

# Medicaid

## News Articles

[Introduction](#) | [Statements](#) | [News Articles](#) | [Links](#)

### Henry Waxman and the Medicaid Time Bomb

January 30, 1994

#### Washington Post

By Dan Morgan

It was 7:30 in the morning on Oct. 16, 1990, and Rep. Henry A. Waxman (D-Calif.) had just spent the night in a windowless room in the Capitol haggling with senators over mind-numbing technicalities of the budget for Medicaid, the huge federal-state health care program for the poor, disabled and low-income elderly.

Officials and aides were "hallucinating, green," recalled one of those present. But the short, balding chairman of the House Energy and Commerce Committee's subcommittee on health and environment looked as fresh and chipper as if he had slept in his bed in Bethesda.

Waxman, who had been working for years to expand the government's safety net for the medically needy, had every reason to be pleased.

Buried in the legislation was language that would add \$2 billion to the federal government's spending on Medicaid over the next five years. One provision guaranteed Medicaid coverage for every poor child under 19 by the year 2002. Another designated new federal money for the home care of "frail" elderly citizens and the developmentally disabled. Still another required federal and state governments to pay the Medicare premiums of even those elderly people with incomes well above the poverty line.

The irony was that the legislation was part of a deficit-reduction measure, one that was supposed to slow overall federal spending by \$496 billion over five years.

"The frustration was that what was supposed to be a massive deficit-reduction act became an expansion of Medicaid," recalled Gail R. Wilensky, who sat in on the deliberations as administrator of the Health Care Financing Administration, the agency that regulates federal Medicaid payments.

Over the past decade, under the nose of a Republican-controlled White House and fiscal conservatives in Congress, Waxman and a bipartisan handful of congressional allies reshaped Medicaid in numerous ways, vastly expanding the coverage it offers to poor, uninsured Americans and to some middle-class families as well. Cutting deals, massaging the numbers and sometimes just plain outlasting adversaries, they transformed the federal government's role in the nation's health care at a cost to taxpayers of billions of dollars.

Today, Medicaid costs federal taxpayers nearly \$90 billion a year, more than five times its cost in 1981. Annual Medicaid spending has risen by about five times the rate of inflation since 1989, an unanticipated growth that only recently has begun to abate. Perhaps more than any other factor, Medicaid's dramatic growth has led to the sense of national panic over the cost of health care.

How could this have happened in a poor people's program that doctors and hospitals say has consistently underpaid them? And what lessons does this hold for attempts by President Clinton and Congress to reform health care in 1994?

Waxman alone did not cause the Medicaid cost explosion. State governments found creative ways to extract more federal dollars from the program. Lobbyists and advocates of the poor exerted relentless pressure on Congress to expand benefits. Hospitals, nursing homes and individuals took advantage of ambiguous federal laws and court rulings to increase the money or services they received from Medicaid.

And there was plain need. "There was a belief 'Who else is going to care for these people if it isn't Medicaid?' " said Sen. John H. Chafee (R-R.I.).

"These people" were not only the relative few who fell within the strict welfare guidelines originally laid out for Medicaid. The program expansions were designed in large part to cover groups of children, pregnant women and others who, while not officially "poor," simply could not afford the ever-increasing cost of the health care they needed, and for whom many agreed the country had a responsibility to provide care.

In retrospect, however, it seems clear that the federal government lost control of the program. If there is one clear lesson for today's health care reformers, it is that those who advocate better medical care for the poor must be sure that there is money to pay the bill.

#### From No-Frills To Very Generous

At the beginning of the 1980s, Medicaid was a no-frills government insurance program that mainly covered one-parent families and their children receiving Aid to Families with Dependent Children--welfare--and Supplemental Security Income (SSI) for the elderly and disabled. Those with a Medicaid card still had to find a doctor, health maintenance organization, hospital or pharmacy to serve them--not always easy because Medicaid generally paid less than private insurers or Medicare, the federal program that insured the non-poor elderly and the disabled.

