Jill Quadagno

Mildred and Claude Pepper Eminent Scholar in Social Gerontology
Florida State University

The Origins and Outcome of the Patient Protection and Affordable Care Act of 2010
Troubled times create historic opportunities.

- **New Deal**
  - resulted in the Social Security Act of 1935
  - committed the federal government to guaranteeing economic security against the risks of unemployment, old age and disability.

- **Great Society in the 1960s**
  - resulted in a expansion of federal training programs
  - Created new community development programs
  - Created a federal guarantee of health insurance for the aged and the very poor.
Economic conditions of 2009 similar to the Great Depression

- a strong emphasis on planning
- an acceptance of the role of government as a major actor.
- a president elected with a wide popular mandate and a commitment to social reform.
How the AMA helped defeat the Truman plan in the 1940s

- Launched a “National Education Campaign
- Organized county medical societies into an anti-reform political machine
- Worked to defeat politicians who supported national health insurance
Wherever some form of dictatorship prevails in government, there we also find some manifestation of socialized medicine. The brand name of dictatorship makes no difference -- Communism, Fascism, Nazism, Socialism -- all are alike in that they enforce a system of State Medicine.
Allies Against Health Care Reform

- National Association of Manufacturers
- Chamber of Commerce
- Large insurance companies
- Republicans and southern Democrats
- Splintered labor movement
How Medicare Was Won

- The AFL-CIO campaign
- The mobilization of senior citizens
- The defection of AMA allies
- Public disdain for AMA tactics
Medicare provisions

- Physicians could charge their usual fees
- Hospitals would be paid their customary charges
- Private insurance companies would administer the program
- Uncovered health care expenses left private insurers with medigap market
HEALTH COVERAGE

MULTI-BILLION-DOLLAR PAPERWORK COSTS

U.S. HEALTH CARE "SYSTEM"

OVER 33 MILLION AMERICANS NOT INSURED

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- AMA’s Medicredit – voucher to purchase health insurance
- Senator Russell Long’s catastrophic coverage bill – individual mandate
- Senator Kennedy’s single payer plan
- President Nixon’s National Health Insurance Partnership Act – employer mandate
- President Jimmy Carter’s HealthCare plan – employer mandate
“This mandate is based on two important principles. First, that health care protection is a responsibility of individuals, not businesses...Second, it assumes that there is an implicit contract between households and society, based on the notion that health insurance is not like other forms of insurance protection. .. Society does feel a moral obligation to insure that its citizens do not suffer from the unavailability of health care. But, on the other hand, each household has the obligation, to the extent it is able, to avoid placing demands on society by protecting itself.” (Butler, 1989)
The individual mandate and the free market

• The allocation of resources to health care should rest on individuals’ choice of insurance in light of their different needs and desires. This will drive a competitive market and improve the efficiency of the health care system...All citizens should be required to obtain a basic level of health insurance...Permitting individuals to remain uninsured results in inefficient use of medical care, inequity in the incidence of costs of uncompensated care, and tax-related distortions (Pauly, Danzon, Feldstein and Hoff 1991)
President George H.W. Bush plan

- Comprehensive Health Reform Act of 1992
  - health insurance networks (HINS) would arrange for the purchase of health insurance and negotiate payment rates and selective contracts with providers.
  - Universal coverage would be achieved by mandating the purchase of a basic benefit.
The HIAA and the NFIB:
- paid for a $15 million ad campaign
- enlisted grass roots supporters
- created swat teams
- made campaign contributions to key politicians
- created coalition with other business organizations
Health Equity and Access Reform Act of 1993 (HEART)

- Required insurance plans to meet stringent requirements including:
  - guaranteed eligibility
  - no preexisting condition exclusions
  - guaranteed renewal
  - a standard benefit package
  - vouchers to help low income individuals purchase insurance
  - individual mandate to purchase coverage
- Individuals who did not purchase coverage would “pay a penalty equal to the average yearly premium of the local area plus 20 percent.”
Beginning in the early 1990s, the states enacted a myriad of reforms targeting the individual and small group market. Aimed at expanding health insurance coverage and reforming the health insurance industry.

