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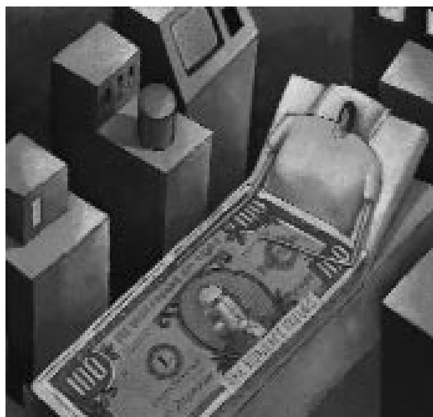

The US Medicare programme in political flux

At a time of significant pressure on the NHS to learn from America, BJHCM publishes this revealing article about the state of play in the USA regarding President George W Bush's reforms to Medicare.

It goes to show what can happen when there is an election coming up ...

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by Ted Marmor

A TALE OF UNJUSTIFIED HOPE, UNDOUBTED SCANDAL, AND UNWARRANTED FEAR

For more than twelve months, Medicare, the costly but popular public programme of hospital and physician health insurance for America's disabled and citizens over 65 years of age, has been constantly in the news in the USA.

First came the surprising announcement last spring that the Bush Administration would strongly promote the addition of outpatient prescription drugs to the Medicare program.

Estimated then to cost $400 billion over ten years, the partisan fight was on. The question was whether a Democratic or Republican version of this Medicare 'improvement' would emerge from the Congress after a decade of stalemate over the issue.

I read the news today - oh boy

Not since Medicare was enacted in 1965 has the programme been such prominent front-page news and the source of such confusion. Indeed, what has passed for a debate about Medicare's historical foundations, current realities, and likely future has mixed Orwellian contradiction, sheer misrepresentation, and semantic sleights-of-hand. Making sense of why such legislation passed in 2003 is the first puzzle.

A little history

In 1965, Medicare's enactment was certain because the Democratic Party had routed the Republicans the year before and the Congress was overwhelmingly composed of Democrat representatives.

In 2003, the serious push to legislate a drug benefit for Medicare arose partly because of the absence of large partisan majorities in either the Senate or the House. For years prior to this, each party had fought to make sure the other could not take credit for introducing such an expansion of insurance coverage, with stalemate regularly the result.

In 2003, however, Republican and Democratic leaders in the Congress and the Administration judged that continued stalemate might well provide the other side with an electoral weapon for the 2004 Presidential campaign. As a consequence of this thinking, both were prepared to sacrifice crucial features of their traditional policy aspirations.

The compromises

For Democrats, that meant giving up on a generous drug benefit (with an $800 billion price tag), but insisting that whatever benefit there was included all Medicare beneficiaries.

For Republicans, it meant strategic compromise, agreeing on expanding an entitlement program they have long criticised and, no longer insisting that a Medicare drug benefit be strictly restricted only to those low-income elderly willing to join private plans.

The $400 billion budget limit on which the Bush Administration insisted later turned out to have been a ruse. But it surely constrained the complicated design of the drug benefit, in ways that would prove important as Americans came to understand how limited the benefit really was.

The legislation itself, signed into law December 8, 2003, emerged with charges of budgetary deceit and substantive distortion flying around it. Then in March of 2004 came a double headline. The cost estimates were not only understated, but there were claims in the media of scandalous bribery of some Congressmen and reprehensible silencing of government actuaries in the build-up to the reform legislation's enactment.

And, as if to insist that tragedy should follow farce, the headlines in the last week of March announced, portentously, that the programme would go 'bankrupt' in 2019 if present trends were allowed to continue.

Americans are bewildered by all this. What can anyone make of the mix of legislative drama, fiscal chicanery, and distant doomsday talk?

The short answer is that you should take none of the headlines seriously. The longer answer takes longer.

I. THE REFORM OF MEDICARE: UNJUSTIFIED HOPEFULNESS?

The passage of the so-called prescription drug bill in December of 2003 represented Medicare's biggest legislative overhaul in 38 years. Yet even close observers of Washington politics wondered at the time just what exactly it was all about.

On one side, congressional Republicans and the Bush Administration described the legislation - then budgeted at $400 billion over ten years - as a moderate, common-sense way to provide long-overdue outpatient drug insurance to both older and severely disabled Americans.

On the other side, Democratic opponents decried the bill, charging that it was a Heath-Robinson contraption of a benefit - as well as a monstrous giveaway to insurance companies and drug firms. Lots of commentary about a 'doughnut' hole in the insurance flowed from the lips of Democratic politicians and found their way onto television news and into sundry commentary.

