ObamaCare
Surviving the New Health Care Law

Michael J. Seel, MD
Allegheny General Hospital
Pittsburgh PA

“You can’t handle the truth!”

Health Insurance Prior to ObamaCare

- Medicare  49.4 MM
- Medicaid and CHIP  61.6 MM
- Employer sponsored  164.5 MM
- Individual coverage  25.5 MM
- Uninsured  47.9 MM

-Richard Foster, April 22, 2010
Congressional testimony
ObamaCare Timeline

- March, 2010 - PPACA becomes law
- July, 2010 - First of twenty new taxes goes into effect - Tanning Salons!!
- Jan, 2011 - “Donut Hole” closes
  - New penalties for HSA distributions
  - New fees pharmaceutical companies
  - New taxes on Medical Devices

ObamaCare Timeline

- June, 2012 - Supreme Court - constitutional (sort of)
- Jan, 2013 - Medicare Part A tax hike
  - 3.8% tax on unearned income
- Jan, 2014 - Individual Mandate
  - All Americans required to have insurance or pay penalty
ObamaCare Facts

- Health care administrative costs projected to increase from $29B to $71B by 2020.
- Enough money to purchase private health insurance plans for one half of all Americans considered currently uninsured.
- The ACA is not about providing efficient or low cost medical care.

WELCOME TO THE FUTURE

“The Affordable Care Act is a law that passed the House; it passed the Senate. The Supreme Court ruled it constitutional. It was a central issue in last year’s election. It is settled and it is here to stay.”

– Barack Hussein Obama
– October 1, 2013
ObamaCare Facts

- Original law 2,572 pages
  - US Constitution 18 pages
- Currently over 20,000 pages of regulations
  - You will be bound by these rules
  - Increasing 3,000 pages every 6 months

ObamaCare

“We have to pass the bill to find out what is in it!”

ObamaCare

- James Madison
  - 4th President of the US
It is pointless to elect a Congress if…

Congress enacts laws “so voluminous that they cannot be read” or if these laws “undergo such incessant changes that no man, who knows what the law is today can guess what it will be tomorrow.”

James Madison
Federalist No. 62

ObamaCare Facts

- Poor language is incredible
- Typical passage -
  - Subparagraph (B) of section 6724 (d) (1) of the IRS Code of 1986 as amended by Section 1502, is amended by striking “or” at the end of clause (xxiii), by striking “and” at the end of clause (xxiv) and inserting “or” and by inserting after clause (xxiv) the following new clause….

ObamaCare Facts

- Thousands of new regulations to control what you, your doctor, and your employer can do.
- If you are clueless, YOU ARE NOT ALONE
- Most people have heard the rhetoric but do not know what the law actually says….
ObamaCare Facts

- Three key parts:
  - Individual mandate requiring nearly every American to have insurance or pay a penalty tax
  - Health insurance exchanges, where individuals with income below 400% of the federal poverty level get subsidy
  - Massive expansion of Medicaid up to 138% of the poverty level

ObamaCare Individual Mandate

- Section 1501 requires enrollment in a government designed health insurance plan. The plan must meet certain requirements determined by the HHS Secretary (currently Kathleen Sebelius) and is known as a “qualified plan.”

ObamaCare Individual Mandate

- Individual mandate designed to force the uninsured, especially the young and healthy to get coverage
- Penalty on individuals is much less than the cost of coverage.
ObamaCare
Individual Mandate

- Penalties
  - 2014
    - $95 or 1% gross income (max $285)
  - 2016
    - $695 for individual or 2.5% of income (max $2085)
- Section 5000A of IRS Code expressly states that you cannot be criminally prosecuted for failing to pay penalty

ObamaCare
Individual Mandate

- A qualified plan can be sold by a private insurance company such as Aetna or Cigna, provided by employer, or purchased through a state or federal insurance exchange (new)

