Research

Tort Reform's Impact on Health Care Costs

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SUMMARY:

- The American Action Forum (AAF) found multiple state medical liability reforms reduced total healthcare premiums by 2.6 percent.
- Employer healthcare costs also declined by 3.5 percent.
- If these results were replicated on a national level, the nation's insured could save more than $15 billion in premiums.

Introduction

The idea of "tort reform" has existed as a policy concept for decades. Tort reform has taken several forms and gained prominence in the 1990s as a way to curb high jury awards. For example, legislators can cap damages, reform how damages are paid, and amend joint and several liability (allowing the plaintiff to collect money from anyone found liable, regardless of their degree of liability). In this paper, AAF focused exclusively on tort reforms related to medical malpractice to determine the effects of limiting liability on the healthcare costs that employers and employees pay.

Tort reform has some degree of bipartisan support. In 2009, President Obama advocated tacit backing for the idea before the American Medical Association. He remarked, "I want to work with the AMA so we can scale back the excessive defensive medicine that reinforces our current system, and shift to a system where we are providing better care, simply — rather than simply more treatment." However, he declined to support "caps on malpractice awards," the type of reform doctors and other medical professionals typically seek.

Earlier this year, Speaker Paul Ryan and House Republicans embraced tort reform in their "Better Way" policy proposals. After noting that the failure to enact tort reform has cost the nation's health care system more than $300 billion annually, the Better Way report noted, "The nation's medical liability system is broken, and it has imperiled patient access and imposed tremendous costs on our nation. The current system has forced doctors out of practicing in certain specialties; it has caused trauma centers to close; and it has forced pregnant women to drive hours to find an obstetrician." Numerous bills in Congress seek to address these perceived problems as well.

In terms of previous research, the Congressional Budget Office (CBO) found in 2004 that "caps on damage awards reduced the number of lawsuits filed, the value of the awards, and insurance costs." In 2009, a National Bureau of Economic Research (NBER) paper was the first major study to conclude tort reform can reduce health care costs in the aggregate. In this study, AAF uses MEPS data from approximately 45,000 Americans to determine the specific impacts of medical malpractice reform on health insurance costs.

To determine what, if any, impact medical malpractice tort reform has had on health care costs, we perform several fixed effects regressions using panel data from 2008 to 2014. These regressions utilize state-level data to investigate the relationship between medical tort reform and the cost of health insurance premiums. We specifically examine overall premium costs, the cost for employers, and the cost for employees.

METHODOLOGY

We employ a series of binary variables to signify the cumulative number of medial tort reforms passed in each state. Broadly, these reforms reflect: 1) a monetary limit on noneconomic damages, ranging from $150,000 to $4 million, 2) a range for attorney's contingent fees, 3) periodic payment of future damages, and 4) repeal of the collateral source rule. Because no state passed more than three reforms during the time period examined, three binary variables are included as independent variables in our regressions. For example, the binary variable named "two reforms" equals one if two medical tort reforms were passed in that state. Similarly, "two reforms" equals zero if either zero, one, or three reforms had been passed.

Although we only examine the effects of medical tort reforms on health-care costs between 2008 and 2014, our model also captures the effects of reforms passed prior to 2008. This way, we can account for a possible lag in the time between when a medical tort reform is passed and when health insurance premiums are affected. In this analysis, we use medical tort reform data from 1997, with the earliest reforms enacted in 2002.

As previously mentioned, there are three dependent variables of interest: total health care premiums, employer contributions to health care premiums, and employee contributions to health care premiums. We do not distinguish between different types of health care plans in this analysis, but focus on average total health insurance costs.

We also control for a variety of outside factors that influence the cost of health care. These cover both medical and economic considerations. Although we do not have access to the medical histories of individual employees, we use general health indicators in each state as a proxy. Our control variables include the number of cardiovascular deaths in each state, the number of cancer deaths in each state, and each state's median age. We also include home price indices to control for economic fluctuations during the Great Recession. We take the natural log of each control variable to simplify the way in which the results can be interpreted.

Finally, our regressions control for both state effects and year effects. State effects are characteristics that vary across states but not over time, such as state licensure laws, the number or types of insurance providers available in each state, or cost of living. Year effects vary across time but not across states. Controlling for year effects ensures that our results are not influenced by the Great Recession and its effect on the insurance industry.

The time period examined in this analysis was selected based on the availability of health care data. To prevent any instances of missing data, we chose to focus on the effects of medical tort reform on health-care premiums between 2008 to 2014.

DATA

Data on health insurance premiums was taken from the Medical Expenditure Panel Survey (MEPS), a series of government-sponsored surveys of individuals, employers, and medical providers. We specifically utilize the MEPS Insurance Component, a survey of 45,000 private sector, state, and local employers. This survey's large sample size minimizes its standard error and helps to create a more accurate, nationally-representative sample. It also builds on a 2009 NBER paper, which relied on a smaller data set of 819 employers.

