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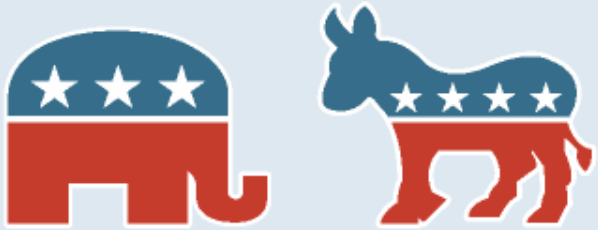
Thought Leaders in Health Law®

Post-Election Health Care Environment



Reforms, Regulations and What This Could Mean For You and Your Company

October 22, 2008

Washington, DC

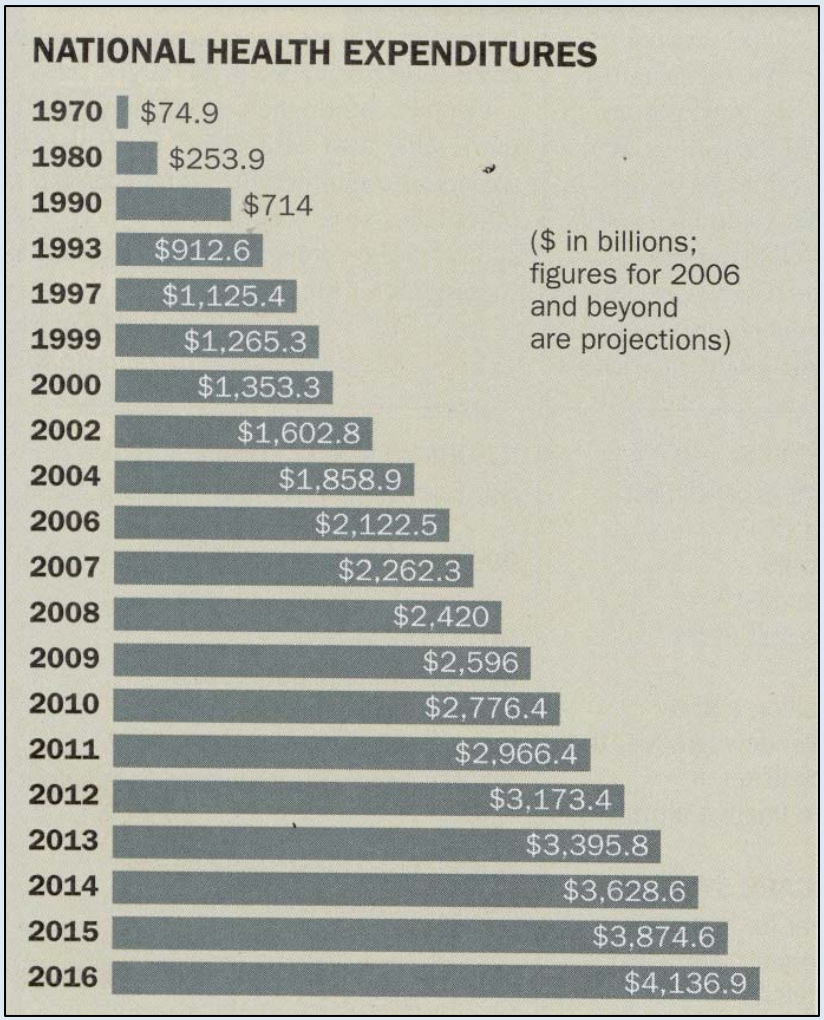
INTRODUCTION

Doug Hastings

U.S. Health Care Systems Realities

- Mixed public and private system
- Health care is a huge component of the U.S. economy
- Health care system is extraordinarily advanced, yet inefficient, uneven, and too often unsafe
- Improvement will require collaboration, integrated care, and aligned incentives
- Regulatory system and enforcement priorities are not necessarily aligned with policy needs and operational realities
- Three key issues: Quality, Cost, Access

U.S. Health Care Systems Realities



Source: CMS

U.S. Health Care System Realities

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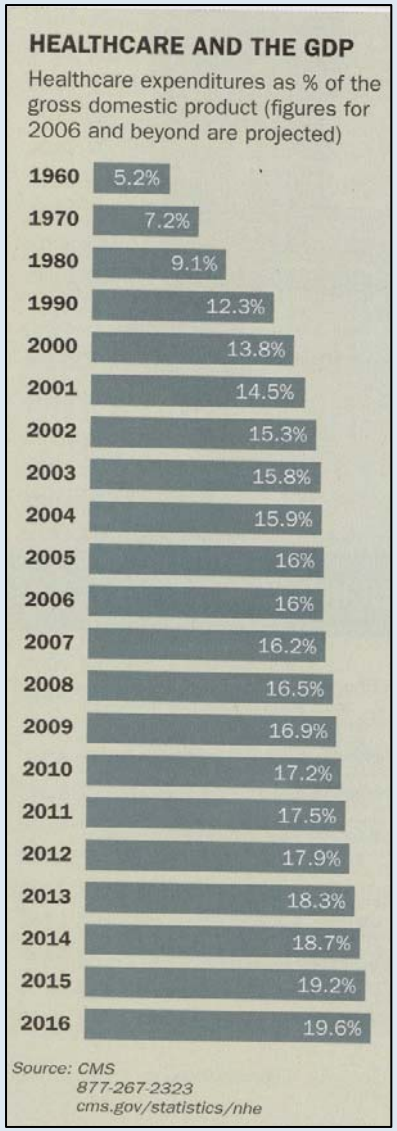

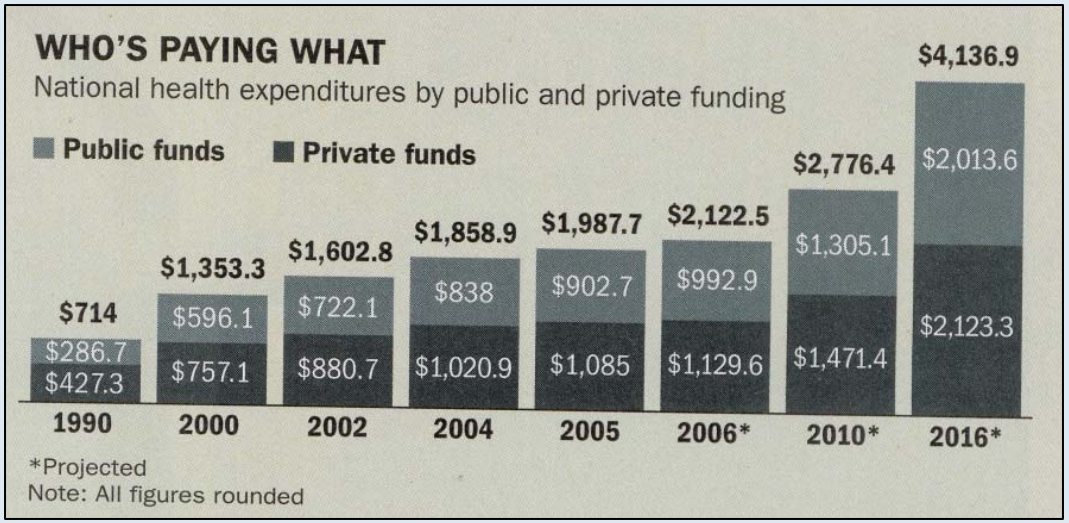

Snapshot of Health Insurance Coverage

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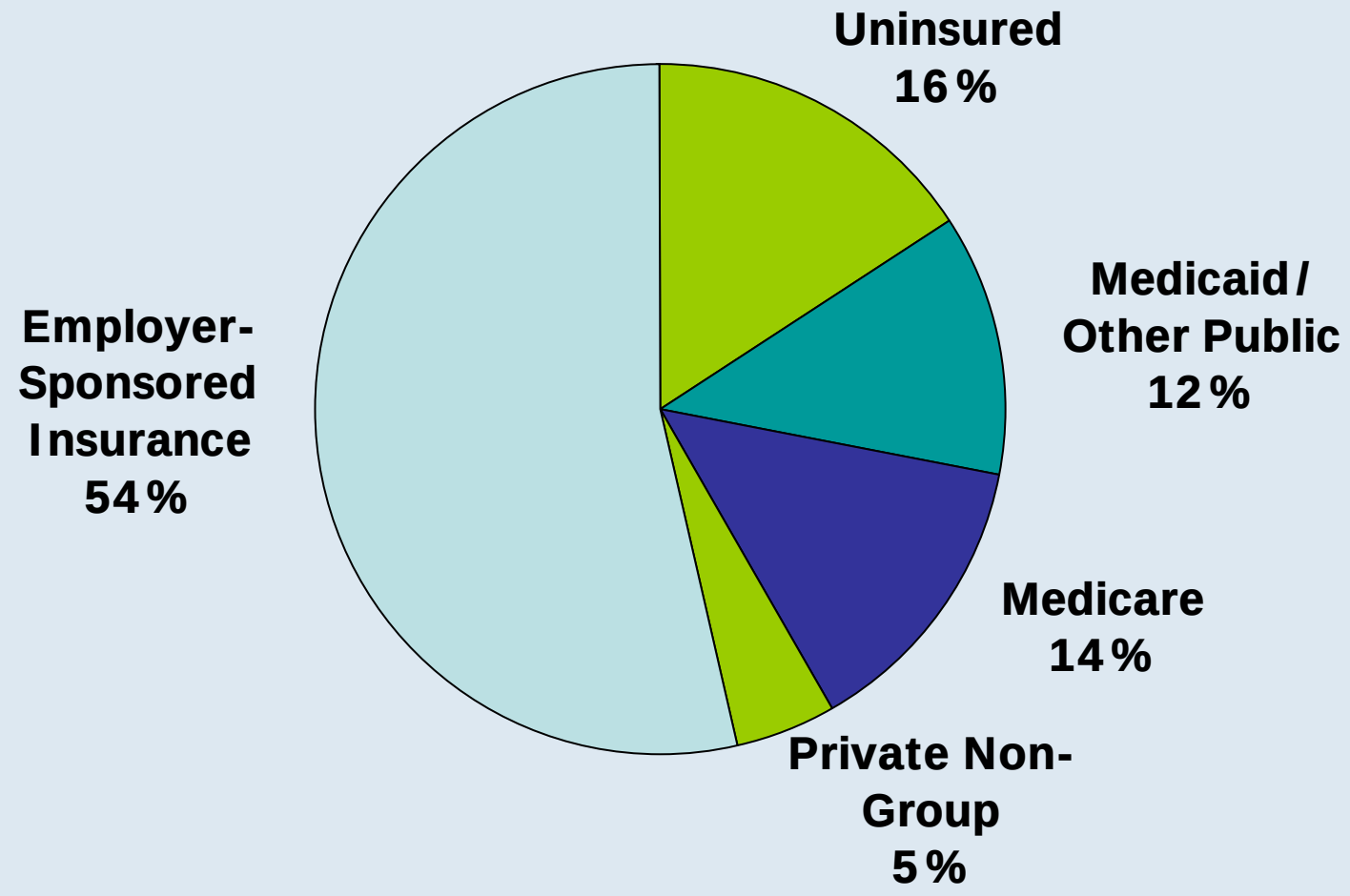
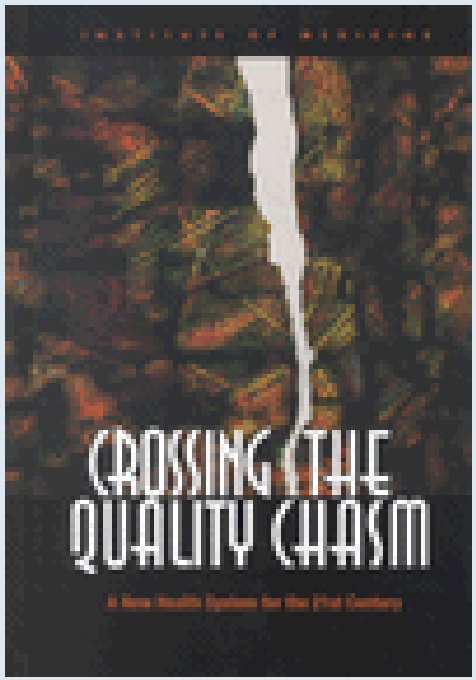


