the first panel where Sen. David Frockt, Rep. Joe Schmick, and Jonathan Seib from the governor's office described recent legislative action that affects health care in Washington state. The panel focused on the creation of the new Washington State Health Benefit exchange and the Health Insurance Exchange Board.

Two members of the Washington State Health Insurance Exchange Board, Phil Dyer and Doug Conrad, presented steps the board has taken in designing and implementing the exchange. Moderated by Tom Curry, exchange responsibilities and future challenges were discussed.

The third panel, featuring Jeff Roe of Premera Blue Cross; Patrick Connor from the National Federation of Independent Business; Joel Gilbertson of Providence Health & Services; Dr. Henry Williams, a local health care provider; and moderator Roger Stark, Washington Policy Center's health care policy analyst, provided varying perspectives on the effects of the Supreme Court's ruling.

Finally Bill McCollum, former Florida attorney general who led the attorneys general lawsuit against the individual mandate in the Affordable Care Act, presented what he calls the "Unaffordable Care Act," sharing his disappointment over the Supreme Court ruling and its effects on accessibility, affordability and quality of patient care.

The conference was taped by TVW and can be viewed online at washingtonpolicy.org.

Panel I: 2012 Legislative Update

- *Senator David Frockt, Senate Health & Long-Term Care Committee*
- *Representative Joe Schmick, ranking minority member, House Health Care & Wellness Committee*
- *Jonathan Seib, Office of the Governor*
- *Moderated by Jerry Cornfield, political reporter for The (Everett) Herald*

Jonathan Seib began the morning's discussions by providing updates on the Legislature's accomplishments during the 2012 session. Washington's Health Benefit Exchange was created during the 2011 legislative session and this year lawmakers removed restrictions hindering the exchange authority from taking steps to design, develop and implement the program. Seib concluded that the Legislature accomplished a great deal more but much of the legislative success was buried by controversy over the state budget.

Rep. Schmick followed by offering his concern over the funding for critical access hospitals. Several hospitals are at risk of being closed, possibly leaving people in rural areas of Washington without access to health care. This session, legislators failed to enact a bill to help fund the critical access hospitals. In reference to the Health Benefit exchange bill, Schmick was concerned over costs and troubled by the lack of legislative oversight of the exchange board and the insurance commissioner, and also believes insurance plans should be available both inside and outside of the exchange.

Sen. Frockt echoed Seib in saying the Health Benefit exchange was the most important piece of legislation to pass this session. He is proud of a reporting provision that was added to the bill requiring the exchange to be assessed for adjustments in 2016. Frockt expressed the need for competition in the exchange, supporting a proposed "interstate access bill." Frockt predicts the federal Medicaid expansion will go forward requiring Washington lawmakers to find ways to make the Medicaid system more efficient.

Expanding on the discussion of Medicaid, moderator Jerry Cornfield asked "Do you support the Medicaid expansion and how fast do you predict it to move forward?" Frockt predicted the state would accept expansion and shared his support, saying that new enrollees will be younger and in better health, reducing future costs. Schmick denounced any cost savings within the expansion, explaining the only way to cut costs is to limit the number of people in the program, the services provided, or to cut provider reimbursements. Seib shared the governor's office's assumption that an expansion will occur in 2014, with Governor Gregoire recommending her successor "focus intently and unrelentingly on affordability and sustainability."

Curbing rising costs was of great importance to attendees. One audience member cited previous exchange attempts like the Health Insurance Partnership (HIP) and asked how the new exchange will limit costs, especially after federal funding dissolves. Seib responded that the exchange must show value to be sustainable and the "proof is in the pudding."

Summary Points

- The Legislature made strides in designing and implementing the Health

Benefit Exchange by giving greater decision-making freedom to the exchange board and to the insurance commissioner.

- In establishing the exchange, cost concerns are at the forefront of citizen and lawmaker apprehension.
- The expansion of Medicaid is uncertain; however the affordability and sustainability of the program will be strongly debated in the months to come.

Panel 2: Washington State Health Insurance Exchange Update

- *Phil Dyer, Senior Vice President, Health Management Services, Kibble & Prentice*
- *Doug Conrad, Professor, Health Services, University of Washington*
- *Moderated by Tom Curry, CEO, Washington State Medical Association*

Phil Dyer and fellow exchange board members are aware of the need to curb health care spending. “In the 1990s health care reform was, ‘We want it all but we don’t want to pay for it.’ In 2012 it is, ‘We want it all, we just *can’t* pay for it,’” shared Dyer. He described the makeup of the board and its duties. The board is made up of the chairperson, two overseeing members, and eight voting members of whom four were nominated by the “red” side (Republican), and four by the “blue” side (Democratic). This creates “a nice purple board,” stated Dyer, while praising the brainpower and well roundedness of the members. The board is split into two groups, Operations and Policy, and further broken down into small advisory committees.

