

create a Medicaid Advantage where we combine funding streams for both programs into a coordinated and efficient Medicaid Advantage program.

The average cost for a Medicare patient is about \$10,600 per year. The average cost for a Medicaid/Medicare dual-eligible patient is about \$22,000. When there are two payers and two sets of paperwork for one patient, we do not have a coordination of how somebody is actually caring for those dual-eligible, high-risk patients. We change that by giving states and seniors choice through Medicaid Advantage. Instead of a tug-of-war, one program is taking care of those individuals. Instead of two entities fighting against caring for those individuals, there is one local program caring for them.

The bill also addresses the legal costs associated with health care. Today, approximately 5 percent to 9 percent of health care spending has to do with liability. There is as much as \$126 billion of tests ordered every year that patients don't need—absolutely don't need—but doctors and providers feel that they need. Now, \$126 billion of \$2.2 trillion is nearly 6 percent; if we could cut that in half, we could lower the cost of health care by 3 percent tomorrow.

Creating Health Courts

We incentivize states to create health courts that you can go to and get your claim heard. That claim would be heard by three doctors, three lawyers, and a judge with the court's own neutral health experts.

One of the things that happens in liability cases today is what is called "hired guns." You can get a doctor to testify about anything if you want them to, but it is not necessarily medically accurate. Today we get juries influenced not on the basis of the latest scientific data, not on the basis of the best practices that should be occurring in this country, but on how somebody can toy with an emotion—something that is very different from best practices.

The court is not mandatory; it is optional. Individuals can go there and get a determination. You can have a lawyer represent you there, or you do not have to have a lawyer represent you, but the medical facts of your case can be heard. If you do not like the outcome of the case, you can still go to a regular state court.

We do not step on the rights of state courts, but one of the ways we can decrease liability costs is to have facts out in the open. Once a case is heard by the health court, either party—plaintiff or defendant—can appeal and go straight to state court. They do not have to accept the findings, but whatever the health court's findings were, they would have to be admissible as evidence in a regular court. You should be able to look at a case and ask, "Was there a basis of negligence, and if there was, should there be compensation?" Then, if you don't like that decision, you can go on to court.

Native Americans and Veterans

Finally, if Native Americans, who supposedly have health care at Indian hospitals and government-run hospitals and clinics, do not think their service is adequate and do not think it's good, they can use a card to go wherever they want and buy private service. That does two things. Number one—this applies to veterans as well—it gives true access, keeping a commitment that the federal government has made. Number two, it makes those organizations—VA hospitals and Indian hospitals—have to compete, which improves their quality.

Everything we have done in this plan, including allowing the market to determine provider pricing and provider best practices, is to set up a consumer-driven, market-oriented health care system that allows individual choice, freedom, and liberty for the individuals in this country. This bill frees market forces to help us compete to where we lower the cost of health care.

I am convinced that if we had a true consumer-driven health care market today, we would in fact see health care costs 10 percent to 15 percent lower than they are today. We would also see disease incidence go down markedly; and, finally, we would see life expectancy improve dramatically in this country.

DR. BUTLER: Senator Coburn, as you might have expected, has taken a very broad, comprehensive approach to the whole area of health care and health care reform, and these proposals are enshrined in the Universal Health Care Choice and Access Act before the Congress. Senator Coburn will