

THE ETHICS OF OUTCOMES-BASED FUNDING MODELS

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Combating the high costs of asthma—the most common chronic disease of childhood—seems an obvious win. But how to go about it? Heavy doses of steroids would be effective but can stunt growth. Preventing asthma attacks by taking away family pets and moving families into featureless cement homes would also be effective, but at what human cost? Keeping children permanently inside, away from pollution and inciting pollen and dust would have their own consequences: decreased activity, resulting obesity, social isolation. Given the long-term expense of poor mental health, type 2 diabetes, and cardiovascular disease, perhaps a focus only on the specific, measurable outcome of reduced costs for asthma is misplaced. If instead, the short-term but expensive medical treatment of childhood asthma were continued—allowing children to stay in their homes and play outside in the pollen and puppy-filled world—perhaps better long-term health and even bigger healthcare savings could be achieved.

While the idea of promoting any improved health outcome with associated cost savings sounds good on its face, implementing outcomes-based funding requires isolating an outcome more narrowly than may make sense for long-term benefits. This is because applying outcomes-based funding requires delineating clear, measurable goals to demonstrate success. And of course there are very good reasons to focus on specific societal aims in an accountable way. However, what matters ethically is not just the value of a stated goal in the abstract, but the specific pathways to meeting these goals. And, as the childhood asthma example suggests, there is the opportunity cost of choosing a lesser goal over other more important goals. Which leads us to argue that we need an ethical framework for choosing specific goals and setting programmatic priorities. Specifically, insofar as

the outcomes-based strategies considered in this book are presumed to be meeting societal goals, it is necessary to prioritize projects according to the priorities of society.

This analysis stands as a challenge to the status quo in policy making which is to presume that finding a way to improve any positive outcome while expending fewer resources would seem to represent a good choice. Given economic scarcity to meet social goals, why wouldn't any efficiency be good in and of itself? The idea that under conditions of scarcity, efficiency alone will properly inform the ranking of goals already presupposes a particular ethical approach, that of utilitarianism. The utilitarian framework is often the default approach for policymakers, particularly those influenced by economists. As a result, absent explicit attention to values, the application of outcomes-based funding approaches is likely to be implicitly utilitarian.

The core utilitarian ethic is to maximize the ratio of benefit to cost—which is the definition of efficiency. When all relevant outcomes can be measured according to a homogenous unit of “benefit,” this approach makes the most sense. It makes less sense when the outcomes have disparate social value and there is no single type of “benefit.” In such cases, simply seeking to get more of any given benefit does not ensure the value of that benefit vis-à-vis other potential goals. In commonsense terms, doing relatively less important things at a bargain rate is poor policy when it leaves more important things undone.

Our main point is that efficiency itself has no normative or ethical value. Of course it is morally preferable to do “more good” overall by doing each thing efficiently, but what counts as “more good” still has to be established in some independent way. Rather than treating efficiency as a noun (seeking to create “efficiencies”) we ought to treat it as an adverb—seeking to reduce, for example, illiteracy or depression efficiently. While this may seem obvious, it entails something less apparent: we need to decide what problems to address and how to select outcomes to measure according to societal values that are *independent of the dollars a project might offset*. Lacking this perspective, an outcomes-based approach regresses into taking efficiency itself as its fundamental value.

The error of attributing ethical value to efficiency alone is made repeatedly in social policies. The most common error is to equate equity or justice with the most efficient use of a limited resource, but to do so without any independent ethical rationale. For example, during the early stages of managed health care, an influential health policy leader, David Eddy, made this error in an important article in *JAMA* on how to ration health care.¹ He literally defined equity in terms of efficiency, stating:

In the context of health care, a preferable definition of *equitable* is that services should be used in such a way that the services received by each individual should provide them with approximately equal amounts of benefit per unit of resource consumed. Thus, an equitable distribution means equal yield or, more colloquially, equal “bang for the buck.”