The exchange board’s duties include developing standards for certifying health plans offered through the exchange, establishing consumer eligibility requirements and small business health options (SHOPS), establishing a website for consumers to compare plans, and implementing a toll-free hotline for consumer support. Under the Affordable Care Act (ACA), four coverage plans will range from “bronze,” which offers 60% coverage and 40% out of pocket expenses, to “platinum,” which offers 90% coverage and 10% out of pocket expenses. Dyer notes that ensuring the exchange is self sustaining by 2015 and adds value for Washington citizens and businesses is important.

Economist Doug Conrad provided his opinion on the main policy issues before the board. He said Massachusetts, which implemented a health insurance exchange in 2009, is a working example for how to structure the exchange, the essential health benefits, and the qualified health care plan criteria. In the area of risk leveling, Conrad shared his confidence in the three Rs — reinsurance, risk corridors and risk adjustment — stating, “[the] question is in the execution, not in the concept.” Conrad stressed that accessibility and cost are his greatest concerns.

After the two presentations, attendees asked several questions about the exchange’s impact on businesses. Dyer and Conrad shared plans for a fixed contribution system that helps companies “get out of the human resource business.” In defense of affordability for small businesses, Conrad explained these contribution costs will most likely come out of the employees’ wages. However, if employers still decide not to offer health coverage they will simply forfeit tax benefits and employees can purchase individual plans in the exchange. Audience members sought specifics about the development and implementation of the exchange, but many of these questions have not yet been discussed by the board. Doug Conrad said, “As a board, we have a lot of work ahead ourselves.”

Summary Points

- The new health exchange board is comprised of members with varying perspectives on the future of Washington’s health care system.
- The board is dedicated to finding ways of being sustainable without long-term federal funding, and ensuring citizens have access to affordable and comprehensive health coverage.
- The exchange is aware of business concerns and aims to reduce the burden of employee health care coverage for employers.

Panel 3: What Comes Next after the Supreme Court Ruling?

- *Insurance: Jeff Roe, Premera Blue Cross*
- *Hospitals: Joel Gilbertson, Providence Health & Services*
- *Business: Patrick Connor, National Federation of Independent Business*
- *Providers: Henry Williams, MD, private practice gerontologist*
- *Moderated by Dr. Roger Stark, WPC health care policy analyst*

On the projector, an image of a man leaping through the air supplemented Jeff Roe’s reference of the ACA implementation, “This is a massive leap, maybe more than we can do successfully.” As a result of the ACA, Premera Blue Cross is facing increasing costs of 50–70%. Roe suggested cost transparency to increase consumer awareness is necessary to reduce health care costs. Unlike Doug Conrad, Roe does not believe the three Rs will reduce risk. Roe highlighted the need for all parties involved in health care reform to work together, like the University of Washington’s winning crew team, whose victory picture concluded his presentation.

Joel Gilbertson described how Providence Health & Services sought reform by developing local solutions to national problems, long before the ACA or the Supreme Court’s recent “curveball” ruling. He said Providence expects a radical reduction in reimbursement payments and will continue its plan of creating value through economies of scale. Providence has adopted a “collaborative build” model that standardizes clinical practice and aggregates patient data. This streamlined process improves diagnosis and encourages better analysis and care of patient health problems.

Providing the small business perspective, Patrick Connor noted several aspects of NFIB’s 12-point plan that must take place for improvements in health care to occur. Connor echoed Jeff Roe’s need for cost transparency, shared his desire for interstate health care options, and supports defined contributions for small businesses. Connor’s major opposition to the ACA was based on questions about the exchange’s financial sustainability once federal subsidies have ended, and the dismantling of current health savings accounts (HSAs).

The fourth panelist, Dr. Henry Williams, reminded attendees and presenters of the main purpose of health care reform: Improving care for patients. Highlighting two core problems in the ACA, Medicaid expansion and dwindling provider reimbursements, Williams shared figures that shocked the crowd. Under the ACA’s Medicaid expansion, 30 million new people will be added to the existing 60 million people who already lack access to a primary care doctor. Moreover, the alarming shortage of primary care physicians in the U.S. puts incredible strains on the future of quality patient care.