Total = 296.1 million people

Source: Kaiser Commission on Medicaid and the Uninsured/Urban Institute analysis of March 2007 CPS.

Quality of Care: The Need For Change



"The American health care delivery system is in need of fundamental change. Many patients, doctors, nurses, and health care leaders are concerned that the care delivered is not, essentially, the care we should receive…Quality problems are everywhere affecting many patients. Between the health care we have and the care we could have lies not just a gap, but a chasm."

-Institute of Medicine, 2001

The IOM's Six Aims

Quality defined as care that is:

- Safe
- Effective
- Efficient
- Patient-Centered
- Equitable
- Timely

Quality of Care: Results of the National Scorecard on U.S. Health System Performance Commonwealth Fund Scorecard

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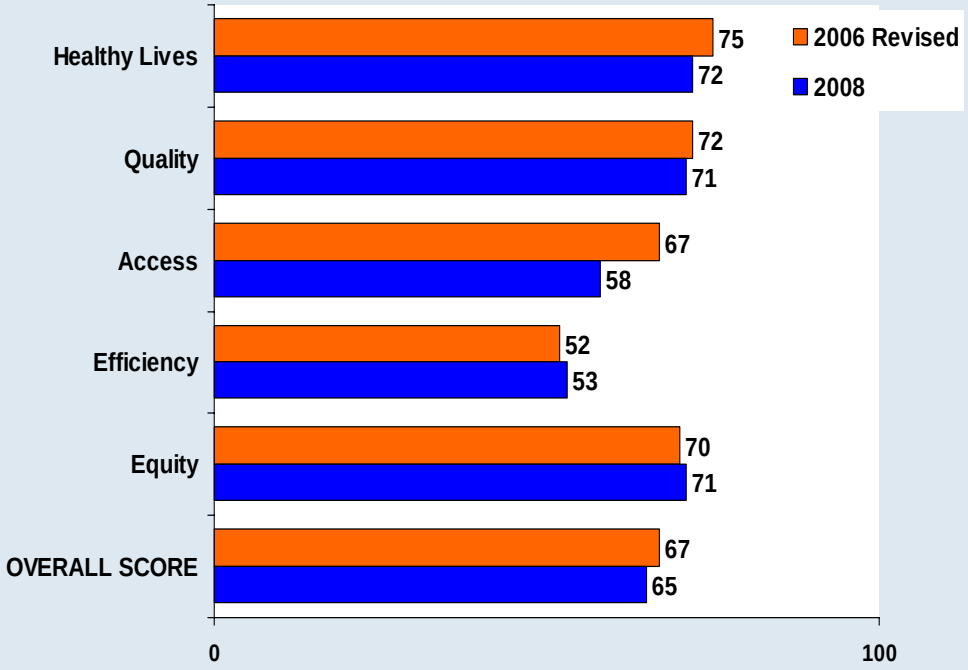
- The National Scorecard measures quality, access, equity, outcomes, and efficiency in the U.S. health care system.
- Based on these measures, the overall U.S. score was 65 out of a possible 100.
- Efficiency was the single worst score among the five dimensions.
  - In 2006, for example, only 28% of primary care physicians used Electronic Medical Records, compared to 98% of physicians in other leading countries.



Source: Commonwealth Fund National Scorecard on U.S. Health System Performance, 2008.

Quality of Care: Results of the National Scorecard on U.S. Health System Performance Commonwealth Fund Scorecard

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- U.S. ranked in last place among 19 industrialized countries in mortality attributable to health care services
- Up to 101,000 fewer people would die prematurely each year resulting from problems with health care if the U.S. could achieve comparable mortality rates to other leading countries
- In 2007, less than half of U.S. adults with health problems were able to get a rapid appointment with a physician when sick
- One-third of adults with health problems reported mistakes in medical care in 2007
- Rates of visits to physicians or emergency departments for adverse drug effects increased by one-third between 2001 and 2004

Source: Commonwealth Fund National Scorecard on U.S. Health System Performance, 2008.

Quality vs. Cost?

"Right from the start it has been one of the great illusions in the reign of quality that quality and cost go in opposite directions. There remains very little evidence of that. There may be some innovations that raise costs while raising quality, but many, many improvements reduce costs."

- Don Berwick
Health Affairs, October 2005

Rising Cost: Skyrocketing Costs of Health Care

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- Health care costs have grown on average 2.5 percentage points faster than U.S. gross domestic product since 1970.
- Almost half of health care spending is used to treat just 5% of the population.
- Prescription drug spending is 10% of total health spending, but contributes to 14% of the growth in spending.
- While about 26% of the poor spent more than 10% of their income on health in 1996,the number increased to 33 percent by 2003.

Rising Cost: Skyrocketing Costs of Health Care

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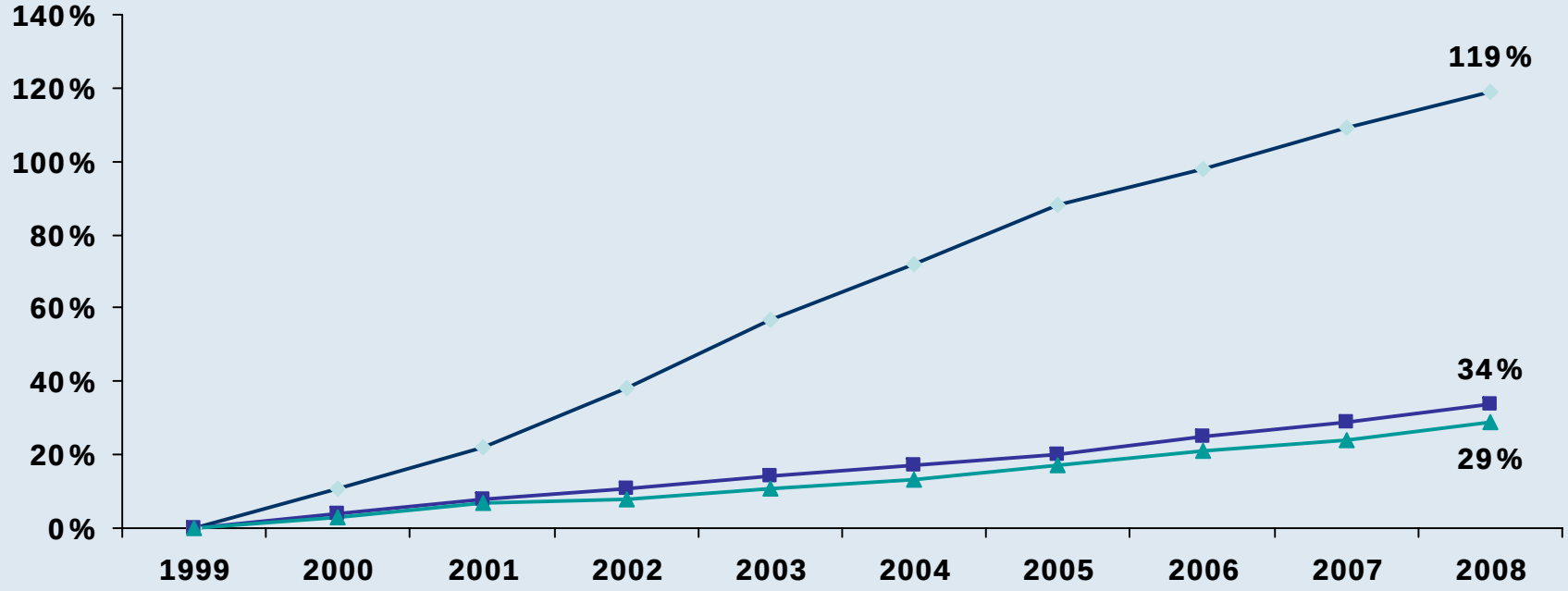
Health insurance premium increases consistently outpace inflation and the growth in workers' earnings.



Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2000-2008. Bureau of Labor Statistics, Consumer Price Index, U.S. City Average of Annual Inflation (April to April), 2000-2008; Bureau of Labor Statistics, Seasonally Adjusted Data from the Current Employment Statistics Survey, 2000-2008 (April to April).