These conflicting characterisations are understandable when one recognises that the legislation was really two quite separable reforms.

The first provides a much-needed, if modest and excessively complex drug benefit. Because of its design and because it does not include effective ways of controlling drug costs, the plan (if implemented) would leave most seniors little better off than they are today, and some worse off.

This is the part of the legislative reform that has already proven most disappointing to the public. Indeed, a week after the law was passed in December, a national ABC poll reported a 60-40 ratio of Americans critical as opposed to pleased with the reform. More recent polls have shown even more critical majorities.

The second, darker side of the new Medicare bill includes changes that have little or nothing to do with drug coverage, and everything to do with special-interest demands and a long-standing ideological animus toward Medicare among conservative congressional Republicans.

These provisions include large new subsidies for private insurers, and requirements to ensure that drug firms will be spared from their greatest fear: namely, that Medicare could use its massive buying power to demand reductions in drug prices.

The law also contains provisions that favour private health insurance plans and risk further degeneration of Medicare's 'all-in-the-same-boat' structure.

Yet, what is most striking about the 2003 legislation is not the consistency of its vision, but its deep incoherence. In the name of greater free-market competition, the law offers substantial subsidies to the pharmaceutical and insurance industries.

In the name of providing greater income protection to the insured, it threatens Medicare's guarantee of universal benefits. (Indeed, it provides more than $6 billion to support individual health savings accounts outside of Medicare, risking the fragmentation of the broader insurance risk pool.)

And in the name of greater cost-containment, it encourages the expansion of private health plans that have not saved Medicare money to date. Finally, the law creates new budgetary rules that could very well make Medicare less equitable and affordable in the future.

All of this highlights the puzzle of how such inconsistent, convoluted and far-reaching legislation could have passed in a context of the great partisan and ideological polarisation. As a product of political conflict alone, we would not expect a massive new entitlement with so many contradictions and problems.

With the Congress so evenly divided in partisan terms, one would have normally expected a more modest, lowest-common-denominator agreement: for example, a bill covering catastrophic drugs costs only.

Instead, this is a law driven by a mix of high Republican ideals and low political calculations crafted almost entirely in isolation from the Democratic opposition in the Congress ,and then adjusted just enough to win moderate congressional votes and temporarily side-step hostile public opinion.

This brings us to the most overlooked reason for the reform's complexity: the conservative reform agenda itself, which simultaneously reflects ideological principles that celebrate free competition and the influence of powerful industries that hope to avoid it at all costs.

Private insurers and drug companies do not really want competition: they want a playing field tilted in their favour. And they have been willing to do whatever it takes to seize the advantage.

Politics usually requires some compromise. But what's striking about the Medicare drug law is just how deeply the compromises (or, more accurately, the concessions to private interests) undercut the stated goal of the bill: drug coverage for seniors.

The $400-$550 billion in new spending would purchase only about half as much coverage as a sensibly-designed bill could. This is not only because of the subsidies for private health plans and for Health Savings Accounts. It is also because of the higher overhead costs of private plans (about five to six times higher than for traditional Medicare), and the 20-30% higher prices for drugs that seniors will have to pay because the law forbids Medicare from using its bargaining power to negotiate better deals.

All this helps explain why the drug benefit itself is simultaneously so convoluted and so meagre: covering, for example, only a small share of senior citizens' expected drug expenses overall, and reimbursing the $251st of drug spending but not the $2,251st!

UK readers of *BJHCM* may already

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know that the proposed structure of the drug insurance, summarised hereunder, will be incomprehensible. The first $250 of expenditures is deductible. From $251-$2,251, the plan calls for a 25% co-insurance rate paid by the beneficiary. From $2,551-$5,100, the patient pays 100% of the costs (the 'doughnut'); and is responsible for 5% of the drug costs above $5,101. Yes, this is true!

It also helps explain why senior citizens do not like the benefit the more they hear about it. And those polled are being realistic. A significant proportion of Medicare beneficiaries will almost certainly be worse off, not better off, under the bill.