ObamaCare
Health Insurance Exchanges

- State insurance exchanges
  - Government run websites
  - Toll free numbers
  - DMV like offices
  - Bronze, Gold, Silver, Platinum plans
    - Differ in copays, deductible and premiums
ObamaCare Health Insurance Exchanges

- State insurance exchanges
  - Initial debacle at start up October 1
  - Recent changes have made exchanges easier to use
  - Still requires user to delete the cache in an effort to resolve errors
  - “This is a very early Web 1.0 fix”
    » Dan Schuyler, Director Levitt Partners

ObamaCare Health Insurance Exchanges

- State insurance exchanges
  - “The application could be fundamentally flawed”
  - “They may be using 1990s technology is a 2.0 world.”
    » Jeff Kim, President CDNetworks, a content delivery network

ObamaCare Health Insurance Exchanges

- Anyone who cannot get insurance through Medicare, Medicaid, or employer is eligible to shop on an exchange
  - Medicaid: less than $30,167
  - Subsidy: $30,168 - $92,200
  - No subsidy: greater than $92,201
ObamaCare
Individual Mandate

- "Qualified Plan" allows you to avoid penalty
- Gives government new control over decision making
- HHS Secretary given power to impose any regulation to improve health care "quality"

Privacy
- Great concern about privacy of medical records
- Concern that new federal system will disclose too much
- Information technology and security in question
ObamaCare
Entitlements

- Two new entitlements
  - Total $1.6 Trillion by 2020
  - $1.017 Trillion for new subsidies to buy health plans on exchanges
  - $642 Billion for increases in Medicaid and CHIP coverage

  — Source, Congressional Budget Office, 2012

ObamaCare
Individual Mandate

- New law vastly expands Medicaid eligibility
  - Family of 4, income up to $30,657
  - Childless adults eligible
  - Not all states participating in this expansion of Medicaid because it is unclear how long the Federal funding will last.

ObamaCare
Individual Mandate

- By 2019, estimated that 50% of all health care spending will be paid for by the government
- Funded by increasing taxes, taking funds from Medicare, and potentially running higher annual budget deficits.
ObamaCare Employer Mandate

- Jan, 2015 - Employer Mandate
  - All businesses with greater than 50 employees required to provide insurance or pay penalty
  - Deferred from Jan, 2014 arbitrarily by US government in violation of the law

ObamaCare Employer Mandate

- As of 2015, employers with greater than 50 employees who do not provide coverage will be fined
- Fine calculated as number of employees minus 30 X $2000
  - For example, if business employs 100 people, fine is 70 X $2000 or $140,000.

ObamaCare Employer Mandate

- Employer can ask employees to chip in, but the worker contribution cannot exceed 9.5% of household income.
  - This means that individuals will have to provide their employer with income information for everyone who lives in your household
Employers who do not provide coverage will see labor costs increase about $1 per hour. ($2000 divided by 2200 hrs per yr)

Employers who provide coverage are estimated to pay $1.79 per hour for the mandated coverage.

Employers left with three options:
- Decline insurance and pay fines
- Replace full time workers with part time workers
- Replace workers with automation

Expansion of Medicaid will cause other insurance premiums to increase greatly
- Medicaid underpays doctors and hospitals
- In the past, compensation improved by increasing private insurance reimbursements and, therefore, premiums
ObamaCare

- Medicaid reimbursement rates approx 60% of the rate paid by private insurers
- Recent study published in Health Affairs reported that 33% of doctors did not accept new Medicaid patients in 2010 and 2011.
- More than 9,500 doctors opted out of treating Medicare patients in 2012
  - Triple the rate of 2009

ObamaCare

- Doctors, hospitals, hospice, nursing homes and dialysis centers will be paid substantially less to care for seniors.
- In some cases, less than Medicaid
- Section 3000 of the law awards bonus points to hospitals that spend the least per elderly patient.