Rising Cost: Average Health Insurance Premiums and Worker Contributions for Family Coverage, 1999-2008

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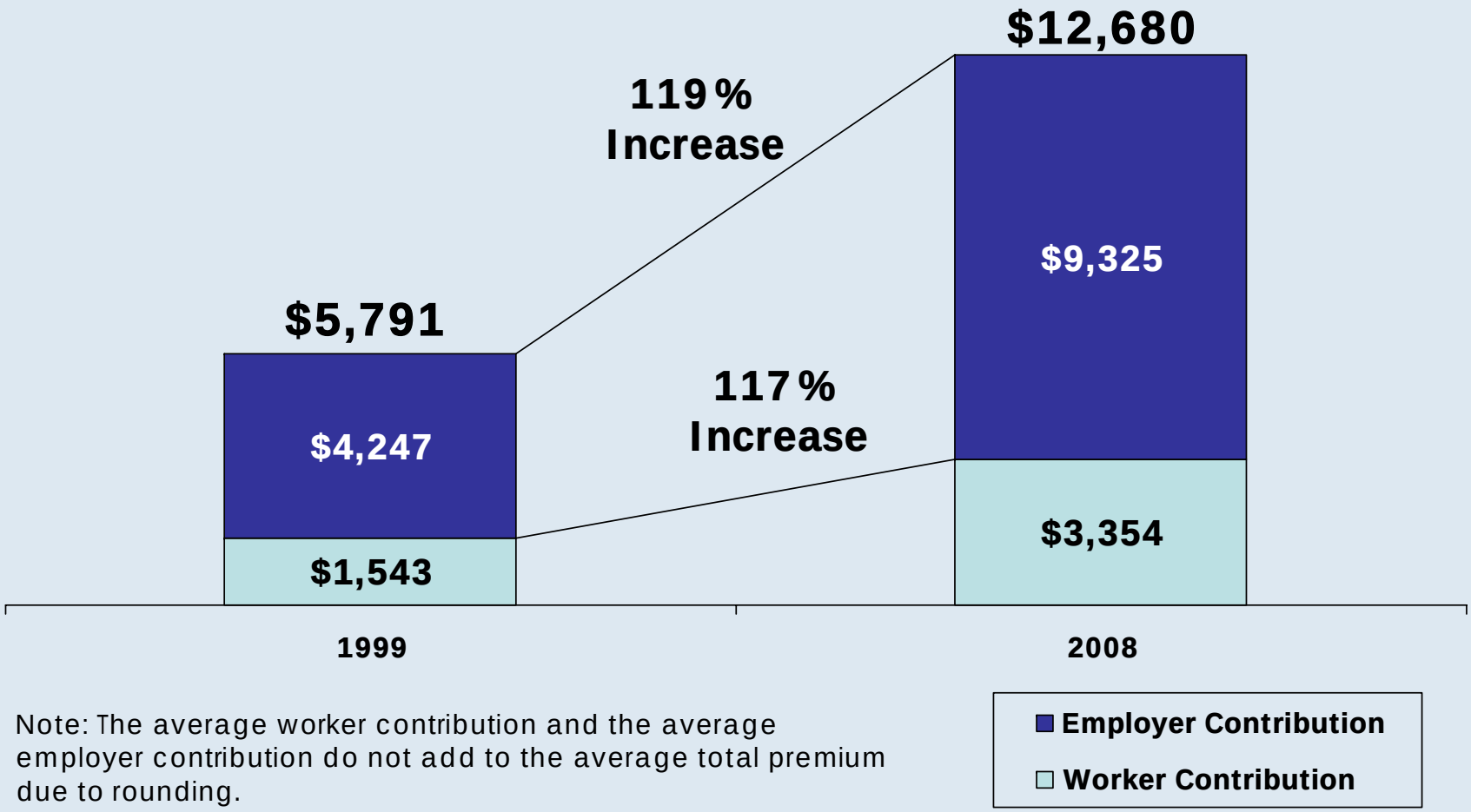

Note: The average worker contribution and the average employer contribution do not add to the average total premium due to rounding.

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2008.

Rising Cost: Increase Burden on Employers Offering Health Care Benefits

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Since 2000, the percentage of firms offering health benefits has dropped by six percentage points. This change is driven largely by a decrease in the percentage of small firms (3-199 workers) offering coverage.

Exhibit 2.2

Percentage of Firms Offering Health Benefits, by Firm Size, 1999-2008

FIRM SIZE	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
3-9 Workers	56%	57%	58%	58%	55%	52%	47%	48%	45%	49%
10-24 Workers	74	80	77	70*	76	74	72	73	76	78
25-49 Workers	86	91	90	86	84	87	87	87	83	90*
50-199 Workers	97	97	96	95	95	92	93	92	94	94
All Small Firms (3-199 Workers)	**65%**	**68%**	**68%**	**66%**	**65%**	**63%**	**59%**	**60%**	**59%**	**62%**
All Large Firms (200 or More Workers)	**99%**	**99%**	**99%**	**98%**	**98%**	**99%**	**98%**	**98%**	**99%**	**99%**
ALL FIRMS	**66%**	**69%**	**68%**	**66%**	**66%**	**63%**	**60%**	**61%**	**60%**	**63%**

* Estimate is statistically different from estimate for the previous year shown (p<.05).

Note: As noted in the Survey Design and Methods section, estimates presented in this exhibit are based on the sample of both firms that completed the entire survey and those that answered just one question about whether they offer health benefits.

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2008.

Access to Care: The Problem of the Un and Underinsured

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- Currently, 47 million Americans – including nearly 9 million children – lack health insurance.
- In 2007, 75 million working-age adults (42%) were either uninsured or underinsured, an increase from 61 million (35%) in 2003
- Underinsured is defined as having out of pocket medical expenses that exceed 10% of family income, or 5% for those whose incomes amount to less than twice the federal poverty level or insurance deductibles alone are 5% or more of their income).

Source: Commonwealth Fund National Scorecard on U.S. Health System Performance, 2008.

Access to Care: The Problem of the Uninsured

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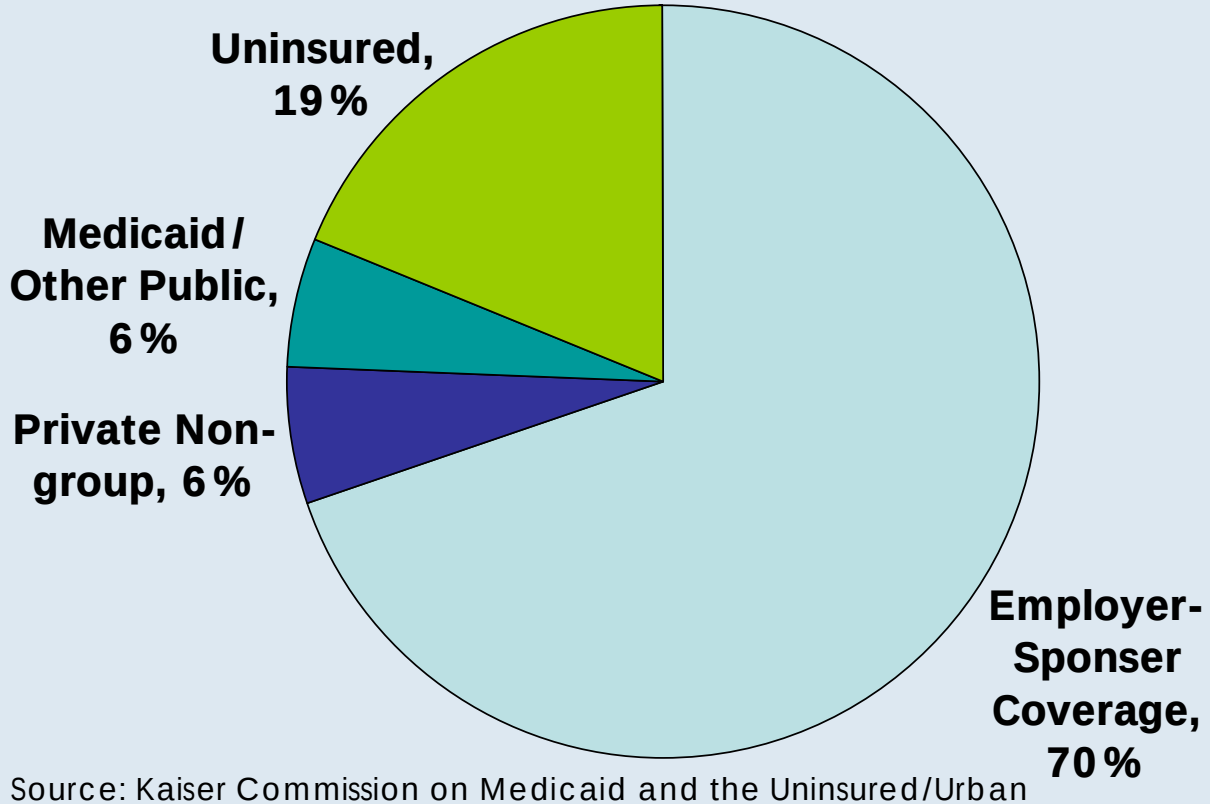
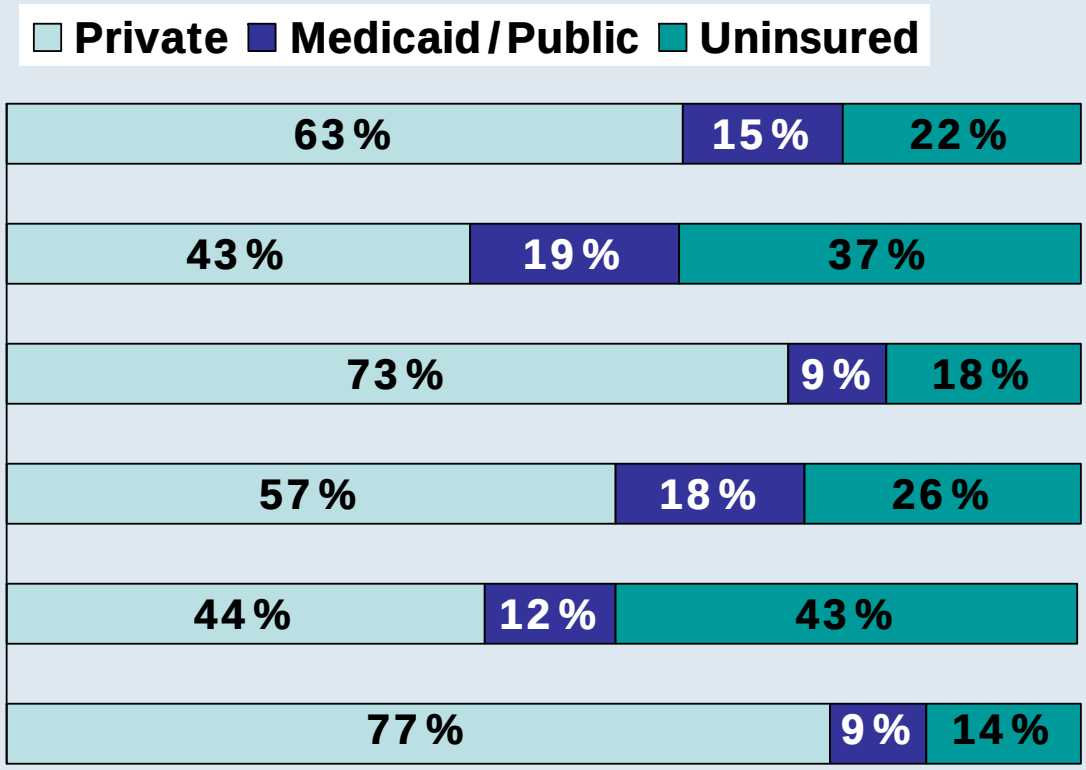
Employer-sponsored insurance covered 70% of workers in 2006; yet over 27 million workers – nearly one in five – were uninsured because not all businesses offer health benefits, not all workers qualify for coverage, and many employees cannot afford their share of the health premium.