As overhead costs increase and service reimbursements decrease, doctors will be forced to limit the number of Medicaid patients they see, work longer hours, or spend less time with each patient. These changes could lead to misdiagnosis or unnecessary referrals to specialists, who charge much higher prices than primary care physicians. Referring to the ACA Williams said, “The system is broken and I personally think this will really hurt quality care.” Eliciting a round of applause Dr. Williams’ stated, “I think if Congress got their healthcare like we got our healthcare, there may be an incentive to update and improve our system.”

Dr. Stark began the Q&A asking, “In 2022, what will the insurance industry look like?” Roe concluded there will be a need for greater spreading of risk and aggregation of data to create better coverage plans. Gilbertson offered hope that health care will be more clinician-led and data-inspired; while Connor was less optimistic, anticipating fewer small businesses provide employees with health insurance and an increased taxpayer burden.

A geriatrician in attendance asked where cost savings during end of life care fits into the ACA? Gilbertson explained people are not being served well at the end of life in our current system. Dr. Williams said that under the ACA time constraints with patients will make developing necessary doctor-patient relationships for end-of-life decisions more difficult.

Summary Points

- Insurance companies are facing substantial cost increases and believe the best way to reduce costs is to implement transparency and accountability for consumers receiving health care.
- As hospitals are trying to balance rising costs and maintain quality care, some are focusing on increasing scale to reduce costs.
- As Washington state moves forward with its Health Benefit Exchange, the NFIB would like to see a reduction in exchange laws that will increase health care costs for small businesses.
- Dr. Williams said the ACA’s Medicaid expansion will worsen the nation’s severe doctor shortage. He said greater reform must be sought to increase patient care and access to primary care physicians.

Lunch Keynote Address by Hon. Bill McCollum

Opening the lunch, Dr. Stark said 80% of health care decisions come from the federal government. For the remaining 20% Washington enacted 26 new health care laws based on state-led reforms this past year. He conveyed his disappointment and shock over the Supreme Court’s decision stating, “The only good thing is that the country is now interested in health care.” Echoing this tone, Jack McRae introduced Bill McCollum, saying, “We are no closer to knowing what comes next.”

Bill McCollum’s presentation was titled “The Unaffordable Care Act” and began with a brief summary of the lawsuit. He voiced his appreciation and gratification for his legal team who saw the lawsuit through to the Supreme Court. Despite the undesirable ruling, in hindsight McCollum says he has no regrets and would not do anything differently. He referred to the ruling as a “contrived solution,” in which Chief Justice Roberts took “the plain language of the act and turned it into a tax — not even a direct tax.” Amidst the many negative

consequences, McCollum cited the established limit on the interstate commerce clause as a positive result of the ruling. He said he was upset, however, over the leeway given to Congress to create broadly written “taxes.”

“What is unaffordable about the Affordable Care Act?” McCollum asked. He said the heart of health care — quality, accessibility, and affordability — is devastated by the ACA. He said the federal government is disillusioned if officials think bigger programs will lead to innovation and efficiency. The ACA adds 150 new boards, 30 million people to the existing Medicaid program, hurts small businesses and health care providers, and will cost taxpayers \$1.76 trillion dollars over the next ten years. Instead of the ACA’s 2,400 page legislation, health care reform should focus on removing government intervention, saving patients’ money (not the government’s) and solving our nation’s doctor shortage. He closed by saying, “At the end of the day, this is unaffordable and unworkable health care reform.”

During the Q&A session, McCollum said he supports HSAs because they give consumers “skin in the game” when making health care decisions. HSAs promote an incentive for individuals to reduce costs. McCollum predicted many parts of the ACA will be refuted and litigated, but that the opportunity to take the bill down in its entirety has been passed. When asked what coalitions of stakeholders are vital in combating the ACA, McCollum replied that businesses and individuals need to drive the reform. The future reform should be “debated in Congress, in policy centers, and over the dinner table.”

McCollum encouraged attendees to rethink where they stand in reference to health care, stating, “You will help be agents of future change.” Regardless of the outcome of the next election, McCollum believes health care reform in the United States has just begun.

The conference was taped by TVW and each panel can be watched online at washingtonpolicy.org.

Melanie Stambaugh is a research assistant with Washington Policy Center as part of WPC’s Doug and Janet True Internship Program. WPC is a non-partisan, independent policy research organization in Washington state. Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body. For more information, visit washingtonpolicy.org.