Today, Medicaid pays the medical bills of millions of children and women in working families, illegal immigrants seeking care in emergency rooms, single mothers making the transition from welfare rolls to work, AIDS sufferers and some elderly nursing home patients with middle-class spouses or children. It pays for more than four of 10 U.S. births, compared with one in six in 1981. In one state, Minnesota, the Medicaid program is so generous that it will pay the medical bills of young children in a family of four with an income of \$ 39,462--almost three times the federal poverty ceiling.

No single politician is more closely identified with Medicaid's transformation than Waxman.

Born in 1939, before the U.S. economy had recovered completely from the Depression, Waxman grew up over his father's grocery store in south-central Los Angeles. After giving up the store, his father went to work for a grocery chain and was active in the retail clerks' union. The Depression and his father's struggles produced a family with strong New Deal Democratic values.

"My parents were very much affected by the way they viewed the world as a result of the Depression, and they revered Franklin Roosevelt," Waxman said. His father taught him that "unless government plays a role in helping people who would otherwise be powerless, these people would easily be forgotten."

The Waxmans knew what it was like to lack medical care. Waxman recently discovered from family letters that his mother's chronic phlebitis went untreated during an early pregnancy because his father could not pay for a doctor. He would come to believe that health care was one area where government should play a role, ideally through national health insurance.

Many of the Waxmans' neighbors were black or Hispanic, and Waxman attended a predominantly black high school. In those days before racial tensions flared in south-central Los Angeles, Waxman said, it was a mixed, working-class neighborhood in which minorities shared an optimistic view that "if you eliminated discrimination and provided opportunities, you took the hard edges off the capitalist system. . . . Everybody thought that integration and equality were within reach."

Waxman only half-jokingly attributes his success to survival skills learned at high school, when he cultivated friends and protectors in the local youth gangs, predecessors to today's feared Bloods and Crips. It was a background that produced an unusual fusion of liberal idealism and street-level instincts for hardball legislative tactics.

After attending law school at the University of California at Los Angeles and serving as president of the California Young Democrats in the 1960s, Waxman specialized in health issues as a member of the California Assembly. In 1974, he was elected to Congress to represent Los Angeles' 24th District--a multicultural area taking in Hollywood studios, affluent homes of movie stars, Jewish neighborhoods, Latin barrios, Asian stores and the emporia of Santa Monica Boulevard. In redistricting after the 1990 census, Waxman's district was renumbered the 29th.

When he won the chairmanship of the health subcommittee in 1979, he was in a position to influence health legislation on a national scale.

Waxman had long been a student of the legislative techniques of the late Phillip Burton, a California assemblyman and subsequently an accomplished political operator in the U.S. House of Representatives. Waxman, according to his friend Rep. Howard L. Berman (D-Calif.), was fascinated with Burton's ability to "get things done where the consequences afterward turned out to be much greater than anyone had anticipated."

Medicaid provided a perfect opportunity for copying that technique.

"A lot of legislators just kind of nodded off when it came to Medicaid because they didn't understand it or there wasn't a lot of political capital to be gained in helping poor people," said a former Republican staffer on the Waxman subcommittee. "But Henry was a bulldog on this. He was in there for the long haul. He struck me as someone who would be happy spending his whole life protecting the health of moms and kids."

"In the absence of national health insurance, we needed to do more for the poorest of the poor in our society," Waxman said in a recent interview.

#### States Shift Costs To Federal Government

Until the 1960s, the federal government subsidized hospital construction and health research, but spent little on the day-to-day health care of Americans, rich or poor. That changed in 1965, when Congress enacted Medicare and, as a sop to influential lawmakers from poor, rural districts, created Medicaid in the same legislation. Medicaid enshrined the principle that the federal government shared with the states some responsibility for the medical care of the neediest.

Medicaid virtually created the modern nursing home business, by paying the nursing home bills of impoverished elderly--a benefit not available through Medicare. And it offered federal subsidies for the medical care of welfare mothers and children, the disabled and those who had such large medical bills that they were effectively impoverished.

Almost from the beginning, Medicaid lacked incentives for controlling costs. Once accepted into the program, a person could visit a doctor or hospital emergency room as often as he or she pleased. Even

now, most of the program is run on the "fee-for-service" principle that allows the doctor to bill Medicaid every time the patient shows up.