Source: Kaiser Commission on Medicaid and the Uninsured/Urban Institute analysis of March 2007 CPS.

Access to Care: Racial Disparities in Accessing Health Care

White adults have the lowest uninsured rate and are the most likely to be covered by private insurance compared to other racial and ethnic groups.



Source: Kaiser Commission on Medicaid and the Uninsured/Urban Institute analysis of March 2007 CPS.

Commonwealth Fund Recommendations

- Expand health insurance coverage
- Implement major quality and safety improvements
- Work toward a more organized delivery system that emphasizes primary and preventative care that is patient-centered
- Increase transparency and reporting on quality and costs
- Reward performance for quality and efficiency
- Expand the use of interoperable information technology
- Encourage collaboration among stakeholders

The Need For Change

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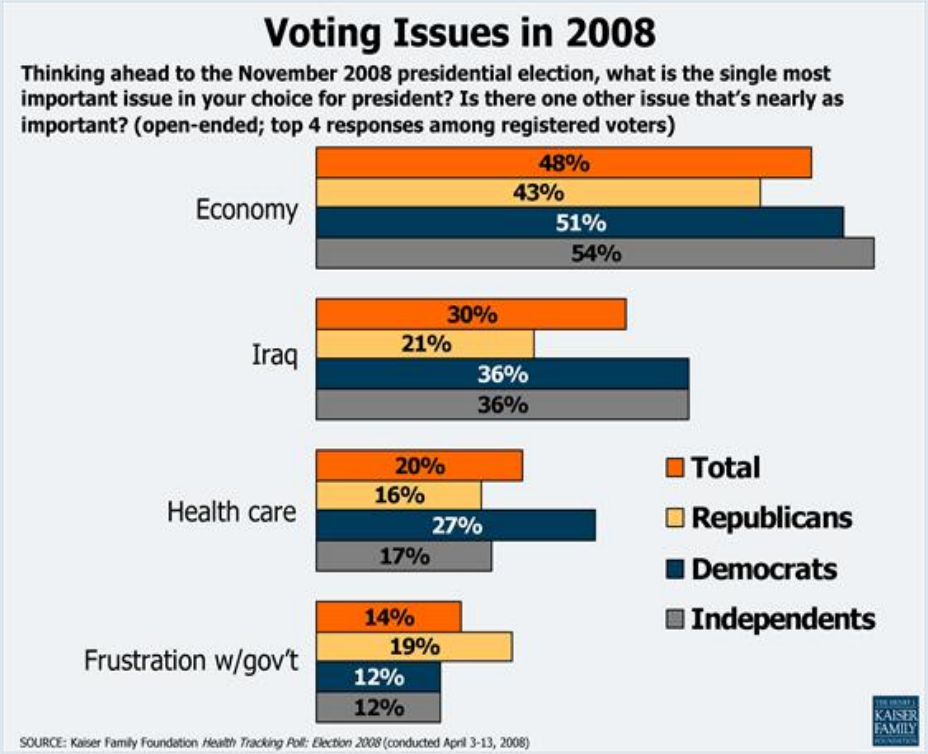
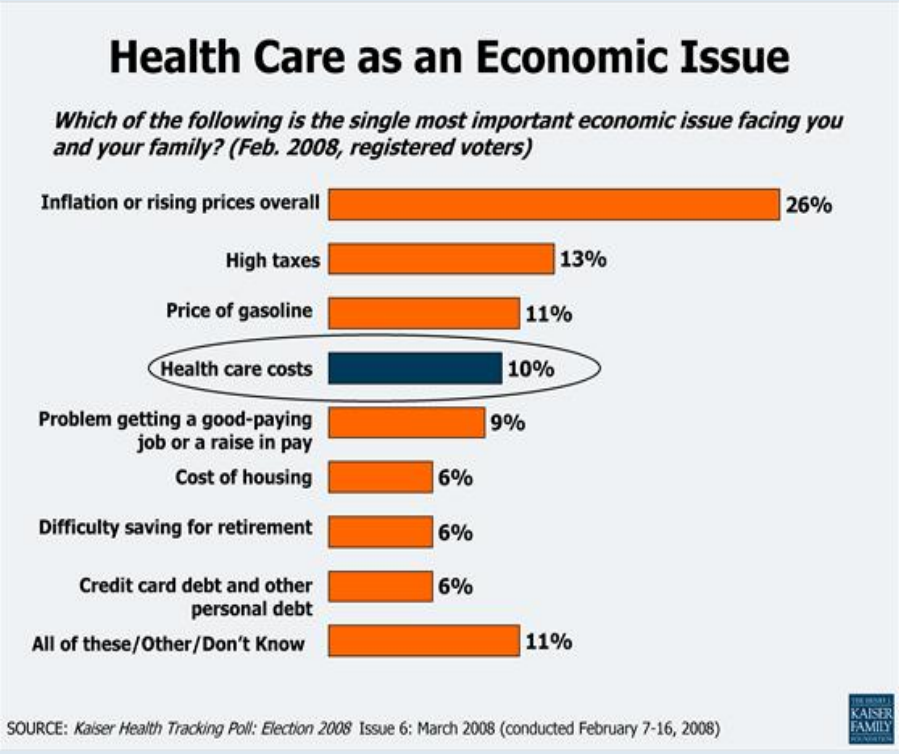
- 82% of all adults believe that the health system requires fundamental changes
- Insured as well as uninsured adults see a need for change
- The public perception of a need for change is shared across geographic regions of the country

Source: Public Views on U.S. Health System Organization: A Call for New Directions, The Commonwealth Fund, August 2008.

The Need For Change

Clearly, health care is a dominant issue in the presidential elections – both as quality and economic issues.





OVERVIEW OF CANDIDATES' HEALTH CARE PLATFORM

Lynn Shapiro Snyder
Moderator

John Benevelli

Jen Summa

Terry Brooks

Senator Obama's Health Plan

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"The problem is not that folks are trying to avoid getting health care; the problem is they can't afford it."

The Uninsured: Reasons For Not Having Insurance

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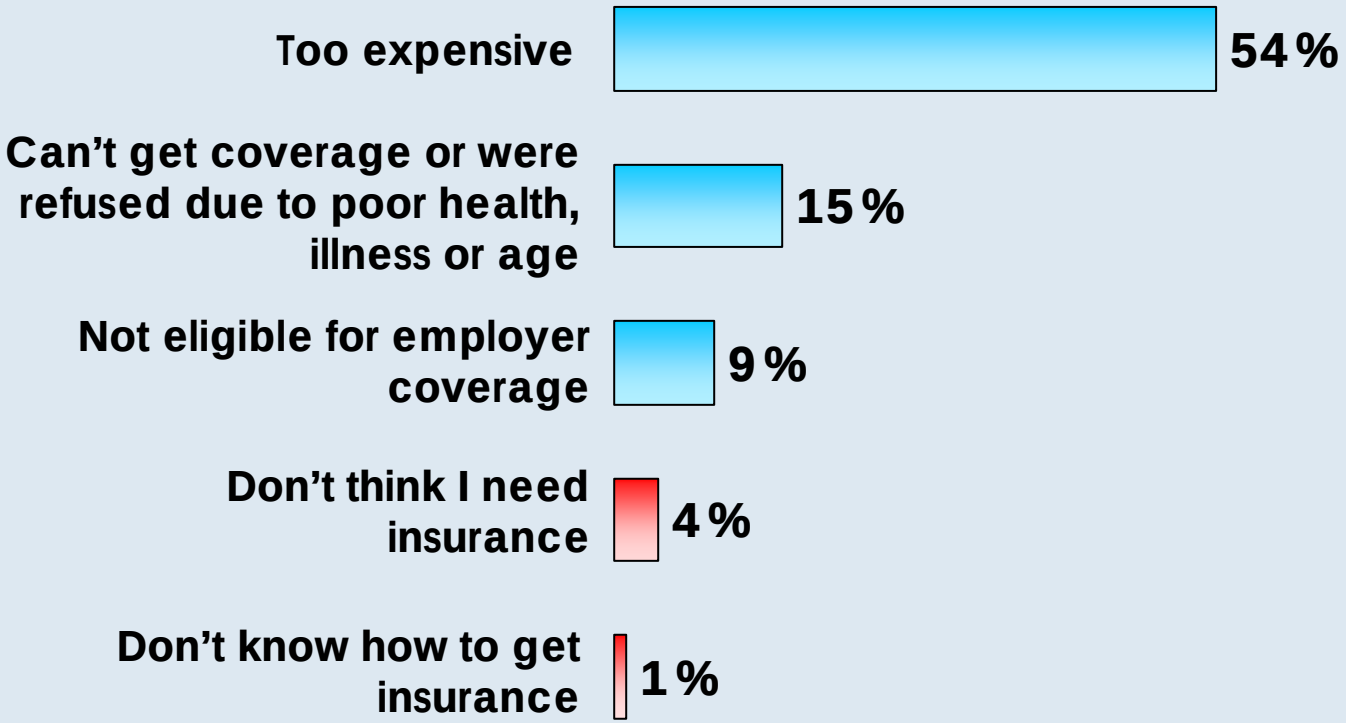
Which of the following best describes the reason you don't currently have health insurance?