We disagree with this definition of *equitable*. Eddy’s approach does not necessarily consider people or their needs equally; instead, it treats the benefits per dollar equally. People vary in the complexity of their health problems. Thus, they will vary in which medical interventions they need, and how much cost is involved, to address their medical conditions. Consider, for example, two people with cardiac disease who are both good candidates for treatment that can return them to equally productive lives and good health. However, while one can be treated with an inexpensive, noninvasive catheterization, the other—because of a quirk in blood vessel anatomy—will require expensive open-heart surgery. Using an “equal benefit per dollar spent” approach would prioritize the inexpensive treatment, yet this may not be equitable. What if the person needing the more expensive treatment was 20 years old and the other person was 70? The fact that the 20-year-old would likely gain many more years of life from the surgery could be factored into a more complex measure of efficiency. However, the trigger to make the measure more complex comes from outside the value of efficiency itself. Rather, it concerns each person’s right to a decent life trajectory. And concerns about the fair treatment of each person cannot be simply reduced to dollars spent, the number of years of life gained, or even one homogenous measure of quality of life.

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1 David Eddy, “The Individual vs. Society: Resolving the Conflict,” *JAMA*, 265 (18) (1991): 2399–2401, 2405–2406.

Thus, this relatively simple scenario poses questions of equity or fairness that an “equal benefit per dollar spent” approach alone cannot resolve.

In *A Theory of Justice*, John Rawls developed an alternative conception of distributive justice, rejecting utilitarianism and arguing that, rather, an impartial approach to justice would prioritize helping the least well off first.² In the Rawlsian tradition, Amartya Sen and Norman Daniels have pointed out difficult policy dilemmas that can arise between equity and efficiency.³ People at greater health and societal disadvantage may be more expensive to bring to the same outcome as people who are better off. It cannot be fair to exclude those most in need because of this. For example, in the case of microcredit loans in developing countries, it was more difficult for loan recipients who were worse off to begin with to achieve the same benefits as others who started with more resources.⁴ Note that there is no inherent reason that efficiency should disadvantage those most in need—the point is just that efficiency and equity (or justice) can conflict.

ETHICAL CONSIDERATIONS FOR EVALUATING OUTCOMES-BASED FUNDING

So how can an outcomes-based approach incorporate ethical goals such as promoting equity? And how can other ethical goals—regarding societal priorities and the equal treatment of individuals and communities—be addressed in the design of such interventions? Given that the emphasis on outcomes and efficiency is already, as it were, baked in, we suggest the following ethical framework for analyzing new outcomes-based policies. Address three fundamental ethical questions: (1) Is there a hidden human toll? (2) Are we aiming for the easy money rather than doing what is more important? and (3) Are we using problematic means to achieve a desired end?

Is There a Hidden Human Toll?

In the case of health care, abundant evidence demonstrates that for-profit organizations targeting efficiencies for measured outcomes may provide

2 John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

3 Amartya Sen, “Why Health Equity?” *Health Economics* 11 (8) (2002): 659–666; Norman Daniels, *Just Health, Meeting Health Needs Fairly* (New York: Cambridge University Press, 2008); Norman Daniels, “Four Unsolved Rationing Problems: A Challenge,” *Hastings Center Report* 24 (4) (1994): 27–29.

4 Paul Mosley and David Hulme, “Microenterprise Finance: Is There a Conflict between Growth and Poverty Alleviation?” *World Development* 26 (5) (1998): 783–790.

lower than previously offered quality care for outcomes that are not being measured. This result could even extend to providing no care to more vulnerable patients or those requiring expensive treatment for problems that are not being evaluated. We call this the hidden human toll when there is a close relationship between reorganizing services to produce a certain outcome and neglecting or even harming others in need.

For example, while health maintenance organizations (HMOs) originally claimed that they would improve care for entire populations by eliminating inappropriate care, studies show that many HMOs have actually excluded sicker and/or vulnerable patients to contain costs. They may be providing more efficient care to their selected patients, but at what cost to the population as a whole? In “Health Care and Profits: A Poor Mix,” *The New York Times* reporter Eduardo Porter gives multiple examples of for-profit health organizations that routinely underserve vulnerable populations.⁵ He writes:

Our track record suggests that handing over responsibility for social goals to private enterprise is providing us with social goods of lower quality, distributed more inequitably and at a higher cost than if government delivered or paid for them directly.