Because the states administer their Medicaid programs, the federal government had trouble controlling its share right from the start. After paying doctors and hospitals for treating Medicaid beneficiaries, states put in for a federal reimbursement ranging from 50 percent to 80 percent of the total bill, depending on a state's per capita income.

Savvy state officials saw that they could shift some of the costs of their local health programs to the federal government by incorporating them into the Medicaid program, thereby making them eligible for the federal copayment. Alarmed, Congress enacted the first of many cost-containment provisions just two years after the program started. But, in the 1970s, Congress itself began adding new services and new beneficiaries to the program, insuring that its growth would continue.

The newly installed Reagan administration slowed the program's expansion in 1981. But as hard-pressed U.S. companies began shedding workers and reducing health benefits, politicians in Washington and state capitals saw Medicaid as a way to provide more stopgap health "insurance" for those in need who might not qualify for welfare or Supplemental Security Income--an extra program that allows cash payments to some elderly, children and the disabled.

Because there was little support for federally funded universal health care, advocates of the poor devised what Department of Health and Human Services Counselor Peter D. Edelman calls "the children's strategy." The idea was to expand government health coverage for the working poor by starting with the most vulnerable and deserving members of that group: children and pregnant women who were not on welfare.

Ironically, it was the Reagan administration's need to raise taxes to limit a galloping federal budget deficit that created the first opening for Waxman and like-minded members of the House and Senate.

As long as taxes were being cut, a coalition of antitax Republicans and conservative Democrats had given the administration a working majority in the Democratic-controlled House. But to pass new taxes to limit the deficit, "we had to bring liberal Democrats on board with some sweeteners," said John F. Cogan, who was associate director from 1983 to 1985 of the White House's Office of Management and Budget. "The political dynamics was that Waxman represented northern liberal Democratic interests, and he controlled Medicaid."

A former Republican staffer recalled a 1984 meeting when "[White House Budget Director David] Stockman came into a room with Waxman and agreed to give him stuff in the out [later] years" if Waxman would ease up on his demands for the year just ahead.

A series of liberal-conservative deals were cut in six giant "budget reconciliation bills" that Congress enacted between 1984 and 1990. These monster measures combined new tax increases, spending reductions and--thanks to Waxman and his allies--"sweeteners" in the Medicaid program. All were rolled into a single piece of annual legislation that had to be voted up or down and was protected from filibusters, major amendments and presidential vetoes.

The problem, said a Senate budget source who witnessed the deal-making firsthand, was that "in the end you couldn't tell what was paying for what."

Waxman, who assembled one of the ablest and most loyal staffs on Capitol Hill, thrived in the back-room politicking that took place around the bills.

Though unassuming in person, he threw his weight around. Between 1980 and 1990, his 24th District Political Action Committee, bankrolled by Beverly Hills movie moguls, Hollywood stars and health providers, funneled more than \$1 million to influential Democrats in the House and Senate. At the end of 1988, Waxman could look around at meetings of the Energy and Commerce Committee and see six colleagues who had received \$ 40,000 from his "leadership PAC" just within the previous two years.

On health care issues, Waxman and the resourceful chairman of the Energy and Commerce Committee, Rep. John D. Dingell (D-Mich.), were close. Dingell had long supported national health insurance, and Waxman's growing influence provided a guarantee that Energy and Commerce would always be a player on health policy.

But Waxman also cultivated unlikely allies.

To Rep. Henry J. Hyde (R-Ill.), one of the conservative leaders of the antiabortion cause in the House, it was "a natural progression" to back the expansion of Medicaid to children and women." Once you establish the primacy of life, you work for those who fall between the cracks," Hyde said. But he also credited Waxman. "He's effective as hell," he said.

Waxman's expansion of Medicaid eventually picked up the support of the Children's Medicaid Coalition, which included not only advocacy groups but also insurance industry lobbyists, who considered it a lesser evil than national health insurance.