NOTE: 13% volunteered some other reason

SOURCE: ABC News/Kaiser Family Foundation/USA Today *Health Care in America Survey* (conducted September 7-12, 2006)

Goals of the Obama Plan

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The overall goal of the Obama Plan is to provide universal coverage for Americans by building on the current private/public system and driving down health care costs to make insurance options affordable.

1. Cover

Provide accessible, comprehensive, and portable health insurance options for every American

2. Contain

Reduce spiraling health care costs

3. Prevent

Promote preventive medicine to reduce the financial impact of chronic illness

Universal Coverage

Goal 1: Providing Coverage Options

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1. Cover

Provide accessible, comprehensive, and portable health insurance options for every American

- **Create a New Public Plan**
- **Reform the Insurance Market**
- **Provide Subsidies & Expand Existing Public Programs**

The New Public Plan

- The structure of the new national health plan will be similar to Medicare, and will be available to small businesses, the self insured, and others that do not have access to private or public insurance. The Plan will include the following:

  - Guaranteed eligibility;
  - Comprehensive benefits;
  - Reduced administrative costs;
  - Increased emphasis on quality initiatives;
  - Portability;
  - Data reporting requirements (e.g., quality, administrative, and health IT data).

The New Public Plan

- The new national health plan will be funded by:
  - Allowing President Bush's tax cuts to expire;
  - Restoring many of President Clinton's tax policies;
  - Savings generated by reforming the system; and
  - Implementing a "pay or play" provision that would require large employers that do not offer employee health coverage to contribute a percentage of payroll to fund the new public plan.

Reforming The Insurance Market

- The Obama Plan will create a **"National Health Insurance Exchange"** that would regulate the way insurance plans are sold to individuals or businesses that do not have or offer private or public health insurance.

Reforming The Insurance Market

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- The Exchange will help reform the private insurance market by creating rules and standards that all participating plans must conform. Some of these standards include:
  - Plans must issue every applicant a policy and charge premiums that do not depend upon health status.
  - Private plans must be as generous as the new public plan and have the same standards for quality and efficiency.
  - Children up to age 25 can continue family coverage through a parent's plan.
  - In market areas where there is not enough competition, insurers must pay out a "reasonable share" of premiums on patient care benefits.
  - Insurers may not abuse monopoly power through unjustified price increases.
  - Health plans must disclose the percentage of their premiums that actually go to paying for patient care as opposed to administrative costs.

Reforming The Insurance Market

- The Exchange will act as a purchasing pool where the new public plan competes with participating private plans for enrollees.
- Individuals will either keep existing employer sponsored coverage, or if their employer chooses not to provide coverage, enter the Exchange and choose between the new public plan or other private plan options.
  - Small businesses will be exempt from the "pay or play" requirement.

Reforming The Insurance Market

- The Obama Plan ***does not*** contain an individual mandate that all Americans purchase health insurance.
  - However, the Plan requires all children have health care coverage, and large employers to either provide health coverage or contribute to the national plan.

Reforming The Insurance Market

- The Obama Plan provides subsidies to certain individuals and employers to assist in paying premiums, and supports the expansion of existing public insurance.

  The Plan includes:

  - Income-based sliding scale subsides to low income individuals and families
  - A Small Business Health Tax Credit of up to 50% on their premiums paid on behalf of their employees
  - Expands Medicaid & SCHIP eligibility

Goals 2 & 3: Reducing Costs & Improving Quality of Care

2. Contain

Reduce spiraling health care costs

The Obama Plan proposes a wide range of initiatives aimed at modernizing the health care system, generating efficiency, and improving quality of care.

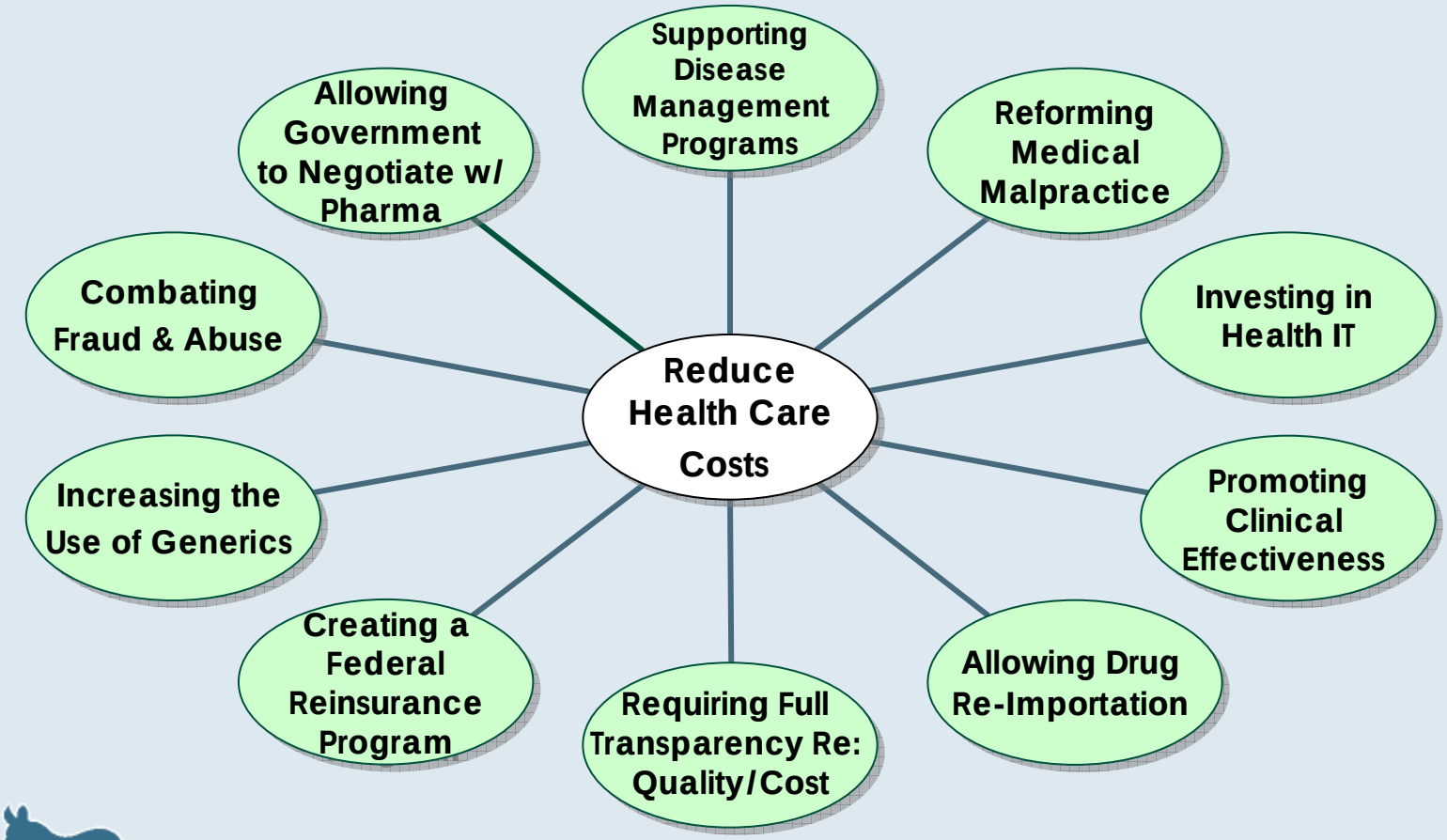
3. Prevent

Promote preventive medicine to reduce the costs of chronic illness

Many of these initiatives have been discussed among health care reformers for decades. And they will impact a wide range of health care industry sectors.

Reducing Costs & Improving Quality of Care

Some of these initiatives include:



Achieving Universal Coverage

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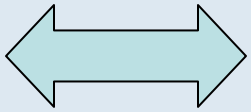
Are Senator Obama's cost containment strategies sufficient to drive costs down so that the majority of Americans can afford to purchase health insurance?

Providing Access to Health Insurance	
Patient Population	**Proposed Fix**
Chronically Sick	Ban on Pre-existing Condition Discrimination
Majority of U.S. Uninsured Population	Public Plan Option; Private Insurance Market Reforms
Poor Populations	Expand Existing Public Programs; Subsidies for Low Income Individuals



Making Health Insurance Affordable
• Federal Reinsurance • Disease management programs; • Coordinated care; • Transparency about cost and quality of care; • Improved patient safety; • Comparative effectiveness; • Reducing racial and ethic disparities in health care treatments; • Promote health IT; • Reform the pharmaceutical industry • Combat Fraud & Abuse

Senator Obama's Key Health Care Advisors

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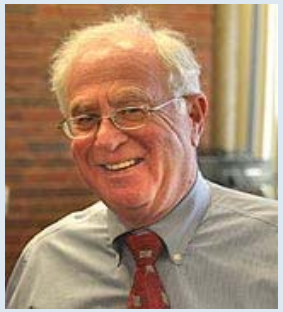
David Cutler – He is Professor of Economics at Harvard University, served in the administration of Bill Clinton, and was an advisor to the presidential campaign of John Kerry. He is particularly notable for his work on the value of the health care system as a whole – articulated in his book, *Your Money or Your Life.*

David Blumenthal – He serves as the director of the Institute for Health Policy at Massachusetts General Hospital and professor of medicine and policy at Harvard University.