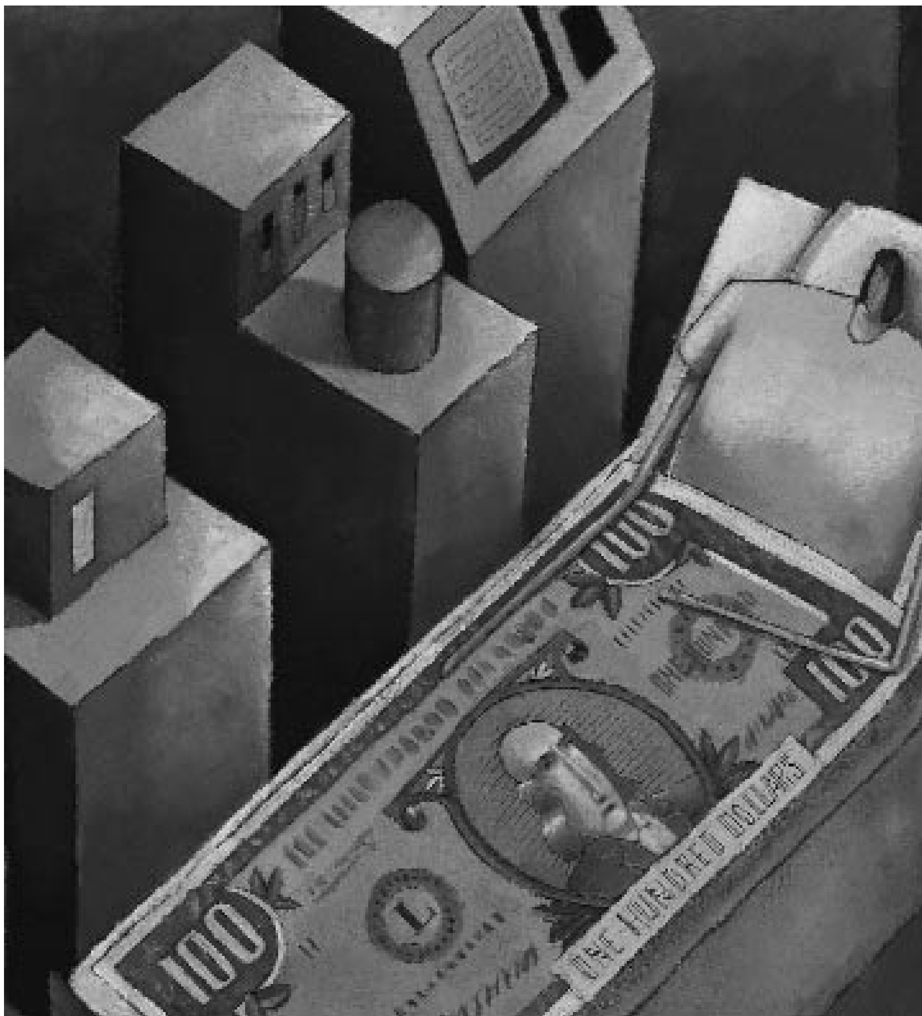
This includes several million low-income seniors who will lose the generous coverage they now enjoy under state Medicaid programs. It also includes millions who already have pretty good drug coverage through their former employers: coverage which may well be dropped, despite the bill's subsidies for employers that retain coverage.

The Republican hope that 'their' drug benefit would take Medicare off the political agenda has proven ill-founded. In fact, the reform was certain to cause political conflict, and has done.

Republicans anticipated they could transform the political parentage of Medicare, turning into an asset an issue with which they have been battered by Democrats for years. Yet by pushing through such a confusing, convoluted and unwieldy bill, they virtually ensured that as more was known about the legislation, the more controversial it would be.

Even hostile Democrats never imagined it would blow up so quickly. Nor have the Democrats turned out to be good forecasters. They thought they 'had to go along' because they would be held electorally responsible at the polls for holding up a bill (by fillibustering), and would not be able to explain their opposition.

As the polls revealed just a week after enactment, this bill never had widespread, popular support.



II. SAGAS, SCANDALS, AND FISCAL FORECASTS: THE RECENT STORIES

Medicare is now the biggest domestic issue of the Presidential election year. But the media-genic ingredients were not that obvious when the reform legislation passed amidst all the hoopla the Bush Administration could muster.

Substantive criticism of the law's provision dominated the first phase of regret in December and early January. Later, attention shifted dramatically towards fiscal deception by the Bush Administration in their budget estimates for the drug reform.

The story is brief, but easy to relate. The chief Medicare actuary – in particular, one Richard Foster—was told in the summer of 2003 by his superior that if he reported higher budget costs to the Congress, he would be fired. That official, Tom Scully, left his job in December and is now busy doing lucrative private lobbying for a variety of health-related firms.

This mix is perfect for journalistic excitement: mischievous interference by a political operative with a civil servant's obligation to report his considered opinions to the legislature, with the added spice of financial greediness to close out the episode.

So the story now is that the Bush Administration lied about what the new prescription drug coverage would cost. They said $400 billion throughout 2003, but they knew it would be as much as $550 billion. The Congress (on this interpretation) was hoodwinked into passing the bill; and now all of Washington is shocked to learn that the price is so much higher than expected.