ObamaCare

- Hospitals will be penalized for care consumed up to 30 days after patients are discharged
- For example, outpatient physical therapy following TKA or THA.
- This is taking place even as studies show the economic value of these procedures to be very positive
ObamaCare

- Independent Payment Advisory Board
  - Forbidden from rationing care or changing senior’s benefits
  - Only real cost cutting option will be to ratchet down reimbursement rates for doctors

- Section 3405 creates a 15 member board of unelected bureaucrats whose job is to identify further cuts in what doctors, hospitals and other providers are paid to care for seniors.
  - As an example, IPAB could push the reimbursement for THA lower and lower until it is so low that providers no longer provide that treatment.

ObamaCare

- “Donut Hole”
  - Medicare Part D drug coverage provides for the first $2,800 per year.
  - Then, no coverage until $6,400 mark
  - Thus, the “donut hole” between $2800 - $6,400 in drug expense per year for seniors
  - ObamaCare gradually reduces the donut hole
ObamaCare

- **New Taxes**
  - Tax free contributions to Flexible Savings Account limited in 2013
  - "Cadillac" health plans taxed at 40% starting in 2018
  - Increase Medicare tax from 1.45% to 2.35% for high earners
  - New 3.8% tax on unearned income for couples earning over $250,000 per yr
  - Medical Device tax (2.3% of sales)

"Free care" is NOT free!!

- Pay upfront through premium
- Expansion of services that must be covered means higher premium
- Covering children up to age 26 on parent’s plan raises everyone’s premium - not just those with children
Decoding the debate

- "Skyrocketing Costs" - not really
  - Spending increased 3.9% in 2009
  - Spending increased 3.8% in 2010

- Share of Health Care Expense Paid out of Pocket
  - 33% in 1975 - 15% in 2005
  - This is the real issue as consumers are uninformed and do not make economic decisions when choosing health care

- We need a system of keeping people well rather than treating sickness
  - Nancy Ann DeParle, Director White House Office of Health Reform

This would make sense if all disease were behavior related but it is not
  - Serious illness affects 5% of population and accounts for 50% of the care

ObamaCare is NOT the Affordable Care Act
ObamaCare

- ObamaCare is a mangled and distorted version of what Congress enacted
  - Employer Mandate - gone
  - Caps on expenses - gone
  - Income Verification - gone

ObamaCare

- Additions to Law
  - Subsidy for Congress and Staff
  - Waivers
    - » 780 Companies
    - » 451 Unions

 Biggest Victim of ObamaCare

The Rule of Law
**ObamaCare**

**Conclusions**
- The stakes are high and they are not political.
- All Americans want the best health care available, particularly if they are the one with serious disease such as cancer.

**ObamaCare**

**Conclusions**
- This plan redistributes health resources FROM Medicare recipients - seniors and baby boomers - and FROM people who pay for their own health plans TO vastly expand Medicaid and subsidized health insurance.

**ObamaCare**

**Conclusions**
- The tax hikes cover less than half of the proposed coverages.
- The resources will come from limiting the care received by those who currently have insurance.
- This requires government controls on the decisions of the care providers (doctors).
Conclusions

To make this monumental shift of decision making from the physicians to the federal government palatable, supporters of this law have undertaken a systematic and shocking campaign to vilify doctors.

Example

“Right now doctors a lot of times are forced to make decisions based on the fee payment schedule that’s out there. So…if your child has repeated sore throats, the doctor may look at the reimbursement system and say to himself, you know what, I make a lot more if I take this kid’s tonsils out…”

Barack Hussein Obama, July 22, 2009

Example (My favorite)

Accusing surgeons of amputating diabetic feet needlessly to collect a $30,000 or $40,000 fee.

(Actual reimbursement by Medicare $740 - $1140 at that time)

Barack Hussein Obama, Aug 11, 2009
Conclusions

- We find ourselves about to embark on a very bold experiment in which we dramatically expand the role of the federal government into one of the most personal aspects of most people’s lives.

You and your patients are going to be sorting through a maze of new regulations, taxes and government oversight.
ObamaCare

Thank You