Stuart Altman – He is a Professor of Health & Social Policy at Brandeis University. He served as the Deputy Director for Health in the Nixon Administration. In 1997 he was appointed by President Clinton to the National Bipartisan Commission on the Future of Medicare and was a senior member of the Clinton-Gore Health Policy Transition Team.

Cost Savings Resulting From The Obama Health Care Plan

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A recent analysis of the Obama Health Care Plan conducted by Professors Cutler and Blumenthal answered two key questions:

- ***How Much Will the Plan Save Businesses and a Typical Family?***
  - Businesses will likely save $140 billion annually and a typical family $2500 per year as a result of federal reinsurance and additional cost containment measures;
  - Reduced job lock and improved productivity of healthier workers.
- ***What will be the net cost to the Federal government of the Obama Health Care Plan?***
  - Obama's Health Care Plan will require between $50 billion and $65 billion per year of new Federal funds when fully phased in.
  - According to estimates from the Urban/Brookings Tax Policy Center, $65 billion in revenue would be raised by restoring the Clinton era tax levels and retaining the estate tax with a $7 million exemption rather than repealing it.

John McCain's Health Care Plan

"I want to make sure we're not handing the healthcare system over to the federal government which is basically what would ultimately happen with Obama's health plan. I want families to make decisions between themselves and their doctors, not the federal government."

McCain, Presidential debate, Sept. 26, 2008

Goals of the McCain Plan

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On the issue of healthcare, the candidates tout similar goals and methods of cost containment; however, the overall picture of "Healthcare Reform" looks very different under each candidate's proposal due to the primary means of implementation anticipated under each plan.

1. Cover

Provide accessible, comprehensive, and portable health insurance options for every American

2. Contain

Reduce spiraling health care costs

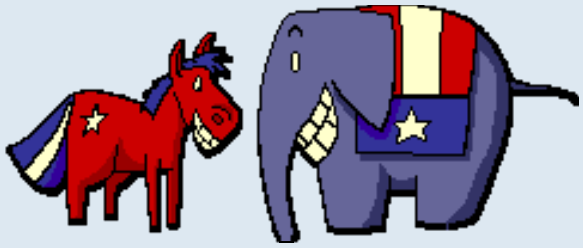
3. Prevent

Promote preventive medicine to reduce the financial impact of chronic illness

Health Care Reform

"Straight Talk" On Healthcare Reform

Very similar to the Obama plan in goals:



- Guaranteed eligibility
- Comprehensive benefits
- Reduced administrative costs
- Increased emphasis on quality initiatives
- Portability
- Data reporting requirements (e.g., quality, administrative, and health IT data)

However, the McCain plan:

- Calls for "*complete reform of the culture of our health system and the way we pay for it.*"
- "Harness market competition"

Goal 1: Providing Coverage Options

1. Cover

Provide accessible, comprehensive, and portable health insurance options for every American

- Tax Reform
- Opening up the health insurance market to more vigorous nationwide competition
- No mandates
- "Guaranteed Access Plan"

Reforming The Tax Code

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McCain's plan would give those without company-provided health insurance ***the same tax advantages*** as those with coverage through work.

- Provide Tax Credits to help people buy their own private health insurance
    - $2500 for individuals;
    - $5000 for families

Tax Credits are intentionally set lower than the amount typically spent on employer-provided health plans in order to encourage individuals, as well as employers, to shop for less expensive policies.

Reforming The Tax Code

- **Budget Neutral** -- Tax Credits balanced by the income tax imposed on individuals participating in employer-based plans

- **Eliminates the tax exclusion** workers currently receive for the health benefits employers may provide.

- Employers would still be able to deduct their costs for providing that coverage

Reforming The Tax Code

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- McCain estimates that 20-30 million people who currently do not have health insurance would buy health insurance under his plan.

- Under the plan, McCain estimates that the government would save ***$3.6 trillion over the next decade*** by eliminating the tax break that currently encourages employer-based health coverage, funding that would be redirected towards the individual tax credits.

Health Savings Accounts (HSAs)

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- Created by the Medicare bill signed by President Bush on December 8, 2003;
- Designed to help individuals save for future qualified medical and retiree health expenses on a tax-free basis.
- You must have a **High Deductible Health Plan (HDHP)** if you want to open an HSA.

  Sometimes referred to as a "catastrophic" health insurance plan, an HDHP is an inexpensive health insurance plan that generally doesn't pay for the first several thousand dollars of health care expenses (i.e., your "deductible") but will generally cover you after that.

- Your HSA is available to help you pay for the expenses your plan does not cover.

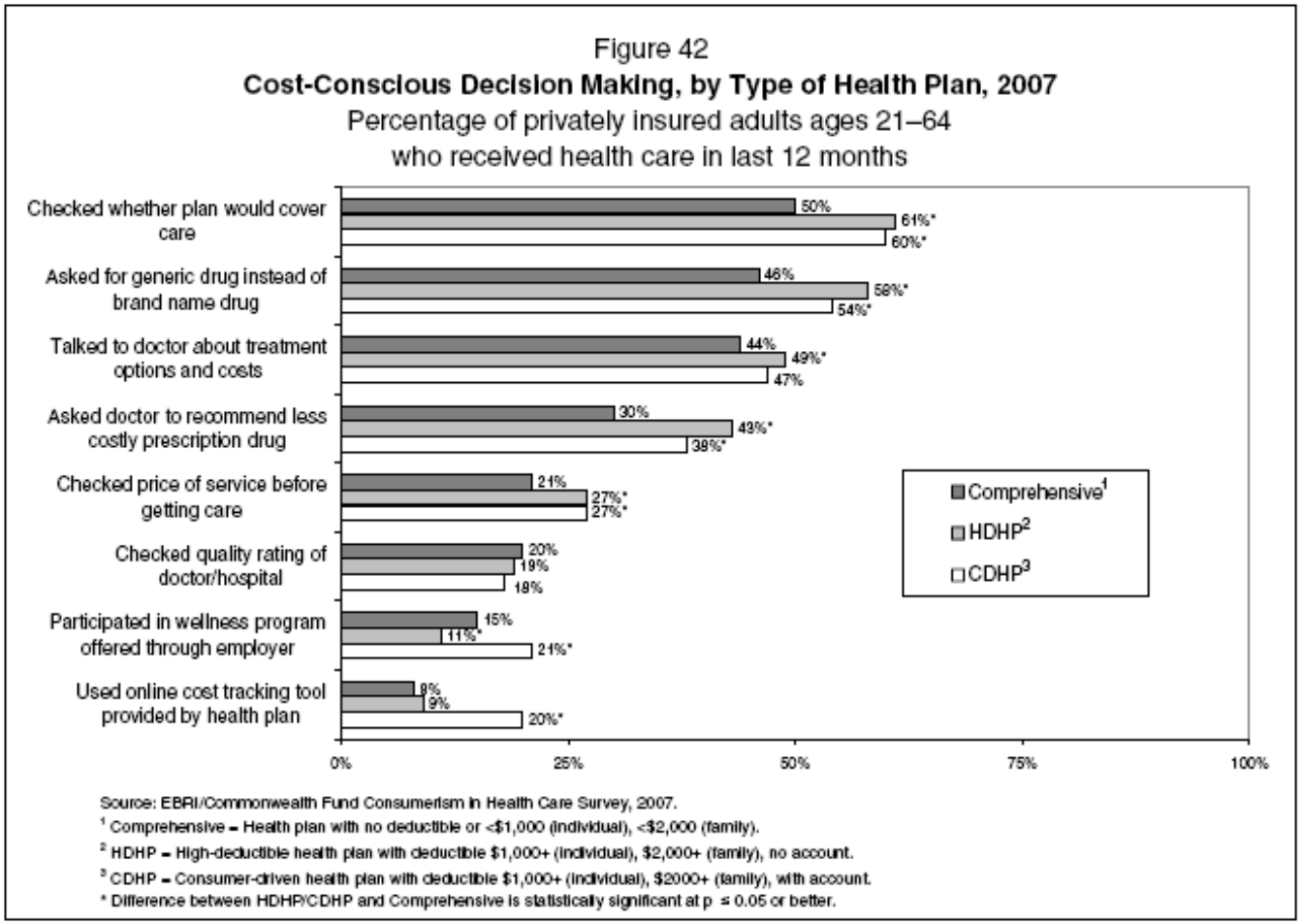
Health Savings Accounts (HSAs)

The maximum annual HSA contribution in 2008:

- $2,900 for individuals;
- $5,800 for family coverage;

- Individuals who are 65 and not yet enrolled in Medicare may make catch-up contributions of $900 in 2008; $1,000 in 2009

Cost-Conscious Decision Making



Access For All Americans

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"Guaranteed Access Plan" (GAP)

- Work with Governors to develop "a best practice model" that would reflect the best experience of the states to ensure these patients have access to health coverage.
- Establish a nonprofit corporation that would contract with insurers to cover patients who have been denied insurance and could join with other state plans to enlarge pools and lower overhead costs.
- There would be reasonable limits on premiums, and assistance would be available for Americans below a certain income level.

Market Reform thru Competition

- Ability to purchase healthcare across state lines

Access For All Americans

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Increase access through:

- Increasing the number and use of community health centers.
- Supporting innovative delivery systems, such as clinics in retail outlets.
- Providing greater market flexibility in permitting appropriate roles for nurse practitioners, nurses, and doctors.
- Where cost-effective, employ telemedicine, and community and mental health clinics in areas where services and providers are limited.
- Incentivizing providers to keep people in home health care settings
- Portability of insurance.