It is a story that will infuriate taxpayers, when and if they understand it. And, in the style of 'he said / she said' American journalism, this story breeds its own counter-interpretation.

As Steve Chapman of the *Baltimore*

Sun claimed on March 30, 2004, the above account is “mostly a fairy-tale.” Why so, according to Chapman? Because, he argues, most of the Congress knew these budget facts all along.

With this barrage of claims and counter-claims, it it any wonder that making sense of the Medicare program reforms seems nearly impossible?

To add insult to intellectual injury, the attention to Medicare turned sharply in the last week of March to yet another disturbing topic: the programme’s sustainability. Here, however, is quite another source of confusion - and one that will take rather longer to explain.

Beginning with the New Deal programmes of the mid-1930s, the phrase ‘trust fund’ was simply an accounting term chosen to emphasise the trustworthiness of dedicated financing plans such as Social Security and Medicare payroll taxes and the solidity of the government’s commitment to finance benefits.

Today, however, using the same term in both public and private contexts actually obscures the differences between public and private trust funds.

In private firms or households, a trust fund without funds is literally insolvent, unable to finance anything. Private trusts cannot tax and they have little flexibility to try other options.

Congress, on the other hand, can change the payroll tax rate for Medicare and immediately eliminate shortfalls, assuming it can muster the political will to do so. Congress also can alter benefits and reimbursement provisions of the programme's hospital or medical coverage - or do both, as it has done many times in different proportions since 1966.

Thinking of the Medicare trust fund balance as the programme’s crucial variable is like believing a thermometer creates the reality of a heat wave or a cold snap.

III. MEDICARE TRUSTEE REPORTS AND FEARFUL CLAIMS OF 'INSOLVENCY': THE DISSEMINATION OF WELL-MEANING BUT UTTERLY MISLEADING CONCERNS

The pattern is utterly familiar. Programme trustees report that Medicare revenues aren't keeping pace with future spending obligations and that therefore the trust fund for hospital insurance (Medicare Part A) will go bankrupt. Media accounts warn in hyperbolic tones that Medicare is going bankrupt, and politicians declare that hard choices must be made to save it.

Despite repeated earlier forecasts of insolvency, Medicare has never gone bankrupt, and it’s not going bankrupt this time around - or ever.

Medicare has survived four decades of such warnings with no disruption of services to its elderly and disabled enrollees.

The practice of forecasting Medicare’s future finances is intended to serve as a prudent warning; instead, the alarmist language accompanying media reports frightens and misleads the public and opens the door to imprudent policy debates.

Part of the problem is linguistic, and clarifying the language is essential to understanding Medicare's true condition. Terms like ‘trust funds’, ‘solvency’ and ‘fiscal prudence’ are taken from private and personal finance, and their meanings don’t strictly apply when describing public programs like Medicare. The concept of private bankruptcy, for instance, does not exist in Medicare.

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Alarmist news accounts sometimes treat Medicare's bankruptcy as a pre-determined fact: nothing could be further from the truth. Trustees' reports always stress that a projected date of insolvency assumes no corrective actions or policy changes, and (as history demonstrates) Medicare has always taken action to solidify its finances.

In the 1980s, for example, Medicare reformed its payment system for hospitals and physicians, slowing down the growth in programme spending and pushing back the supposed date of so-called bankruptcy.

More recently, the 1997 Balanced Budget Act included a series of Medicare reforms to control spending. After three years, the results of these reforms were dramatic: instead of projected insolvency by 2001, Medicare's hospital insurance trust fund was declared fiscally healthy until 2025, the most optimistic forecast in a quarter-century.

The lesson here is straightforward. Forecasts offer only possible futures, not inevitable ones. Americans should focus now on the problems and disappointments generated by the recent Medicare legislation, rather than wring their hands about 2019.

There will be plenty of time to worry about 'then'. 'Now' is the issue.

Acknowledgements
This article incorporates with substantial revision sections of three different previously published essays.

It draws from *Poison Pill - Why the New Reform Bill Will Make Medicare's Problems Bigger – and Even Harder to Fix* with Jacob S. Hacker, (Boston Globe, December 7, 2003). It also incorporates sections of a longer article, *The Medicare Reform: Fact, Fiction and Foolishness* with Jacob S. Hacker, in Public Policy and Aging Report (Washington, DC: National Academy on an Aging Society, Vol 13, Number 4, Fall 2003); and the third reflects a minor revision of the 'opinion editorial' published in the St Louis Post Dispatch (April 6, 2004).

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KEY POINTS

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