

Public Health: Medicare and Medicaid

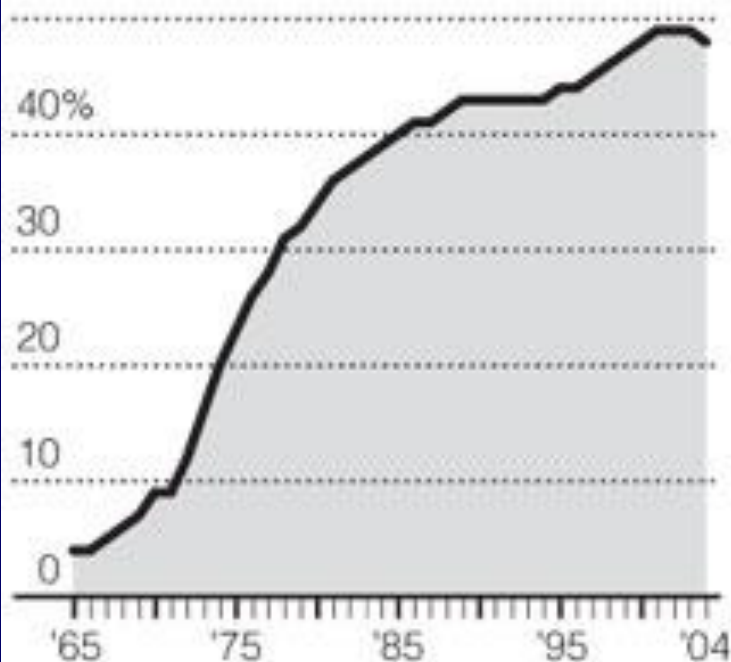
Law and Poverty

Unequal Partners

Nearly half of all law school students are women, but they still represent fewer than 20 percent of law firm partners, on average. In some cities, the percentage is even lower.

WOMEN IN LAW SCHOOLS

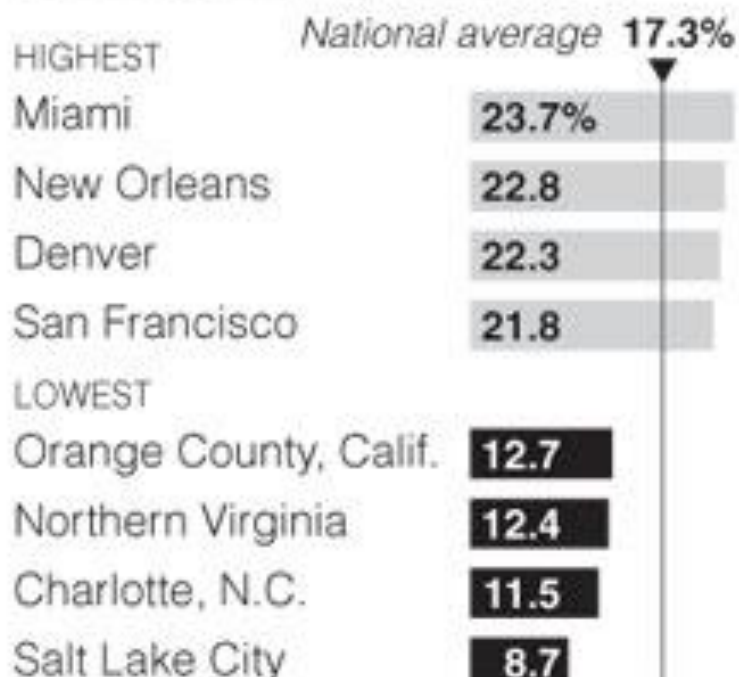
Percentage of juris doctor enrollment



Sources: American Bar Association; NALP

WOMEN IN LAW FIRMS

Percentage who are partners, 2005



Insurance Coverage - US

- 60% Private Insurance
- 19% Have No Insurance – 46 million
- 27% Public/ Government Insurance
 - 14% Medicare
 - 13% Medicaid

- Source: Census, Income Poverty, Health Insurance, August 2005 p60-229

Rising Healthcare Costs

- Since 2000, the cost of family health insurance has risen 87%
- Since 2000, consumer prices overall are up 18%
- Since 2000, worker pay is up 20%
- Overall cost is \$11,000+ /year

Milt Freudenheim, "Health Care Costs..." NYT 9.27.06

Declining Employer Coverage of Insurance

- In 2000, 69% of businesses gave some of their workers health ins;
- By 2006, it was down to 61%;
- Even in businesses that offer health insurance, many employees not covered, especially in small firms.
 - Kaiser Family Foundation Report

Medicare

- What is it?
- What kind of law is it?
- How is a person eligible?
- What is the benefit conferred?
- Who administers it?
- Who pays for it?
- What is its constituency?
- What is its history?
- Who are collateral beneficiaries?
- What size is it?

What is Medicare?

