

Elder law expert: Health care reform act a mixed bag for seniors

February 8 2011

Although the effects of the controversial health care reform act will be somewhat muted for many older Americans, it will inevitably have enough of an impact that seniors will discover that there is plenty to like and dislike about the law, a University of Illinois expert on elder law cautions in published research.

Law professor Richard L. Kaplan says the virtues of the Patient Protection and [Affordable Care](#) Act of 2010 are a "mixed bag," and how it will affect any one person depends on that person's specific situation.

"You have to expect some negative aspects to any plan that takes \$575 billion out of [Medicare](#), a program that affects primarily older people and the disabled," Kaplan said. "That's invariably going to cut some people's benefits."

Kaplan warns that while some of the touted benefits of the law are real, others come with serious caveats. For example, the much-ballyhooed closing of the "doughnut hole" in Medicare Part D is not as generous as it is usually portrayed.

"First of all, the coverage gap is not 'closed' if you think that means complete coverage," Kaplan said. "What the law does is lower a patient's cost obligation to a 25 percent co-payment from 100 percent. That's a big benefit, but it's not the same as saying that people won't have any cost exposure whatsoever."

"Second, the doughnut hole is closing, but in annual steps over a 10-year period," he said.

"For example, the co-payment for [generic drugs](#) is 93 percent this year rather than 100 percent last year."

Kaplan, the Peer and Sarah Pedersen Professor of Law at Illinois, adds that there are some provisions of the law that are unalloyed benefits for seniors. For example, the addition of an annual wellness visit makes Medicare more oriented toward preventative care.

"For many people, when they first get onto Medicare, the initial [physical examination](#) may be the first time they've seen a physician in several years," he said. "The new law provides annual follow-up visits. That's an important addition. It makes the Medicare program more prevention-focused than it has been historically. Also, there are no co-pays or deductibles for these wellness visits."

But people who are in managed care plans are likely to be upset with the new law, Kaplan says.

"For the one in four seniors who are in Medicare Advantage plans, there will be many unappealing changes," he said. "Some plans will raise premiums on their enrollees, while others may discontinue their participation in the program altogether. In either case, the result will likely be higher costs, reduced benefits and fewer options for enrollees in Medicare managed care arrangements."

The reason for this change, according to Kaplan, is that Congress wanted to reduce the higher costs associated with managed care plans, which cost the federal government about 14 percent more than the traditional fee-for-service plan.

"Although the plans may not cut back any traditional Medicare benefits, extra benefits typically provided by [managed care](#) such as vision and dental care will probably be reduced or eliminated entirely," Kaplan says.

Other changes in the [health care reform](#) act are still somewhat ambiguous. Take, for example, the newly created Medicare Independent Advisory Board, a panel whose sole charge is to formulate proposals to lower the cost of Medicare but without rationing care or increasing the amount individual enrollees pay.

"In that case, what can the board do?" Kaplan said. "The implication seems to be that Medicare will just reduce the rate it pays to providers – doctors, hospitals, nursing homes and home [health care](#) agencies. That's been the course that both Democratic and Republican administrations have followed over the years because seniors don't see the effect directly. But providers may limit the number of Medicare enrollees they'll accept, or they might drop out of the Medicare program entirely, which necessarily affects beneficiaries' access to care."

More information: The study, "Analyzing the Impact of the New Health Care Reform Legislation on Older Americans," appears in the current issue of *Elder Law Journal* and is available online.

Provided by University of Illinois at Urbana-Champaign

Citation: Elder law expert: Health care reform act a mixed bag for seniors (2011, February 8) retrieved 6 May 2024 from

<https://medicalxpress.com/news/2011-02-elder-law-expert-health-reform.html>

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