We do not believe that there is an intrinsic conflict between seeking profit or savings and seeking quality, but our point is that the incentives need to reflect both aims.

Are We Aiming for the Easy Money Rather Than Doing What Is More Important?

We need to begin with the question: are we addressing the more fundamental human needs first? Selecting a certain social goal and a specific intervention always entails opportunity costs. What goals or approaches were *not* selected? Attention is needed to ensure that more ethically important endeavors are not passed over because they may not save as much money or result in savings as quickly. Again, saving societal dollars can be a goal in and of itself, but then that goal should be explicit and not cloaked as addressing high priority societal goals. If the goal is to provide important health and social benefits, then those proposing an intervention

should assess whether the outcomes targeted reflect the higher priority needs of the population.

Again, while this may seem obvious, we have seen health policies shipwreck over this issue. When policymakers sought to set priorities to ration Medicaid in Oregon, they faced such a problem. Through a democratic process they established rankings for health care treatments by calculating the number of quality-adjusted life years (QALYs) gained from a treatment divided by the cost. They then set population priorities according to the resulting aggregate value. This utilitarian approach resulted in ranking vasectomies higher than mobility-preserving hip repair surgeries and placing tooth capping higher on the list than lifesaving appendectomies. This “aggregation problem” arises whenever an intervention provides an inexpensive but relatively less important benefit for a large number of people.⁶ We suggest that those designing outcomes-based interventions keep this issue in mind. The most valuable or most important outcome may not be the one that saves the most money or benefits the largest number of individuals.

Are We Using Problematic Means to Produce a Given End?

This is the old moral problem that the ends do not necessarily justify the means. In a public school setting, an outcome of value might be reducing the cost of expensive special education classes. Improving preschool quality or initiating earlier screening for developmental delays or reading disabilities could potentially accomplish that goal. Blocking children with educational difficulties from enrolling in the school or hiring cheaper, less qualified teachers for the special education classrooms would also reduce expenses, but at what moral cost?

In another example from the health care setting, Porter reports that when nursing homes transition from not-for-profit to for-profit status, their quality of care plummets. For example, one study showed that patients were given four times the dosage of sedatives in the for-profit condition as they were given in the not-for-profit condition. Porter quotes economist Burton Weisbrod, who states that sedatives are “less expensive than, say,

⁵ Eduardo Porter, “Health Care and Profits: A Poor Mix,” *The New York Times* (January 8, 2013), available at <http://www.nytimes.com/2013/01/09/business/health-care-and-pursuit-of-profit-make-a-poor-mix.html>.

⁶ Daniels, “Four Unsolved Rationing Problems” (1994).

giving special attention to more active patients who need to be kept busy.”⁷ Efficiency-focused child care facilities could use equally problematic means—such as television for children rather than stimulating, interactive play—to create cost-savings. While outcomes-based approaches like those described in this book would presumably avoid a focus purely on efficiency, the desired outcomes would still have to be carefully chosen and monitored to avoid problematic means of reaching those goals.

Thus, using an appropriate ethical framework—beyond just efficiency—to identify the “true” societal goals of an intervention should be an important component of funding any outcomes-based approach. And the measures of success should incorporate these goals in addition to assessing the efficiencies gained as a result of a successful intervention.

CASE DISCUSSION

Consider, for example, the first social impact bond intervention, at HM Prison Peterborough (HMPP) in the United Kingdom. In this example of outcomes-based funding, the local community wanted to reduce the rate of re-incarceration among short-term prisoners held at HMPP, 60 percent of whom re-offended within a year of release. With a control group as comparison, the Ministry of Justice signed a contract agreeing to repay investors in full if the recidivism rate was lowered by 7.5 percent over a six-year period as well as pay out an additional percentage of the cost savings for any reduction beyond 7.5 percent. While we lack firsthand knowledge of how the project actually changed the lives of those involved (the program has since been discontinued as a result of a larger criminal justice policy change and we base our discussion here on an initial summary description),⁸ we might apply the three ethical questions to assessing such a project as follows.