Goals 2 & 3: Reducing Costs and Prevention

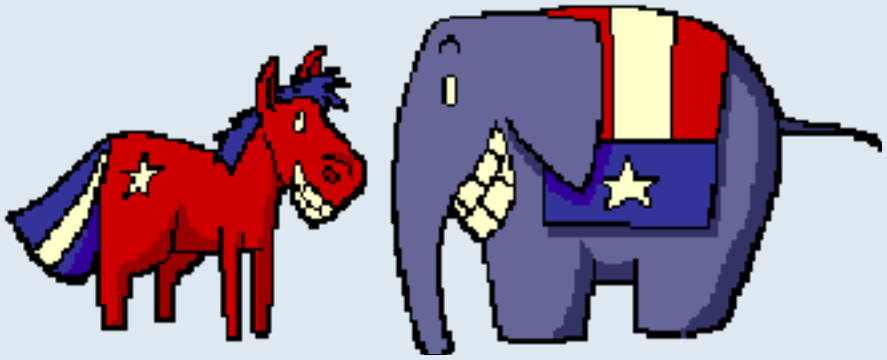
2. Contain

Reduce spiraling health care costs

3. Prevent

Promote preventive medicine to reduce the costs of chronic illness

Both candidates propose similar measures for reducing costs and improving the quality of care.



Perceived Reasons For High Health Care Costs

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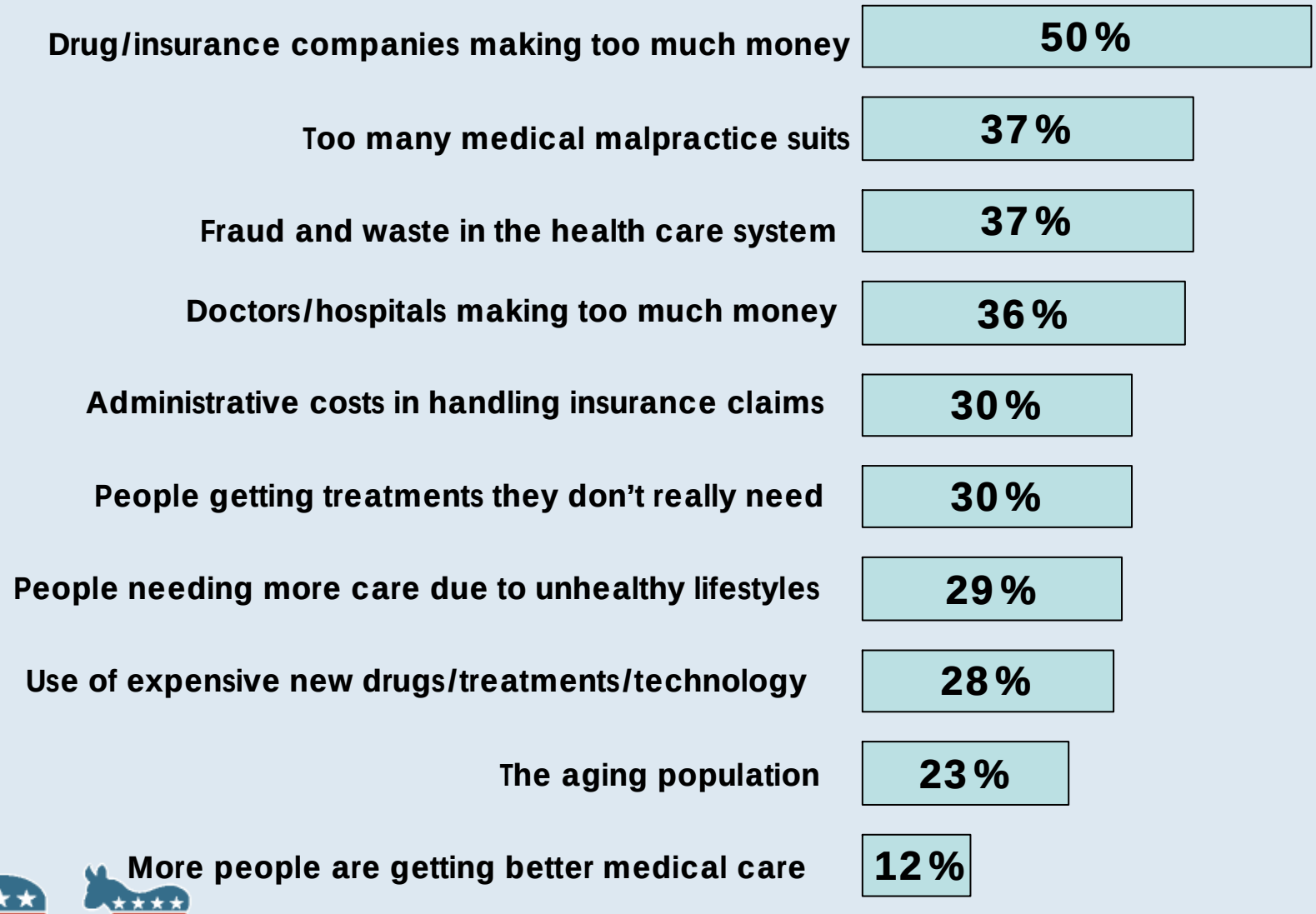

SOURCE: ABC News/KFF/USA Today *Health Care in America Survey* (conducted September 7-12, 2006)

THE HENRY J. KAISER FAMILY FOUNDATION

Thought Leaders in Health Law®

Controlling Costs: Prescription Drugs

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"If we are going to control health care cost, we are need to control the rising costs of pharmaceuticals."

Importation of Drugs

- Develop safety protocols that permit re-importation to keep competition vigorous

Government to Negotiate Drug Prices

- Amend the Medicare Modernization Act to require the Secretary of Health and Human Services to negotiate fair prescription drug prices.

Development of Generics

- Foster the development of routes for safe, cheaper generic versions of drugs and biologic pharmaceuticals.

Controlling Costs: Tort Reform; Fraud & Abuse

Tort reform/ Reduce Malpractice Costs

- Minimize frivolous lawsuits and excessive damage awards.
- Provide a safe harbor for doctors that follow clinical guidelines and adhere to patient safety protocols.

Control Fraud and Abuse

- Protect the health care consumer through vigorous enforcement of federal protections against collusion, unfair business actions, and deceptive consumer practices.
- Devote more resources in detecting Medicare/Medicaid fraud

Controlling Costs: Medicare Payment Changes

Change the way Medicare (and Medicaid) pays for medical services:

- Move away from fee-for-service reimbursement and toward bundled payment for episodes of care and payments based on outcomes.
- Reform the payment systems in Medicare to compensate providers for diagnosis, prevention, and care coordination.
- Medicare should not pay for preventable medical errors or mismanagement.
- "Pay for Performance" – P4P initiatives

Controlling Costs: Quality and CE

Demand Quality:

- Facilitate the development of national standards for measuring and recording treatments and outcomes.

Comparative Effectiveness program

- "Although comparative effectiveness research holds great promise in helping us [improve the value of health care spending] by better informing us about effectiveness of treatments, we need to **ensure that this does not stifle the spirit of innovation** in our medical sciences . . . and maintains patient choice."

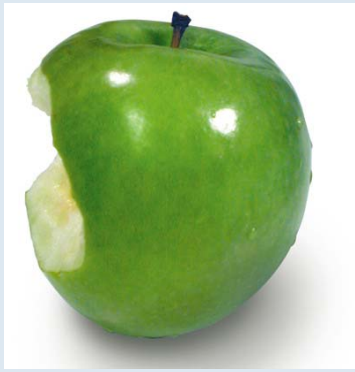
Controlling Costs: Support Innovation

"I am committed to federal policies that ensure America's competitive edge . . . Maintaining our tech edge requires robust basic research and sustained development efforts. I will support innovation by funding basic research and reforming and making permanent the R&D tax credit."

- Health Information Technology (H-IT)
  - Promote rapid deployment of 21st century information systems.
  - Electronic medical records
- Dedicate federal research on the basis of sound science resulting in greater focus on care and cure of chronic disease.

Controlling Costs: Personal Responsibility

Individual Responsibility



- Prevention: We must do more to take care of ourselves.
- Education in schools on wellness.
- Undertake public health initiatives to combat the growing epidemic of obesity and diabetes, and to deter smoking.
- Make public more information on treatment options and require transparency by providers regarding medical outcomes, quality of care, costs, and prices **so consumers can make cost conscious decisions.**

McCain Key Health Policy Advisors

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Douglas Holtz-Eakin, Former Director, Congressional Budget Office
Dr. Holtz-Eakin also served for 18 months as Chief Economist for the President's Council of Economic Advisors under President George W. Bush and for two years as Senior Staff Economist for President George H. W. Bush's Council of Economic Advisors. Currently, Dr. Holtz-Eakin is Senior Fellow at the Peterson Institute for International Economics and President of DHE Consulting, LLC. He also serves as Senior Policy Advisor for John McCain's 2008 bid for President of the United States.

John Goodman, President, National Center for Policy Analysis
John C. Goodman, Ph.D. founded the NCPA in 1983 and has served as President since the center's inception. *The Wall Street Journal* called Dr. Goodman "the father of Health Savings Accounts," and *National Journal* declared him "winner of the devolution derby" because his ideas on ways to transfer power from government to the people have had a significant impact on Capitol Hill. Dr. Goodman received a Ph.D. in economics from Columbia University.

Gail Wilensky, Project HOPE Economist
Dr. Wilensky is a Commissioner on the WHO's Commission On the Social Determinants of Health, an elected member of the Institute of Medicine of The National Academies and its Governing Council; is Vice Chair of the Maryland Health Care Commission; and serves as a trustee of the Combined Benefits Fund of the United Mineworkers of America, the American Heart Association and the National Opinion Research Center. She is an advisor to the Robert Wood Johnson Foundation and the Commonwealth Fund, immediate past chair of the Board of Directors of Academy Health and is a director on several corporate boards. From 1990 – 1992, she was Administrator of the Health Care Financing Administration, directing the Medicare and Medicaid programs. She also served as Deputy Assistant to President (GHW) Bush for Policy Development, advising him on health and welfare issues from 1992 to 1993.

HEALTH REFORM IN CONGRESS

Polls Favor Democrats

- Democrats are likely to increase numbers in the House and Senate.
- Margins will impact the ability to press the Democratic legislative agenda; minority remains relevant.
- Democratic ideal--universal coverage-- will be prevailing philosophy.

