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Repeal & Replace...With What?



Illustration: American Enterprise Institute, american.com

Three nouns to describe what you can expect under the banner of “Repeal & Replace”: vapidness, cupidity, and stupidity. What would the oxymoron, “Republican health care reform” look like if the R&R crowd had their way? You need look no farther than the Cato Institute. Despite the fact that Cato swings libertarian-right, they encapsulate the single idea driving conservative thinking about health care financing: tax reform *is* health care reform. That’s pretty much all you would need to know if Republicans actually got their way.

Let’s just take a moment to refresh our memory on the goodies in the garden-variety Republican package:

- Tort reform
- Interstate insurance operations

- Health Savings Accounts (HSAs)
- Eliminating third party payers

With the exception of some exclusively libertarian ideas like taxing employee health benefits based on categorizing those benefits as raw income, this pretty much sums it up. It really is a no-nothing approach. Each idea is mostly remarkable for its abject ineffectuality.

Tort reform, a euphemism for an abrogation of the concept of medical liability combined with forced patient arbitration, would save \$54 billion a year if fully implemented according to the Congressional Budget Office. (Never mind that some Cato partisans say it would save *\$700 billion* a year, pulling that number out of some dark place.) But full implementation would limit damages at \$250,000, just a few years' wages for many middle class people. That's pretty draconian. Increase those caps to reasonable levels, say \$1.5 to \$2 million, and you're saving chump change.

The Cato Institute document, "[Health Care](#)," Chapter 7 of the Cato Handbook for Congress, 109th Congress states:

“In cases of ordinary negligence, patients could choose the level of protection they desired, rather than have that level (and the resulting higher prices) imposed on them by the tort system.”

Think about that. A patient goes in for a heart procedure and by some unfathomable process decides it is subject only to the vicissitudes of “ordinary negligence” and so gets

quoted the back-of-the-envelope price. It's madness, sheer madness, a return to some kind of primeval market swamp.

But wait, there's more. Cato says:

“A more patient-friendly and liberty-enhancing reform would be to allow patients and providers to avoid the costly medical tort system through voluntary contracts.”

As in, “This one's between you, me, and God, Doc. You screw it up and I get your Land Rover.” Have these people ever *met* a heart surgeon? Can you possibly imagine negotiating one of these? Oh, and leave out the lawyers, they're too expensive.

Interstate insurance sales practices would quickly become a predatory race to the bottom, just like the entire individual policy sales universe operates at the moment. So you can buy the “South Dakota Plan” while residing in New York and receive the benefits mandated by an insurance commissioner whose idea of care has been unduly influenced by proximity to large animal vets. None of the benefits, none of the protections; that would be a slogan to define such a market.

Tax-advantaged Health Savings Accounts is a great example of tax reform as health reform. Just let us set up those accounts in tandem with our exceedingly large deductible plans (“Covers mostly everything after the first \$50,000—up to \$100,000.”) And the balance, or the limitless deductible, is somehow to be covered by our health nest egg? Has anyone told these people that the all the average American can afford to save for *retirement* is \$54,000 in their 401k. Do they have any idea how quickly \$10,000 will

be vaporized during even a short hospital stay—a hospital stay measured in hours, not days? I love how they say, “And anything you don’t spend is yours to keep, or to pass on to your heirs.” Yeah right, cuz you died cuz you didn’t seek needed medical care, knowing it would eviscerate your pathetic health care nest egg.

Self-rationing is a key concept for market-based health economists. As Cato puts it:

“Consumers spending their own money will reveal different preferences (among insurance companies, medical professionals, pharmaceutical companies, and even public policies) than consumers who are spending someone else’s money.”

Wastrels that we are, we are now just playing with the house’s money—“Hell, throw in an extra MRI, Doc, it’s on Acme Widget.” What kind of preferences could they mean? I think I’ve been around enough people facing severe medical crises to know that the first thing that comes to mind for people in need is *quality care*. And that will always be the case. If you are facing breast or prostate cancer, you don’t say, “You know what, I’m gonna shop around for *a deal*.” Cato says you will. Yes, under one circumstance. You will if you are *forced to*. And that is the only way it will ever play out.

The elimination of third party payers is more of the same fantasy. Granted, for an office visit, some tiny percentage of doctors have cut out insurance carriers and charge more or less reasonable cash fees. Fair enough. But hospitalization is another story

entirely, and has been so since the antecedents of major medical insurance—in the form of “benevolent societies—were invented circa 600 A.D.

Republican “replacement” also includes the deregulation of health care. Thinking people know how well that worked for the financial and environmental sectors, so why not give it a try? You know, “Market, heal thyself.” Hate it as much as you want, if the Republicans win in 2012, that’s what you are going to get. Cato again:

“State and federal governments have enacted countless health care regulations that restrict the freedom of consumers and producers...”

You know, like all those prohibitions against *bad medicine*. Or like those pesky food safety laws. If you like a nice E. Coli-ridden Uruguayan downed-kill cow in your ground beef—the kind that paralyzed Stephanie Smith, of Waite Park, Minnesota—you’ll *love* drive-by outpatient surgery. The notion that such retrograde impulses somehow *increase our freedom*, that is the deepest cut of all in this would-be dystopia.

“Hello, this is Rand Paul... Hello, this is Rand Paul...”

When you take this stuff as a whole you begin to feel like you are listening to a Rand Paul tape on auto-loop. And with each repetition you think of factors that make it all loopier and loopier, until, if that old cartoon adage could come true, the top of your head would just explode. That is the Republican “Replace” notion in a nutshell.

What I’m talking about here differs from this week’s unlikely alliance of Sens. Scott Brown, (R-Mass) and Ron Wyden, (D-Ore) proposing advancing the starting date

for state-based alternatives to federal options under rubric of their Empowering States to Innovate Act. As problematic as their vision is, it at least encompasses sufficient intellectual integrity to have an honest debate. That might be a topic for another day.

What I am talking about here is an empty, greed-driven, intellectually bankrupt con job. That is what lies beneath the banner, “Repeal and Replace.” People talk about the spirit of compromise. That has no meaning unless you know *what* is to be compromised. And in this case, we know. To do anything other than fight Repeal and Replace is to acquiesce to the largest giveaway to special interests in the history of the republic—the giveaway of the best shot we have had at a better, more humane health care system in our lifetimes.