

President's Message – After the Court has Ruled: Leadership,
Prevention, and the Cost/Value Equation of Health Care
July 2012

From a president's aspirational declaration to a chief justice's formal affirmation, 91 words trace the arc of health system reform across 40 turbulent years of conflict and frustration in our nation.

The general good health of our people is the foundation of our national strength – as well as being the truest wealth that individuals can possess.

Nothing should impede us from doing whatever is necessary to bring the best possible health care to those who do not now have it while improving health care quality for everyone – at the earliest possible time.

*President Nixon, March 1972*¹

Chief Justice Roberts delivered the opinion of the Court with respect to Part III-C, concluding that the individual mandate may be upheld as within Congress's power under the Taxing Clause.

*U.S. Supreme Court, June 2012*²

RWJF's commitment to expanding access and coverage over the same time period hitches us to the same arc. Like everyone who shares this vision, we have experienced wonderful successes and discouraging setbacks. We have learned patience, endurance, and self-scrutiny. We have come to value the contributions of passionate partners and wise counselors, and the actualized potential of gifted grantees.

We conditioned ourselves to stay on course, so long as the course is productive. What keeps our compass set on True North is our full realization that good health and good health care are common and basic necessities of life. How Americans work together to meet those needs is part of what defines us as a people. This value is a core clause in the social contract that binds us together. It is the lens through which the Robert Wood Johnson Foundation must focus its vision over the near term.

SETTING THE STAGE

Looking back, I am struck at how President Nixon's words so dramatically anchor our past to our present. When he addressed a joint session of Congress late in the winter of 1972, universal coverage was the linchpin of his plan. Prospects were good. Opposing factions were actually working out their differences in secret meetings in a church basement near the Capitol. (Picture that happening today!)

At that time, here in New Jersey, we were barely settled into our original offices. There we were, still unpacking boxes, and the President already was articulating a vision for health care that was consistent with our own newly minted mission.

The excitement of our Princeton predecessors was short-lived. As we all know, the national nightmare of Watergate erupted just three months later, followed eventually by the collapse of Nixon's domestic agenda, his impeachment, and his resignation. It took the better part of a generation before the nation rediscovered the will to resume the debate over health care coverage. In the meantime, the "problem" of the uninsured and rising health care costs, like an unattended illness, grew into a crisis. This year, in fact, at least 50 million Americans under age 65 are without coverage. Putting off needed care is common, resulting in more severe illness, suffering, and even death. Uninsured children are particularly vulnerable. Meanwhile, the experts predict that the total annual bill for health care will consume 20 percent of our entire GDP by 2020—a level unsustainable even in the very best of economic times.

The dimensions of the crisis and its implications for the future are clear and undisputed. The debate over what to do about it, however, has been the longest-running and most contentious of my professional lifetime. But with the Supreme Court's ruling last month, America's tortured journey toward better health care may be entering a new stage.

These are the "atmospherics" surrounding our July meeting.

WHAT JUST HAPPENED?

On Thursday, June 28, the U.S. Supreme Court, ruling on the Affordable Care Act (ACA):

- Upheld the constitutionality of the individual mandate—the law's key provision.

- Modified the requirement that ordered the states to expand Medicaid—or face losing all of their existing Medicaid federal funding.
- Left the rest of the health reform law intact.

The decision implanted the promise of universal health care coverage in the law for the first time in U.S. history. Only an act of Congress can undo what the Court just did—and that would require a Republican electoral sweep of the presidency and both houses of Congress, with a 60-vote domination of the Senate. Although most pundits say such an outcome is unlikely, this fall's election and the surrounding debates will be about getting or thwarting a sweep.

Accordingly, the nation is poised to move forward on a road RWJF has spent decades preparing. Yet the polls suggest it will be a difficult road. I explained it this way in an article in *The Atlantic* the day after the ruling:

“Yesterday's decision cleared the way for states to go forward in implementing the law and ensuring that people don't die or go bankrupt for a lack of coverage. That will mean a lot of hard work from all parties: states, the federal government, individuals, and the private sector. No doubt it was a historic day. But it's not yesterday that is going to define health care in this country. It's what we all do today, tomorrow, and every day after.”

THE DEVIL IS IN THE DOING

Here are six key factors to keep in mind as we go into the July meeting.

1. The action is shifting to the states. Just because the Court upheld the ACA doesn't mean universal coverage will come easy. The states already are self-selecting into three categories—full speed ahead, on hold pending results of the November election, or “hell no, we won't go.”

For states that are moving ahead, pressure is intense for all categories to meet a January 1, 2014, deadline for creation of state insurance exchanges, online marketplaces offering coverage, subsidies, and Medicaid enrollment. More than \$850 million in grants already have gone to states to plan their exchanges including grants announced earlier this month; most states accepted the money—even where lawmakers have opposed

moving forward with any aspect of the health law. Yet only 14 states and the District of Columbia have passed the necessary authorizing legislation. Some states are on hold, pending the results of the November elections. Others have refused to take part altogether, in which case the federal government will take over. A looming threat: deficit reduction and political pressures may force Congress to rethink at least some of the spending needed to get insurance exchanges up and running.

