Migrants: A Special Health Care Case

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By LARRY NORTON AND MARC LINDER

Whatever the merits of its general approach, the Clinton health plan ignores the special circumstances of migrant farm workers. Unless Congress cures this failing with a heavy dose of realism, the nation's more than 1.6 million migrant workers and dependents will benefit little from health reform.

For example, for sensible administrative reasons the Clinton plan imposes a 20 percent surcharge on nonemergency medical services received outside the area of a person's health alliance. For farm workers, whose labors take them all across the country, these charges create an unfair barrier to health care. And the barriers will often be too high to overcome because these workers earn the minimum wage or less.

Another plank of the Clinton plan — its cost-sharing rules — also will create peculiar hardships for migrant workers. Normally under the plan, an employee will pay 20 percent of the insurance premium and the employer will pay 80 percent. Subsidies are available for both groups. But, surprisingly, if an employer either fails to or is not required to pay the 80 percent share, the worker must do so.

Unfortunately for migrant workers, farm employers can avoid paying their share in several different ways.

First, the Clinton plan places the duty to report and to pay the employer's share of the premium not on the farmer, but on agricultural labor contractors, or crew leaders. The plan does this in reckless disregard of compelling proof that crew leaders consistently abuse workers by failing to pay minimum wages, stealing Social Security taxes, dodging unemployment-insurance taxes and even holding workers in peonage.

So well-documented are these abuses that the Internal Revenue Service and many state enforcement agencies, recognizing that crew leaders simply will not comply with the law, have given up trying to get them to pay employment taxes. But by its unthinking reliance on them, the Clinton plan condemns migrant workers to pay their employers' portion of health premiums when these crew leaders do not.

Similarly, the Clinton plan frees employers from paying any insurance premiums for employees working fewer than 40 hours a month. With this incentive — and with their ability to shift work among different crews — farm employers can again leave migrant workers holding the bag.

Farm employers can also escape liability for premiums by calling their workers "independent contractors" and issuing them a 1099 tax form instead of a W-2. This unlawful practice is epidemic in agriculture and elsewhere, and will without doubt increase under the Clinton plan.

The low income of migrant workers — they are the lowest-paid occupational group in the country, according to the Bureau of Labor Statistics — makes these and other burdens especially heavy. If an agricultural employer succeeds in using the cost-shifting opportunities this plan offers, a family of four earning a poverty-line annual income of $14,800 will typically have to shell out about 10 percent of its gross income for health care. Even the $10 copayment for each doctor visit — which the Clinton plan applies equally to migrant workers and agribusiness executives — will be a major hardship for the former.

Yes, under the Clinton plan migrant workers will have a health security card that "can't be taken away." But their homes may have to be sold to pay for it.

To confer the benefits of reform on migrant farm workers, a health plan must be tailored to their circumstances. It must be available wherever the migrants' work takes them. It must not impose on them an unreasonable financial burden. And the cost and quality of their health care must not depend on whether or not their employers obey the law.