Senator Hawley’s harmful insulin proposal

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Not long ago, conservative Republicans opposed ObamaCare’s mandated benefits regulations. They argued that mandates drive up the cost of insurance, forcing insurers to raise premiums and deductibles and narrow their provider networks.

Alas, the era of limited government Republicans is fading. Sen. Josh Hawley (R-Mo.) recently sponsored legislation that would cap consumers’ out-of-pocket monthly insulin expenditures at $25 and ban insurance companies from requiring patients to try less expensive insulin products before paying for newer, exorbitant products. It appears we are all central planners now.

Hawley is right to be concerned about the high price of insulin products. But his legislation would not solve the problem. His proposed cap on monthly expenditures would insulate consumers from the cost of the drug while the pharmaceutical companies continue to exact payment for their medications from the insurance companies. Consumers with little skin in the game have no incentive to be cost-effective. They care less about the high prices of new, innovative products.

Hawley’s bill further ties insurers’ hands by effectively forcing them to cover every new product on the market, even if there are cheaper and equally effective alternatives. But somehow, someone must pay for all of this; ultimately, that will be the patients themselves. Insurance companies will inevitably raise premiums and deductibles and diminish the size and scope of their provider networks.

If Hawley seriously wanted to reduce insulin prices, he would address their root causes. One of them is the onerous FDA regulatory process. As Michael Cannon and I point out in our white paper, the high cost of the FDA’s approval process necessarily leads to higher drug prices. It takes an average of 10.5 years and costs a drug company as much as $2.8 billion to get a drug through the process and bring it to market.

That may help explain why drug makers game the pharmaceutical patent laws that Congress passed to encourage innovation and new product development, enabling them to prolong monopoly pricing.

In 1951, Congress stopped letting drug makers decide which drugs they would sell over the counter and which would require a prescription and turned that decision over to the FDA. Drugs already available without a prescription were “grandfathered.”

That is why, to this day, people can buy regular and NPH insulin without a prescription. Because those forms of insulin are off-patent and because consumers comparison-shop, they are relatively cheap: “ReliOn,” a brand available from Walmart, can cost as little as $25 a vial. Evidence suggests that prescription requirements correlate with higher drug prices and that removing them correlates with reductions in drug prices.

Canada’s socialized health care system does not cover essential medications, so Canadians pay for them out of pocket. Yet Canada allows consumers to purchase any insulin product without a prescription. But Americans even need a prescription to buy lower-priced insulin online from Canadian pharmacies. Many Americans make the trek north and buy insulin directly from Canadian pharmacies. While it is technically illegal for them to bring their purchases home, customs agents rarely check. The Trump administration began letting states import some drugs from Canada for state-based programs in 2020, but insulin was not among the drugs it allowed.

The third-party payment system tends to increase drug prices. Insured consumers, insulated from retail prices, resist efforts by third-party payers to respond to high prices by switching to cheaper drugs or pharmacies because the resulting savings appear to go not to the consumer but to an employer, an insurance company, or the government.

When ObamaCare required insurance companies to pick up the total cost of birth control pills, the share of consumers sensitive to the price of contraceptives plummeted. Once the mandate took full effect, prices climbed rapidly. From 2013 to 2019, birth control pill prices rose nearly three times the price growth rate for other prescription drugs. The same will happen to insulin prices if consumers’ share of the bill is capped at $25.

If Hawley believed in free markets and limited government, he’d work to streamline FDA regulations, reform pharmaceutical patent laws, and eliminate the FDA’s authority to impose prescription requirements on drug manufacturers and consumers. He would fight for Americans to have at least as much freedom to buy insulin as Canadians enjoy. He would fight to remove the remaining restrictions on patients buying lower-priced drugs from across the border. Instead, he chooses to add more mandates to the ones already making quality health care increasingly unaffordable and out of reach.

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