2. Optional or not, Medicaid's expansion is a prerequisite to achieving coverage for everyone. As an adjunct to the exchanges, the ACA required state Medicaid programs to expand to cover all of their most extremely poor residents or risk the loss of all existing federal Medicaid funds. The Court, however, ruled that Congress exceeded its powers by threatening states with the loss of current funding if they don't comply with the expansion. Most states are likely to opt in, because the government will pay 100 percent of the states' initial costs, dropping to 90 percent by 2020. Still, a handful of states like Florida and Texas say they will opt out completely on ideological and fiscal grounds.

In states that do refuse to expand Medicaid, large numbers of their neediest residents will end up unable to obtain either subsidies or Medicaid. The health care industry reportedly is preparing a campaign to convince state officials to accept federal funding to cover the uninsured. If they don't, hospitals and other providers, forced to swallow the costs of uncompensated care, will simply shift the costs to others on down the line. Over the near term we will work with states to do the analyses they need to make informed decisions about their Medicaid options.

3. Covering the uninsured is the gateway to higher-value health care. The day after the Court ruled, Elizabeth Tishberg, co-author of *Redefining Health Care: Creating Value-Based Competition on Results*, wrote in the *Harvard Business Review Blog*:

“Ultimately, universal coverage is critical. But it is not sufficient to solve the health care crisis. We need dramatic improvements in the value of health care to obtain better health outcomes for more people at affordable costs. These improvements will come from innovation in the structure and organization of care delivery, including medical and nonmedical approaches. Innovations will change how, where, and by whom care is delivered so that the attention is on solutions that help patients, families, employers, and communities achieve better health. Without significant

increases in health care value, we will inevitably experience rationing and strong administrative control of health care.”

http://blogs.hbr.org/cs/2012/06/health_care_reform_is_good_for.html

As a physician, I know that covering the uninsured is good for patient care, good for states and communities, good for business, and good for the economy. As a philanthropist, I know that our job is to align these interests to improve the value and efficiency of health care and the quality of patient outcomes. We have been at this a long time, but the addition of 26 million+ people to the insurance rolls adds even more urgency to the task.

4. Prevention lowers costs. A report by Bobby Milstein in *Health Affairs*³ last year grabbed my attention. Adding community-based prevention policies (such as the kind that help populations be smoke-free and maintain a healthy weight) to universal coverage and improvements in medical quality care could save more lives than either alone, in addition to reducing costs by 30 percent within 25 years. With universal coverage within our nation's grasp, becoming a healthier nation should become everybody's business.

No wonder employers are discovering a fast-track to lower health care costs is through prevention and wellness programs that improve the health of employees, families, and communities. It helps when we provide evidence that lost productivity from poor employee health is more costly than health benefits themselves. As you know, we are developing an approach to convince business leaders that aggressively working to improve the health of the community, not just their employees, is essential to our country's bottom line.

5. Many leaders and many people must do the building. We excel in arousing from our midst leaders from across multiple sectors who are just right for the moment—and this may be the most important moment of RWJF's next 40 years. Think of physicians discussing the cost of care with their patients. Employers helping employees get the information they need to select the best care for the best value on the dollar. Local business and government leaders collaborating on ways to ensure that their employees and constituents flourish in good health. Developing leaders with the skills and will to envision a healthier nation, span boundaries, and motivate change is a new area of program development that we believe has the potential to accelerate the better health care and better health RWJF seeks for all Americans.

6. Our only special interest is the public's best interests. “Levels of tremor” is how one blogger characterized the political aftershocks from the Supreme Court’s decision last month. The resulting debris will clutter the partisan landscape through the November elections and into next year’s new Congress. As always, we seek to avoid the political battles. This may be even more difficult as we expand our reach to include more sectors and collaborators. Still, that we must do, because we already have picked our side—the common good—and there we intend to remain.

A FINAL WORD

Our meeting will offer a full feast of programs, policy, and the politics of health reform. As we delve deep into the details, let us also keep our eyes on the Big Picture—leadership, prevention, and the cost/value equation of care. My hope is that by the time we have concluded our deliberations, we will be well positioned for our forthcoming sequence of strategic discussions in 2013, critical decisions in early 2014, and major action in 2015 when several of our strategic objectives come due. For the moment, however, I am most eager to be with all of you here in Princeton in just a few days.

¹ “Special Message to the Congress on Health Care,” March 2, 1972.
<http://www.presidency.ucsb.edu/ws/index.php?pid=3757#axzz1ywPQLszk>

² National Federation of Independent Business et al. v. Sebelius, Secretary of Health and Human Services, et al. Supreme Court of the United States, June 28, 2012. Page 4.
<http://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf>

³ Milstein B, Homer J, et al. Why Behavioral and Environmental Interventions are Needed to Improve Health at Lower Cost. *Health Affairs*. May 2011; 30:5823–5832.
[doi: 10.1377/hlthaff.2010.1116](https://doi.org/10.1377/hlthaff.2010.1116)