EMTALA Recommendations

Recommendations to Reduce Future Negative Implications

Since its induction in 1986, the Emergency Medical Treatment and Active Labor Act (EMTALA) has generated a great deal of negative publicity, but for a good reason. According to, author Edward Monico (2010), EMTALA has played a major part in the overcrowding, increased costs, and shutdowns of our nation's emergency departments (Monico, 2010). EMTALA got created with good intentions, and that was to decrease health disparities among our nation's minorities and provide more access to much-needed health care for those who could not normally afford coverage. The law was also created to decrease patient dumping, which is the act of transferring an uninsured or underfunded patient to another facility because of their inability to pay for services. According to author Stickler (2006), others feel that the policy was created to establish better standards of care governing those patient transfers (Stickler, 2006). So, why has EMTALA created so much negative publicity?

The answer to the above question is quite simple. The Act is an Unfunded Mandate that legally contracts a humanitarian nightmare for our emergency departments to stabilize individuals without reimbursement (Waldman, 2014). What is an Unfunded Mandate? Even though the act initially got created as the "anti-dumping act," it inadvertently created a class of people that we now call the Unfunded Mandate. These are the patients who are receiving high-cost emergency care where the hospital and providers will not get paid (Waldman, 2014). Even though this is happening, the facilities and providers must still pay their bills. One facility reported that the annual cost of their uncompensated care for the "unfunded" was approximately $233 million. This figure represented nearly 25% of the hospital's annual operating budget (Waldman, 2014). It is statistics like this that are causing hospitals to do whatever is necessary

to stay in business. They are overcharging insured patients, double billing, creative accounting, upcoding, and cherry-picking patients. Many of these actions are illegal but are done daily to help manage the negative aspects of charity care (Waldman, 2014).

So, how can we reduce future negative implications? A starting point could be the 45 to 50 million Americans who we classify as the unfunded or uninsured. What is the difference between unfunded and uninsured? Uninsured is self-explanatory, these are the individuals who do not have health care coverage. But the unfunded or underfunded are the tens of millions of individuals beyond the uninsured that cannot afford to pay for their care beyond insurance (Waldman, 2014). In 2012 the Commonwealth Fund created a survey known as the Biennial Health Insurance Survey which stated that approximately 84 million Americans who have medical insurance do not have sufficient funding to cover their debts in the event of major illness (Waldman, 2014). EMTALA has added a great deal of fuel to this fire. The policy has created an outlet for millions of individuals to acquire care and not worry about any financial responsibility. Throughout the next section, the article will discuss several ways to deal with this problem.

Solutions to Eliminate Unnecessary Policies

Many people believe the best way to fix EMTALA is to dissolve it, and this would change the policy in a way that the problem would cease to exist**.** So, how do we dissolve an unfunded mandate? We do this by funding the process. One way to accomplish this would be to create Health Savings Accounts (HSAs) for each American whether they are a citizen or an illegal immigrant. The funding could come from tax dollars and would get set at a certain figure such as $5000 with the option to increase upon personal needs (Waldman, 2014). Within an HSA the money could accumulate over time with no use or lose options. These funds would

only be allowed to get utilized for medical expenses and healthcare insurance (Waldman, 2014). Systems like this already existing countries such as Germany where the government takes money monthly from each citizen to pay for their healthcare insurance. If those individuals are working, the funds will come out of their paycheck, and if they are unemployed, it will come out of their unemployment benefits (Waldman, 2014).

Conservatives may ask where the money will come from to fund such a venture, but this part is easy. If we take into consideration the massive amount of money Medicare, Medicaid, and the ACA subsidies spend throughout insurance intermediaries, plus their extensive bureaucracy costs, then we can manage to find a solution for this system as well. If everyone, all 320 million Americans, place $5000 in an HSA it would equal approximately $1.6 trillion. As of 2012, the Deloitte study showed U.S. expenditures to be approximately $3.4 trillion on health care, which averages out to be about $10,863 for everyone in the United States (Waldman, 2014).

As you can see, the $1.6 trillion HSA funds would amount to be approximately half of our nation's overall usage. We must also take in account our massive Medicaid debt which is approximately $415 billion and utilized by approximately 50 million people (Waldman, 2014). These figures create an average quotient of $8,290 per individual per year which is utilizing Medicaid. If these individuals had an HSA account with $5000 in it to cover their medical costs, it could save Medicaid services $165 billion per year (Waldman, 2014).

Opportunities to Develop Future Policies

One future issue surrounding this topic that requires attention sooner than later is the illegals that are living within our country. These individuals are not eligible for services such as Medicaid or the ACA and are more than likely uninsured. But, when they need medical

attention, they utilize policies such as EMTALA to gain medical access. The last Census Bureau report stated that approximately 59% of our illegal residents pay taxes yet are responsible for generating enormous amounts of uncompensated health care costs throughout our system (Waldman, 2014). So, the undocumented immigrants should be forced to carry HSA benefits just like our citizens. At any given time, there approximately 15 million illegals in the United States. If each person were forced to carry a $5000 HSA, this would amount to be $75 billion per year that they could use on their health-care expenses or coverages (Waldman, 2014).

Another category of individuals we must consider is our seniors. They have paid into Medicare for most of their life, and in all fairness should be bought out. We could do this by creating a nominal growth factor to match the amount they put into their HSA. We would see a dramatic decrease in the cost for Senior care since Medicare would no longer control our health care system and would have to return to its original model which was a mandatory savings account set up for retirement (Waldman, 2014). Factors such as Medicare fraud would no longer exist because people would watch their personal HSAs, and nobody would bill the government (Waldman, 2014).

Finally, how can we deal with the fully insured yet unfunded? These individuals are by far the group that is most worrisome to the healthcare system. There is virtually only one way to deal with this problem, and that is medical rationing. If medical rationing got implemented, it would force the ACA's Independent Payment Advisory Board, whose primary objective is to cut costs, to make various high-cost items such as chemotherapy, dialysis, or various forms of heart surgery unavailable to individuals to do not meet age or genetic disorder criteria (Waldman, 2014). This feature will help to cut costs by denying care. Unfortunately, dead people are cheaper to deal with than extending the life of the critically ill. Even if these people have

insurance and a well-funded HSA, the care they may need may not get authorized, which in turn makes them underfunded and they will not receive the life-saving care they need. Countries such as Great Britain have already implemented such a system (Waldman, 2014).

Conclusion

Even though EMTALA got created with the best of intentions, the policy still has many faults and may be doing more harm than good to our healthcare system. Even though the policy got built on the four ethical principles of autonomy, beneficence, nonmaleficence, and justice, the system is clearly overrun with consequences to provide patients with cost-effective and quality healthcare (Waldman, 2014). Actions need to be taken to repair broken policies such as the Emergency Medical Treatment and Active Labor Act. The above thoughts must be considered to create a better future practical and financial situation for our country. Overall, a healthy population is less expensive and will generate more gross domestic product (GDP) no matter if the individuals are citizens or noncitizens. Faulted policies such as EMTALA must get addressed, and the responsibility must be brought to the people if we ever hope to begin to repair our broken healthcare system.

References

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