Is There a Hidden Human Toll?

It is easy to imagine how a recidivism intervention whose singular aim was to keep former inmates out of prison might have other noxious effects. Imagine, for example, an intervention that instructed police to

make fewer arrests, just as a for-profit HMO might limit access to health care. This could lead to worse crime rates in the community. Or an intervention might reduce social services for prisoners and families (decreased scrutiny might lead to decreased arrests), resulting in increased domestic violence and strife.

Fortunately, in the actual case of HMPP, the interventions appear to have been designed to achieve the goal of reducing recidivism by improving the individual and family wellbeing of the people released from prison, not by other noxious means such as ignoring crime and making fewer arrests. At the early formative stages of the project, the input of prisoners, their families, and community social workers was elicited regarding their needs for a successful transition out of prison. These needs appear to have guided the design of the intervention:

Experienced social sector organisations, such as St Giles Trust and Ormiston Children and Families Trust, provide intensive support to prisoners and their families, both inside prison and after release, to help them resettle into the community.⁹

Are We Aiming for the Easy Money Rather Than Doing What Is More Important?

The HMPP intervention appears to be meeting an important societal goal. The targeted population—prisoners serving short-term sentences—lacked social services to assist them upon returning to their families and communities. The released individuals and their families have important unmet needs, so this does not appear to be a case of simply taking the easy money.

However, to fully address the question of importance involves learning more about the other social ills present in this community. Is preventing recidivism as important for this community as, say, improving the local schools, reducing the frequency of premature births, or increasing the availability of well-paying jobs? This intervention has an easily monetized marker of success—dollars not spent on re-incarcerated former inmates. Were other important opportunities for more complicated yet still measurable outcomes passed over? Given limited resources, choosing one outcome to focus on may leave other goals untouched.

⁷ Burton Weisbrod, *The Nonprofit Economy* (Cambridge: Harvard University Press, 1988), quoted in Porter, “Health Care and Profits” (2013).

⁸ Social Finance, “Peterborough Social Impact Bond” (2011), available at www.socialfinance.org.uk/sites/default/files/SF_Peterborough_SIB.pdf.

⁹ Ibid.

Are We Using Problematic Means to Produce a Given End?

In the case of HMPP, the means of preventing recidivism involved addressing the unmet needs of the released inmates and their families through the use of experienced social service agencies. This is hardly problematic. However, consider if, instead, recidivism were kept down by evicting the former inmates and their families and driving them out of the neighborhood, or by forcing them to take sedatives that made them too weak and tired to commit crimes. The latter may sound implausible, but it is not too far a stretch from prescribing four times the normal dosage of sedatives to elders in nursing homes to keep costs down.

CONCLUSION

An outcomes-based approach has clear societal value when it inspires innovation to find more efficient means to reach important goals. This utilitarian approach to achieving societal goals is practical but not in and of itself ethical. We suggest a framework for assessing proposed outcomes-based funding projects: consider its hidden ethical costs, its relative human importance, and the appropriateness of the means used to achieve the given outcome.

The HMPP project provides an inspiring example for addressing these ethical concerns in future interventions. Notably, the outcomes-based model used by HMPP was funded by philanthropic donors who were already committed to meeting community needs. We are concerned that investors whose overriding aims are financial might not address such concerns unless an explicit ethical standard is developed. The basis for this concern is some observations regarding the early history of HMOs. Policymakers initially conceived of HMOs as improving efficiency by eliminating excessive treatment previously incentivized by the fee-for-service system. In particular, health leaders argued that patient care would improve as costs were reduced. Because of this expectation, little attention was paid to developing explicit safeguards for threats to quality posed by cost containment. In retrospect, those threats are now all too clear. We recommend that those working in the still-nascent outcomes-based funding field learn from the shortsightedness of the health services sector and get ahead of such challenges by developing explicit ethical standards.

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