- Consumer protection policies
- Policies to reduce regulation
- Expand Medicaid
State Consumer Protection Policies

- *Rating restrictions* compressed range of prices
- *Affordability and disclosure* regulations required insurers to offer similarly priced plans with uniform benefits.
- *Guaranteed issue* regulations required insurers to offer coverage to any individual or group.
- *Guaranteed renewal* laws required insurers to continue to cover previously insured groups.
- *Preexisting condition limitations* set a maximum period that an individual could be excluded from a group plan.
- *Portability* rules guaranteed that a person who changed jobs or changed insurers within the same workplace could retain coverage without being subject to a new exclusion period.
State experiments to reduce regulation on insurers

- Allow the free market to determine benefit structure and expand the kind of products insurers could offer.
- These policies released insurance companies from state “mandates” specifying that particular services had to be included in any plan.
- Presumably, insurers could then sell less expensive “bare bones” plans, thus making it possible for more people to afford coverage.
These policies increased the state’s role as the direct provider of benefits to the uninsured.

States took advantage of federal incentives to expand coverage for low-income families and children through Medicaid and SCHIP.
Figure 1. The Percentage of States Adopting Reforms, by Year.
Results of state experiments

- Most state policy initiatives did little to expand coverage
- Reforms enacted during this period were largely ineffectual.
- The only policies that had a positive effect on coverage were those involving direct Medicaid expansions.
State reforms regulating the small group health insurance market were incorporated into HIPAA

- HIPAA prohibited insurers from charging different premiums for individuals within groups.
- Required insurers to guarantee renewal to any group.

HIPAA had many loopholes and only applied to small groups.
The Massachusetts Health Plan

- The Massachusetts health care insurance reform law was enacted in 2006.
- It mandates that nearly every state resident obtain a minimum level of healthcare insurance coverage.
- Provides free health insurance for residents with income less than 150% of the federal poverty level and children with parents whose income is 300% of poverty level.
The Healthy Americans Act

- The Healthy Americans Act, Bennett/Wyden (2007 and 2009) would establish Healthy American Private Insurance Plans (HAPIs) and require those who did not have insurance coverage to enroll in a HAPI. It was endorsed by a dozen co-sponsors drawn from both parties.
- During the 2008 election campaign, Senator Hillary Clinton (D-NY), promised to achieve universal coverage by requiring everyone to join the system
The threat of socialism

- His (Obama’s) plan ... will be just another big government bureaucracy, like the IRS, operating inefficiently and costing taxpayers hundreds and billions of dollars. We will end up paying higher taxes and getting low quality health care with long lines to get treatment and lots of red tape and paperwork. Instead of a big government program to bring socialized medicine to America, we need to give consumers more of their own money back and more options to choose the health insurance plan that’s right for them (Lake 2008).
Portraying the Socialist Threat
Obstacles to Health Care Reform in 2010

- People 65 and older feared cuts to Medicare Advantage
- Private insurers opposed the public option.
- PNHP members wanted a single payer plan.
- People with insurance worried about their existing coverage.
I headed Heritage’s health work for 30 years. And make no mistake; Heritage and I actively oppose the individual mandate. 20 years ago, I held the view that as a technical matter, some form of requirement to purchase insurance was needed in a near-universal insurance market to avoid massive instability through ‘adverse selection.’ At that time, President Clinton was proposing a universal health care plan, and Heritage and I devised a viable alternative...Changing one’s mind about the best policy to pursue---but not one’s principles—is part of being a researcher at a major think tank.” (Butler 2012)
### Basic Provisions of ACA (2010) and HEART (1993)

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Comparison of ACA and HEART on Regulations on Insurers

OBAMA PLAN

- Prohibits Denial of Coverage For Pre-existing Conditions
- Prohibits Insurance Company From Cancelling Coverage

CHAFFEE PLAN

- Prohibits Denial of Coverage For Pre-existing Conditions
- Prohibits Insurance Company From Cancelling Coverage
Differences between Obama plan and HEART

**OBAMA PLAN**
- Expands Medicaid
- Extends coverage to dependents up to age 26
- Prohibits insurers from setting lifetime spending caps

**HEART**
- Does not expand Medicaid
- Does not extend coverage to dependents
- Does not prohibit insurers from setting lifetime spending caps
Conclusion

- Clinton left a policy legacy of insurance company regulation and Medicaid expansion that were key provisions of the ACA.
- ACA departs from the liberal vision of a single player plan, adheres closely to the objectives of those who believe that the health care system should encourage the free market but includes provisions to move the nation closer to universal coverage.