Democratic Majority Increases, But Minority Remains Relevant...

- Fragmented structure of Congress creates barrier to reform.
- Small groups can wield disproportionate power in closely divided Congress.
- Senate rules protect minority party's rights.

Health Reform in a Democratic Congress

- Impact of a Democratic Presidency
- Healthcare emerges as a “top 3” election issue
- Democratic leadership in Congress
- Health reform champion
- Impact of economic crisis on “Healthcare reform” message

Observations re Health Reform in Congress

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- Existing range of health reform proposals signal some of the issues that will be part of the health reform debate: small market reform, Medicare for All, Healthy Americans Act, etc.
- Both Candidates' proposals are revolutionary in their own way:
  - McCain focuses on the individual
  - Obama focuses on the cost
- Obama proposal may seem less disruptive, but holds out the potential of serious system reforms, beginning with government reinsurance for high risk costs, that are driving up premiums because:
  - Cost of government reinsurance for high risk costs becomes a federal budget issue.
  - Tools available to government to manage high cost cases, include: chronic care /disease management, value-based purchasing, comparative effectiveness, and information technology
- Outstanding health issues could serve as the vehicle for the reform agenda.

Healthcare Issues from the 110th Congress

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- State Children's Health Insurance Program
  - Reauthorization expires March 31, 2009
- Physician Payment Reform
  - Physician "fix" ends December 31, 2009
- Medicare Advantage & Part D Plans
  - Marketing practices
  - Payment levels
  - Government negotiation of drug prices
- Provider and supplier payments
  - Preventive services
  - Transparency
  - Physician ownership of hospitals
  - Charitable status
  - Safety net, rural providers
  - Post-acute care providers (LTCH, IRFs, SNF, home health and hospice)
  - Competitive bidding moratorium expires
- Cost, Access, Oversight of pharmaceuticals/biotech
  - Medicaid rebates
  - Importation of drugs
  - Payment for Part B drugs
  - Follow-on biologics
  - FDA oversight and enforcement
- Quality and Value-Based Purchasing
- Health Information Technology

IMPLICATIONS FOR HEALTH CARE INDUSTRY SECTORS

Doug Hastings
Moderator

Beth Essig

Wendy Goldstein

Mark Lutes

Outlook For Payors

"Glass Half Empty or Glass Half Full?"

Why Is The Glass Half Empty?

- Payors are everyone's favorite scapegoat and source of "pay-fors"
  - IME
  - Limit MA payment to FFS equivalent
    - County benchmarks asserted to exceed FFS equivalent by 16.7% in 2008 – valued at $8.5B in 2008 alone
- PFFS
  - No deeming network any more
  - Payment/rebates to enrollees hit by MIPPA
  - Remaining authority in danger (new Commonwealth Fund Report)
- "Right sizing" – House Democrats intend to manage down the enrollment in MA products to "historic norms" (12-13%)

Why Is It Half Full?

- Private payors/managed care is part of the solution unless Congress goes with (FFS) Medicare for all:
  - e.g., Obama's exchange offers the uninsured and underinsured access to health plans offering a standard benefit
  - e.g., McCain's tax credits to buy private health insurance (individual policies), encouragement of HDHP/HSAs, public pool acts as group for those denied
  - e.g., Wyden-Bennett's state based purchasing pools buy from plans offering a community rated BCBS fed plan like standard option
- Techniques of managed care will need to be incorporated into even the public plan parts of the solution
  - DM services to expanded Medicaid/SCHIP
  - DM, UM, ASO, network and other services to new public plans
  - Reinsurance to public plan

Will Payors Not Like The Taste Of What Is In The Glass?

- E.g., what if tax incentives to maintain employer sponsored health insurance ("ESI") are not sufficient ?
  - The Medicare Part D incentive balance is not successfully duplicated
  - Current ESI enrollees end up purchasing through the community rated and otherwise regulated public purchasing organization
  - Wyden-Bennett model would envision many employers contributing to worker coverage through state purchasing pools – ESI optional
- E.g., what if guaranteed issue is not accompanied by individual mandates and adverse selection results?
- E.g., what if public plan choice includes plans not licensed in the state where the enrollee lives? (federally certified only)

Will Payors Like The Taste Of What Is In The Glass?

- E.g., what if the standard benefit is too rich relative to the community rate?
- E.g., how much of the market will become competition for community rated individual enrollees versus experience rated groups?
- E.g., might provider groups impose new provider friendly rules on plans relative to claims turn around etc. affecting cash management margin?
- E.g., what if the price to sell to the public group includes "profit limits"/MLR requirements?
- E.g., what provisions will be conducive to maximizing DM and other opportunities relative to the public plans?

Potential Key Legislative Drivers

1. Concern about privatization of essential social welfare program and high administrative costs
2. Need to fund "doc fix" and coverage expansions
3. Need to create competitive plans for newly insured to choose from

Potential Legislative Risks

1. Medicare Advantage margins at risk
2. Large portion of market goes to guaranteed issue, community related individual coverage
3. Federalization of commercial insurance

Broad Legislative Policy Inquiries

1. What percentage of risk assumption relative to governmental programs (Medicare Advantage, Part D, Medicaid) should be undertaken by private plans?
2. Will businesses look to access reform as an opportunity to unload risk responsibility?
3. Will access reform create new opportunities?

Outlook For Providers

Health Care Providers

Potential Key Legislative Drivers
1. Access 2. Cost 3. Quality 4. Training and education
Risks
Themes
1. Care Delivery 2. Compliance 3. Reimbursement 4. Health Information Technology 5. The Charitable Exemption 6. The Current Financial Crisis

Care Delivery

- McCain:
  - P4P
  - Never events
  - Care coordination
  - Outcome measurements
  - Comparative Effectiveness Program
  - National standards
  - Focus on 5 chronic diseases
- Obama
  - "full transparency of quality and cost"
  - Promotes Clinical Effectiveness
  - Disease management
  - Prevention
  - Community based

Care Delivery

- Transparency
  - www.hospitalcompare.hhs.gov
  - Physician quality and outcome reporting
  - Never events
  - P 4 P
- Care Management
  - Coordination of Care
  - Disease Management
- Delivery

Compliance

- Both candidates have issued strong statements supporting the enhancement of the government's anti-fraud activities
  - RAC Audits
  - FCA, OIG, MFCU, etc.
  - Data mining
- Provider emphasis on compliance programs

Reimbursement

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- Less money
- Medicare & Medicaid will be serving more people
- More detailed coding
  - MS DRG
  - ICD 10

Health Information Technology

- Both candidates support implementation of HIT—Obama would require it
- Issues for providers
  - Cost
  - Interoperability
  - Privacy

The Federal Charitable Exemption

- Focus on governance
- Disclosure and transparency
- Community benefit

The Financial Crisis

- Hospitals and health care facilities use bonds to finance their projects--many are variable rate tax exempt bonds
- The receivables issue

Outlook For Manufacturers

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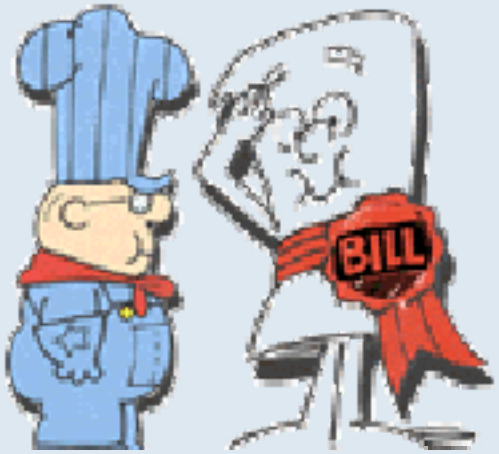
I'm just a pill,
Yes, I am only a pill,
I look for friends on Capitol Hill



"And if they vote for me on Capitol Hill
Well, then I'm off to the White House"

"I'm just a Bill," Schoolhouse Rock

What Have The Candidates Said?

- The big bad guys
  - When Mitt Romney was defending the pharmaceutical industry during the January 2008 primary debate in New Hampshire, Senator John McCain referred to the pharmaceutical companies as the big bad guys.

- Savings through accountability
  - Senator Barack Obama stated that savings in the heath care system would be achieved through "…. holding drug and insurance companies 'accountable for the prices they charge and the harm they cause.'"

    - as reported by Associated Press, October 5, 2008

Potential Key Legislative Drivers
1. Industry past conduct
2. Scientific advancements that outpaced the law
3. Lack of transparency in industry relationship
Potential Legislative Risks
1. Impact on research and development of new products
2. Impact on access to drugs/new drugs
3. Impact on quality of services provided by health care providers
4. Impact on the government fiscal crisis
Broad Legislative Policy Inquiries
1. What is the impact on the current industry research, pricing, distribution, sales, marketing model(s)?
2. Which entities are "deemed" to provide "value" by the Government? *(e.g. improve access? improve outcomes? maintain/improve quality? increase efficiency? provide cost savings? prove effectiveness? modernize the system? promote safety?)*

Industry Past Conduct

- Increasing FDA Funding for oversight activities
- Increasing funding for health care fraud enforcement
- Permitting the Government to negotiate price concessions for outpatient prescription drugs directly with manufacturers in connection with the Medicare Part D program

Science Outpaced The Law

- Research and development tax credit was reauthorized with the $700 billion financial bailout package until December 31, 2009
  - Credit had expired last year
  - Retroactive for tax year 2008
  - Increases the alternative simplified credit rate formula from 12% to 14%

Science Outpaced The Law

- Federal funding to support research initiatives
  - Embryonic stem cell research
  - Chronic disease research
    - Public-private partnerships
    - Disease prevention and early detection
  - Clinical trials
- Use of outcomes research
  - Disease management
  - Comparative effectiveness
- Follow-on biologics
- Ability to exchange scientific information

Transparent Relationships

- Transparency in pharmaceutical pricing
  - To consumers
    - Reimportation as an alternative/addition
    - Promotion of the prescribing of generic drugs in FHCPs
- Transparency with third parties/business relationships
  - Reverse payments between brand name and generic manufacturers
  - Prescribers
  - Researchers
  - Purchasers