Health care price regulation is undemocratic

Despite what presidential candidates say, governments dictating prices do not work

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The Biden administration recently announced that it will use taxpayer dollars to “stabilize” Medicare Part D (prescription drug coverage) premiums.

These premiums had been remarkably stablesince 2010, growing slower than inflation. But in 2025, they are expected to nearly triple.
What triggered this drastic premium hike? The $2,000 out-of-pocket spending cap imposed by the Inflation Reduction Act of 2023.

This is just one example of the outcomes of health care price regulation, which always arises from seemingly noble intentions and eventually results in harm to American workers, taxpayers, and patients. There are countless other examples.

First, individual market health insurance became unaffordable after the Affordable Care Act (ACA) imposed regulations on premiums and coverage. Additionally, zero-premium plans have invited millions to misreport their income to obtain ACA subsidies at the expense of taxpayers.

Second, site-based payment policies in government programs (which pay hospitals more than other facilities for the same services) and the 340B Drug Pricing Program(which mandates drug price discount to certain hospitals) both incentivize hospital-physician consolidation, driving up commercial prices. Location-based payment policies encourage urban hospitals to classify themselves as rural to take in more taxpayer dollars.

Third, the inflation penalty in government programs dampens incentives for drug manufacturers to increase production in response to surging demand, contributingto record-level drug shortages. The list price-based Medicare Part B drug payment regulation erects barriers to utilizing more affordable alternatives. Out-of-pocket spending caps discourage manufacturing from offering cheaper options.

Fourth, government programs set extremely generous payment rates for Covid-19 lab testing, and the Families First Coronavirus Response Act mandates zero cost-sharing insurance coverage. This combination encouraged excessive testing and made it impossible for insurers to steer patients to cheaper providers, causing substantial wasteful spending. The "free" Covid-19 at-home tests demonstrate even worse fiscal unaccountability toward taxpayers.

Fifth, Medicaid policies that pay hospitals at average commercial rates inflate prices for workers and employers, shift market power from small hospitals and physician practices to large hospitals, and encourage unaccountable state spending at the expense of federal taxpayers.

More fundamentally, government programs' fee schedules pay every provider the same arbitrarily determined rate, adjusted for certain arbitrarily designed metrics. Such a system leaves little room for innovation in quality and efficiency that actually benefits patients. The payment rates for managed care programs (such as Medicare Advantage), set based on these fee schedules, are also flawed and result in various unintended consequences.

Many other health care regulations influence prices by tilting the playing field, such as Certificate of Need laws, the Stark Law, restrictions on physician-owned hospitals, and procedure or product coverage rules. These regulations are often the result of industry capture. Once government protections are granted to powerful, politically connected incumbents, diminished market competition relieves them of the need to cater to what patients need and want.

Health care price regulation may take various forms, but it always follows the same trajectory: In the short run, price regulation restricts pricing behaviors of sellers by invoking state power; eventually, it leads to unintended negative consequences, creating a net negative for patients and society. Why? The government has no ability to set the right prices.

Setting the right price is not a task that any individual or group of individuals, including the government, can accomplish; it belongs exclusively to the collective wisdom of all market participants. Market prices reflect constantly evolving signals, preferences, and tastes. Nor can the wide range of responses to price regulation from numerous market participants be anticipated or controlled by the government. Price regulation is a dead end.

Yet price regulation persists because its implementation and maintenance, along with the government's purported efforts to "fix" the problems constantly created by price regulation, justify the expansion of state bureaucracy and invites special interest groups to strengthen their crony relationships with state power.

Two harsh realities are challenging the sustainability of the price regulation system. First, it has become extremely complex, and the need for further Band-aid solutions is expected to worsen its complexity exponentially over time, threatening the survival of small players and deterring aspiring entrants.

Second, the exploding opportunities for new therapies driven by technological advancement mean substantial opportunity costs imposed by price regulation on patients. Investors and innovators voluntarily contribute trillions of dollars and countless hours to pursue lottery-type returns. High returns, resulting from the superior efficacy of their innovations relative to competitors, stimulate further efforts in the market to emulate that success. Why would they continue their contributions when prospective future returns are chilled by price regulation beyond their control?

If we sincerely want to contain health care prices, we should focus on promoting competition — the only time-tested way to deliver optimal outcomes for consumers. To win the market, any player must outperform competitors by pleasing consumers, rather than lobbying the regulatory process for government-granted protections. Free market competition leaves little room for price gouging — the "gougers" will price themselves out of the market. It also does not allow for shortages, as high demand drives up prices, which stimulates supply, improves access, and ultimately stabilizes prices.

What is blocking competition and compromising patient well-being? Government regulation, often backed by policymakers reaping political gain and special interest groups seeking government-granted monopolies. Since we all become patients eventually, we should demand that the government step aside and allow market competition to do its job: lower prices and meet diverse needs — a process that is unforgiving to underperforming providers but beneficial for all patients.

When receiving taxpayer subsidies, vulnerable patients should control their own health care dollars, becoming active consumers rather than passive care recipients unable to financially benefit from health-enhancing activities or opt for more efficient treatment alternatives. This approach is the least disruptive to the pricing mechanism and holds the most promise for achieving equal access to care and better health for all.

Most importantly, we must acknowledge that health care price regulation harms societal welfare because decisions made at a single point in time by a small group of individuals and imposed by force are no match for the dynamic collective wisdom of all market participants acting freely. Choose the democratic way.