Letters

Invited Commentary

Public Comments and Industry Interests in Medicaid Coverage Decisions

In this issue of *JAMA Internal Medicine*, Ahn et al[1] raise the intriguing question of whether treatments covered by Medicaid should be democratically decided. Analyzing Oregon and Washington state guidance documents for proposed Medicaid coverage, and the public comments responding to these documents, Ahn et al[1] found that 88% of commenters supported expanding coverage to include additional treatments and that at least 40% of commenters had financial ties to companies making products affected by the coverage decision. Yet the evidence cited in support of coverage was weak: almost 80% of commenters cited no studies, and even when cited, fewer than one-third of the studies that were referenced were randomized clinical trials. The authors thus document public comments that are skewed toward expanding coverage, clouded by industry interests, and impaired by weak supporting evidence.

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There are some caveats to bear in mind, however. Ahn et al[1] sampled only from Medicaid guidance documents that were ultimately approved—excluding those that were not approved or tabled. Thus, the guidance documents they reviewed were skewed toward those about services that likely already had stronger technical or popular support. In addition, expansion of insurance coverage is a complex issue because of the many interested parties. Manufacturers of biomedical products may support expanded coverage for obvious reasons, but patients may also because expanded coverage could offer hope. Furthermore, physicians may want a broader range of treatment options. Indeed, the authors' own data show that when unrelated comments are excluded from the analysis, 98% of commenters supported coverage, and most of these commenters did not have industry ties. Thus, it is difficult to unequivocally infer a proindustry influence when it comes to advocating for insurance coverage.

Nevertheless, the report by Ahn et al[1] is suggestive of broad industry influence. And their findings will come as no surprise to political scientists, who have repeatedly documented the dominance of interest groups, particularly those representing business interests, in the notice-and-comment process.[2-5]

Given the findings of Ahn et al,[1] should Medicaid stop soliciting public comments?

Imagine that there were no public comment process. Although state Medicaid review committees are often composed of sober-thinking, civic-minded experts, suppose a state committee proposed to extend Medicaid coverage to diagnostic testing using, say, the Quack McQuack Dynamometer. In this case, we would want some means for the public to be aware of such a proposal and for opposition to be voiced. We would not need a thousand dissenting voices—just 1, perhaps, armed with good arguments and evidence. Thus, public commenting is not about counting votes or about democratic representation; it is more about casting a wide net to provide a check on insular thinking. Framed in this light, the fact that business interests are overrepresented in public comments is perhaps less troubling.

What if the public voices do not present reasoned arguments or rigorous evidence? In the study by Ahn et al[1] and elsewhere,[6] very few public commenters cited studies, much less well-powered randomized clinical trials. But public commenting can serve functions other than adding references to a scientific literature review. It can elicit a community's values and priorities. It can provide policy makers with information on how policies will affect members of the public and can alert them to unintended consequences of their decisions. Public comment can also oblige policy makers to engage with dissenting viewpoints and explain their choices. The broad goal is to legitimate and improve the quality of public policy decisions.[7]

Implicit in this discussion is that state Medicaid policy committees are skilled at aggregating information. For the comment process to improve policy decisions, committees should judiciously weigh reporting from various interest groups as they apply rigorous standards of evidence and stay mindful of budget constraints. Business interests, physicians, and patients may only see their part of the elephant. Medicaid committees should transcend such tunnel vision and use their lofty vantage point to exercise good judgment. If bad coverage decisions result, the problem may be with the committee that makes the decisions or the policy makers who evaluate their advice, not with the public comment process itself.

Yes, public comment periods draw out business interests, sometimes in the guise of private citizen concerns. But decisions on Medicaid coverage should not be, even in a democratic society, purely a popularity contest. Nor should coverage decisions be a blind application of technocratic rules. Rather, Medicaid coverage determination is best seen as a public deliberative process with citizen engagement. In the end, Medicaid review committees can best serve the interests of their constituents—not by fearing and shrinking from jury-packing well-heeled voices—but by committing to a transparent decision-making process that shows discernment as it engages the public, and speaks truth to the moneyed powers.

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