

Private health insurance: In one door and out the other?

The Supreme Court decision to invalidate Quebec's laws banning private health insurance for services covered under the Canada Health Act continues to stir the passions of physicians and health care providers. At their annual meeting, delegates of the Canadian Medical Association condemned the failures of the public health care system. By a two-thirds majority, they voted to entertain, after a 6-month period of study, the introduction of "private supplementary health insurance." An opposing motion by the Canadian Association of Internes and Residents was defeated by the same margin.

The opinions of national medical associations carry considerable weight among politicians, especially when funding for national health care is their largest budget item. By shifting its weight from the left foot to the right, the CMA will embolden conservatives to push for parallel private care and will strengthen the resolve of social democrats to fix the public system.

Can the public system be fixed so that it delivers necessary medical services as defined, vaguely, under the Canada Health Act? The Court's decision should not be interpreted as favouring private over public health care. The Court recognized the legitimacy of the government monopoly of health care services. Such a monopoly (and private monopolies) are constitutionally acceptable and sometimes desirable, provided that principles of distributive justice are satisfied. However, a monopoly health care system that does not deliver promised care in a timely, nonarbitrary and fair manner fails this legal test. Governments must either fix the dysfunctions of their health care monopoly or permit individuals to seek care (and the private health insurance to purchase it) elsewhere.

The case that provoked the Supreme Court judgment arose in Quebec and centred on an individual who, in the Court's opinion, had to wait too long for elective orthopedic surgery. The Court's judgment, in a 4 to 3 decision, strictly applies only to Quebec. In fact, one of the judges making up the majority, Justice Marie Deschamps, limited her judgment to Quebec's charter of rights and freedoms, and did not pronounce on Canada's.

The government of Quebec has asked for and received a stay of 1 year, which could potentially be extended to 2 or 3 years if Quebec so requests. In the interim, the Charest government will go to the polls. Quebec has perhaps the most social-democratic electorate of any province. It is unlikely that Mr. Charest will champion

the cause of private health insurers in his re-election campaign. He will attempt to fix the public system.

Three approaches will likely be tried. First, all expert health care commissions in Quebec and the rest of Canada have recommended increasing the efficiency of the public system by getting physicians, nurses and other health care providers to work in teams, not silos. Governments can use sticks and carrots to accelerate this change. Second, more of the public's tax dollars can be diverted into health care, as proposed by the Wait Time Alliance. Third, because the other 2 solutions are so difficult to bring about, governments can reduce the number of services covered by their monopoly, turning them over to the private sector. As the fastest growing component of public health care is prescription drug coverage, it is likely that governments will delist some prescription drugs by increasing the number of products that can be obtained without a prescription, thus shifting the costs to patients. Drugs to treat hyperlipidemia and hypertension are good candidates. Larry Lynd and colleagues comment on this in an article released early online.¹ Is this likely to be any more palatable to voters?

In the debates and discussions that will ensue, we need to remember that there is virtually no disagreement that private health care is more expensive and less efficient than publicly funded care. Recent research has shown this to be true,^{2,3} and in an article released early online,⁴ Stephen Duckett describes the situation in Australia, where 40% of hospital admissions are in the private sector.

The Supreme Court decision and the subsequent rightward lean of the CMA will have an effect on government actions. Given widespread electoral support in Canada for the public system, however, we can expect governments in most, if not all, provinces to fix or at least palliate the public system and so nudge the public's dissatisfaction past the Supreme Court. — CMAJ

References

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