Waxman's technique was to wrap up support early in the legislative session for a budget resolution that provided for big increases in Medicaid spending, then dig in his heels for the battles that invariably followed with the more fiscally conservative Senate and White House.

"Henry would nag and cajole" William H. Gray III (D-Pa.) and Leon E. Panetta (D-Calif.), who at different times served as Budget Committee chairman, and he had a close relationship with House Speaker Thomas P. "Tip" O'Neill (D-Mass.), according to Waxman's friend, Rep. Berman.

As it became clear that there was money in Medicaid, the Waxman subcommittee, which initiated most health spending legislation, became the focal point for lobbyists and advocates for immigrants, the elderly, AIDS sufferers, the homeless and middle-class families who were being bankrupted by nursing home costs.

Even the generally more conservative Senate Finance Committee often cooperated with Waxman to expand Medicaid. In 1986, Chafee, a ranking Republican on the committee, teamed up with Waxman to force a liberalization of Medicaid services for illegal immigrants, over the initial objection of then-Sen. Lloyd M. Bentsen (D-Tex.), the committee's ranking Democrat at the time. Bentsen found himself caught between constituents who feared that liberalization would accelerate migration from Mexico and public hospitals in El Paso, and California pushing for Medicaid reimbursements for the care they were providing anyway.

In the end, he accepted a compromise that allowed Medicaid reimbursements for the emergency care of illegal immigrants, including childbirth costs.

In 1987, Waxman refused to accept pared-down Medicaid improvements agreed to by the White House and congressional leaders, bottling up that year's reconciliation bill until just before Christmas. When Waxman finally agreed to a version that provided little new funding for the program the following year, a Waxman staffer vowed, "We'll be back."

In fact, this "defeat" concealed major victories. The final legislation contained provisions that would add billions of dollars to Medicaid costs in later years, including a major nursing home reform and a new option to extend coverage to pregnant women and children with incomes almost twice the poverty line.

Bentsen, a southern centrist Democrat who became chairman of the Finance Committee in 1987, repeatedly scaled back or opposed House-backed Medicaid proposals on fiscal grounds. That year, he scuttled a House-approved plan to extend Medicaid coverage for a year to those going off welfare, as well as one aimed at preventing the impoverishment of elderly persons with spouses in nursing homes.

But both provisions were approved the following year, and Bentsen himself supported the children's strategy and was party to reconciliation bills that sometimes underestimated or concealed the true budgetary impact of the Medicaid provisions.

### The 'Waxman Wedge' Masks Future Costs

This was the pattern of Medicaid expansion between 1984 and 1990, as Congress approved 24 initiatives that substantially increased spending on the program. The impact of each of these in its first year was relatively small: totaling \$888 million for the 24. But added together again in the fifth year after the enactment of each, the total cost of the 24 provisions would boost Medicaid expenditures by \$ 5.4 billion a year, according to the Congressional Budget Office.

To Gordon B. Wheeler, OMB's legislative affairs director in the early Reagan years, what happened in Medicaid shows why it was so hard to curb the budget deficit in the 1980s. New spending might be covered by government revenues in the first year of a new program, Wheeler said, but in subsequent years that balance "would disappear."

"We called these the budgetary time bombs," said Dan Gengler, a former budget examiner at OMB. "It was a camel's nose under the tent kind of thing."

Waxman and his aides on the health subcommittee often wrote their proposals so that new initiatives would take effect in the final quarter of the ensuing fiscal year, and the real fiscal impact would be felt only after several years.

Cynics called this "the Waxman wedge," because spending began with a tiny point and widened out from there.

"[Waxman staffers] would have us move the [effective date of the legislation], or the ages of eligible beneficiaries, until they got what they needed. Waxman had a pot of money, and he would make the totals match what was in the budget resolution," said Donald Muse, a former CBO official who is now with a Washington research group.

"On more than one occasion I was a participant in a process that said [to budget estimators] 'give us a number based on these assumptions,' " said former representative Edward R. Madigan (R-Ill.), the ranking Republican on Waxman's subcommittee throughout the 1980s. "It shows you how the whole thing is a game."