We found the number of medical tort reforms (generally defined as limits on jury and settlement awards from torts) passed in each state using two main sources: records from the American Tort Reform Association and the comprehensive Database of State Tort Law Reforms from the University of Texas. We took data on cardiovascular and cancer deaths from the "America's Health Rankings" database of the United Health Foundation, and the U.S. Census Bureau provided each state's median age. Finally, we utilize the Freddie Mac House Price Index to account for poor economic conditions during the Great Recession.

Our data set includes all 50 states, but does not include the District of Columbia.

RESULTS

Overall, we find statistically significant evidence that medical tort reform is associated with a decrease in health care costs. After testing the effect of one, two, and three reforms, we find a significant negative relationship between tort reform and health care costs in states where two medical tort reforms were passed. Specifically, we find that the passage of two medical tort reforms significantly decreased both total premiums and employer contributions to premiums. The results were largely insignificant for states that passed one and three reforms.

States that passed a total of two medical tort reforms include Alaska, Michigan, Mississippi, Nevada, Pennsylvania, Texas, and Virginia. Florida and Oklahoma were the only states to pass three tort reforms during the time period examined. However, both states did not pass their third medical tort reform until 2013. For the purposes of our analysis, this means that there were several years between 2008 and 2014 during which the number of reforms passed in those states was equal to two.

The case of Florida and Oklahoma also means that, out of 350 observations, only 4 state-year combinations involved the passage of three medical tort reforms. This small sample size may help to explain why our analysis finds no significant relationship between the passage of three medical tort reforms and health care premiums.

TOTAL HEALTH CARE PREMIUMS

Table 1 illustrates the impact of medical tort reform on total health insurance premiums. We find statistically significant evidence that states that passed two medical tort reforms experienced a correlated drop in health care costs.

Table 1: Medical Tort Reform and Total Health Care Premiums

Number of Medical Tort Reforms	Impact on Total Health Care Premiums
One Reform	-0.3%
Two Reforms	-2.6%**
Three Reforms	-2.7%
**Significant at the 5% level	

Our findings suggest that the passage of two medical tort reforms is associated with a 2.6 percent decline in the total cost of health insurance premiums. This finding is not wholly unexpected; previous NBER research has found medical liability reform to be correlated with a 1 to 2 percent reduction in premiums.

For perspective, the national health insurance expenditures were $606 billion in 2014, the most recent year with available data. If national healthcare costs dropped by 2.6 percent, the employers could save roughly $15 billion with two major tort reforms. Furthermore, in 2013 CBO found limiting medical malpractice torts could reduce mandatory federal spending by $57 billion during the next ten years, increase revenues by $6.7 billion, and reduce discretionary outlays by $1.8 billion. This represents just the budgetary savings, however, implying greater gains in the health insurance market. These magnitudes are not inconsistent with our findings.

EMPLOYER CONTRIBUTIONS TO HEALTH CARE PREMIUMS

We also find statistically significant evidence linking medical tort reform to a decrease in employer contributions to health insurance premiums. Similar to the results of our previous regression, this significant relationship was observed in states that passed two reforms. The results are shown in Table 2 below.

Table 2: Medical Tort Reform and Employer Contributions to Health Care Premiums

Number of Medical Tort Reforms	Impact on Employer Contributions to Health Care Premiums
One Reform	-0.4%
Two Reforms	-3.5%**
Three Reforms	-4.6%
**Significant at the 5% level	

We find that the passage of two medical tort reforms is correlated with a 3.5 percent drop in employer contributions to health care premiums. This decline suggests that tort reform could have a meaningful impact on health care costs. Medical tort reform, by reducing employers' cost burden, may enable more employers to provide health insurance for their workers. Similarly, employers may be able to hire more workers with these savings or invest the health care savings into employee retirement plans. Passage of three reforms yielded largely insignificant results, likely because of the sample of states (just two) that enacted

three reforms.

EMPLOYEE CONTRIBUTIONS TO HEALTH CARE PREMIUMS

We do not find any statistically significant relationship between medical liability reform and employee contributions to health care premiums from 2008 to 2014. However, the link between medical tort reform and reductions in both total premiums and employer costs is encouraging. By limiting physicians' liability or capping damages awarded from malpractice suits, medical tort reform has the potential to generate tangible health care savings.

CONCLUSION

For those suffering harm, the nation employs regulatory protections and a robust tort system. One attempts to prevent harm and the other compensates and punishes for torts. There have been several instances of regulatory reform in recent history, albeit major rules continue to accumulate, but tort reform hasn't really started on the national level. With evidence from NBER and these recent findings from AAF that medical malpractice reform could save more than $15 billion in premiums, Congress and the administration should reexamine the implications of our over-aggressive tort system.