In 1986, for example, a reconciliation provision allowed states to extend Medicaid coverage to a large new pool of the working poor: pregnant women, infants and children under age 5 in families with income below the poverty line but not on welfare. CBO estimated that the liberalization would add only \$25 million to Medicaid costs in 1987.

Eligibility was liberalized further in 1987 and 1988, but the fiscal impact was again mainly in later years. Then, in the 1989 budget package, previous legislation was superseded by a federal requirement that all

state Medicaid programs cover pregnant women and children up to age 6 in families earning up to 133 percent of the federal poverty ceiling of \$13,380 for a family of three. Once again, the heaviest fiscal impact was pushed ahead to future years, taking pressure off White House and congressional leaders focused on the budget for the following year. But down the line, CBO predicted, the costs would escalate to \$395 million a year by 1994.

In effect, a major new children's health entitlement program had been established with almost no controls over its long-term costs. Because the change was folded into a giant budget reconciliation package, there was little or no public debate.

In other cases, members of Congress voted on budget packages without knowing the true long-term costs of new Medicaid provisions. The major nursing home reform approved in 1987 required homes to have a registered nurse on duty at least eight hours a day and required Medicaid to absorb the costs of additional staffing by paying higher reimbursement rates. But the requirement did not take effect until the fourth year after enactment, and that year's House-Senate Budget Resolution had called on CBO to publish only three-year estimates.

"The history of each of these programs was that costs were always greater than anticipated," said Rep. Ron Wyden (D-Ore.), a senior member of Waxman's subcommittee.

#### A Grand Strategy To Fix Health Care?

Some conspiracy theorists suggest that Waxman's strategy all along was to spend as much as possible on Medicaid, to create fiscal and political pressures for more far-reaching reform. Sen. John D. "Jay" Rockefeller IV (D-W.Va.), chairman of the long-term care subcommittee of the Senate Finance Committee, gives some credence to that.

"If you want to break a dam, you add more money," he said. "That's health reform. If Henry Waxman and I could get kids under 18 covered, so be it."

But Waxman denies he had a grand strategy based on busting the budget. "I wasn't trying to enact national health insurance by changing the Medicaid program," he said. "I became convinced that the driving force [for that] was going to be a [private] health insurance system that we couldn't afford any longer. That's what we're seeing now."

After growing by less than 10 percent a year from 1981 to 1988, combined federal and state Medicaid expenditures jumped by 27 percent, 29 percent and 21 percent respectively in 1991, 1992 and 1993.

The spurt caught budget officials by surprise. In January 1989, the OMB had estimated that federal Medicaid spending in 1993 would be just under \$50 billion. Actual expenditures in 1993 were closer to \$76 billion.

How much the Waxman-backed initiatives were to blame is a matter of heated debate among health finance experts.

A 1993 analysis of Medicaid spending by John Holohan for the Kaiser Family Foundation--an advocate for the Medicaid program--concluded that the expansion of benefits to working poor women and children caused only 11 percent of the total increase in outlays between 1990 and 1992.

But the Health Care Financing Administration estimates that all the legislative initiatives of the 1980s, including those affecting the elderly and disabled, added \$15.6 billion to the cost of Medicaid in 1992. That would account for nearly half the total growth in the program that year.

Actually, experts say, the impact was even larger, because nine states, including New York, which accounts for 16 percent of all Medicaid spending, did not report that type of data to the Health Care Financing Administration.

But most health finance experts do agree that Waxman's initiatives on behalf of the working poor--which they say were factored into the 1989 estimate--cannot account for the \$26 billion discrepancy between OMB's 1989 estimate of what the program would cost in 1993 and the actual spending.

Asked recently if he has any regrets, Waxman responded without hesitation. "Absolutely none," he said. "I think the people who look at this from a fiscal point of view ignore that some of these costs would have been greater if we hadn't provided some of these [preventive] services."

"I don't want to give the impression that when Chafee and Waxman got together we gave away the store," said Chafee. "It's unfair to say that what we did contributed to the mushrooming of Medicaid. Every other health care program has expanded."

Still, he said, "I don't think we fully appreciated the magnitude of the changes we were making."