- Federal Law
- Medicare is a nationwide federal health insurance program for the aged and certain disabled persons. It has two parts:
 - Part A...hospital insurance
 - Part B...supplementary medical insurance

Eligibility for Medicare

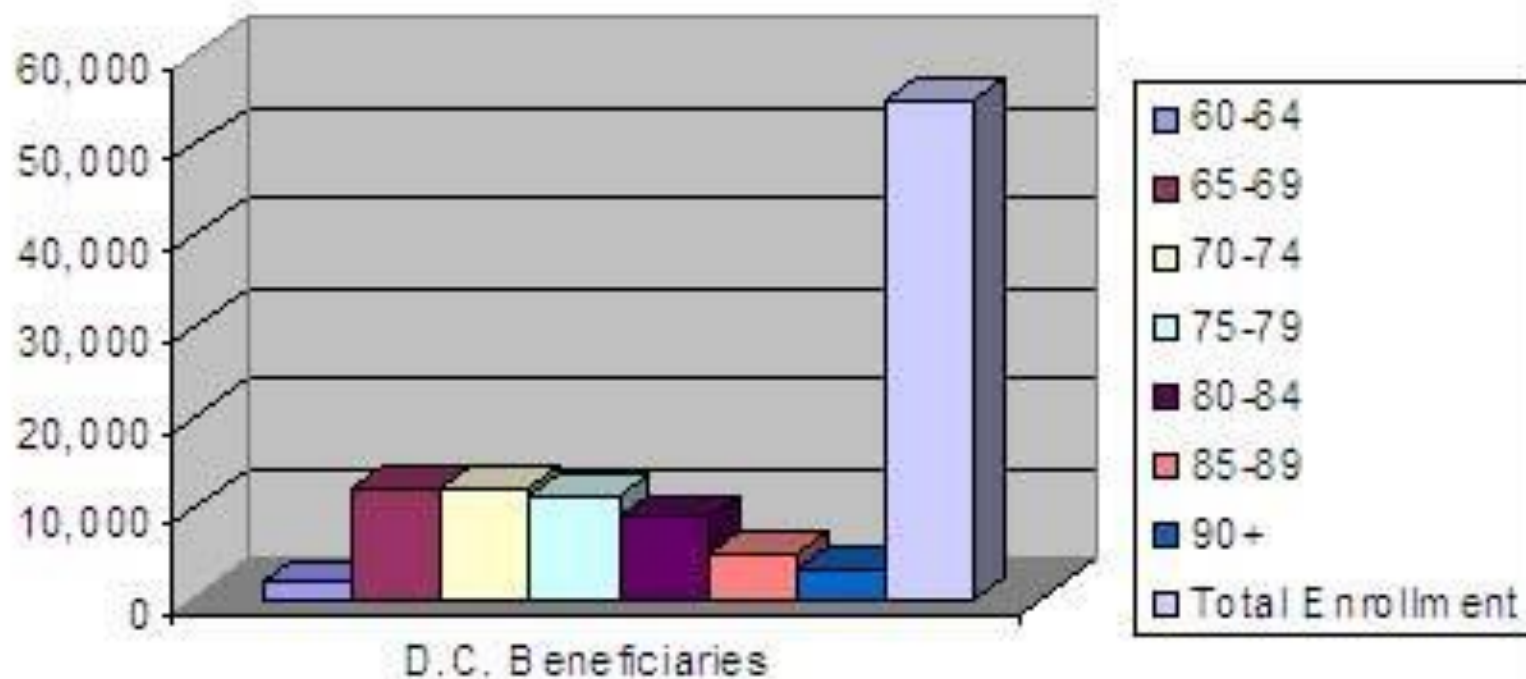
Depends on part

- Part A- hospital insurance
 - almost all persons over 65, (those who are covered by SS)
 - If not SS eligible, pay \$393/month in 2006 (less if *some* coverage)(2-5)
 - Fed employees - special rules (2-5)

[PLUS SSD recips after 24 months]
- Part B - outpatient insurance
 - all persons over 65, whether SS eligible or not
 - by paying a monthly premium (in 2006 it is \$88.50)

D.C. Medicare Enrollment (Parts A and B) Sorted by Age Group as of 7/1/03

Source: Centers for Medicare & Medicaid Services



What is Medicare Benefit?

Very much like insurance with co-pays, deductibles, etc.

- Part A: inpatient hospital services,
Also up to 100 days of post-hospital
skilled nursing facility
- Part B: outpatient services

Administration of Medicare?

CMS, within the Dept of Health and Human Services; CMS=Center for Medicare and Medicaid Services

- With help from insurance carriers (who handle claims)

Who pays for Medicare?

- Part A: recipients pay a deductible
 - Financed by HI, (hospital insurance) part of FICA; 1.45% on all earnings from ee and er
 - pays for 85% (2-10)
- Part B: program pays 80%, after \$100 deductible
 - Financed by premiums (about 25% of actual costs)
 - And by general government revenues

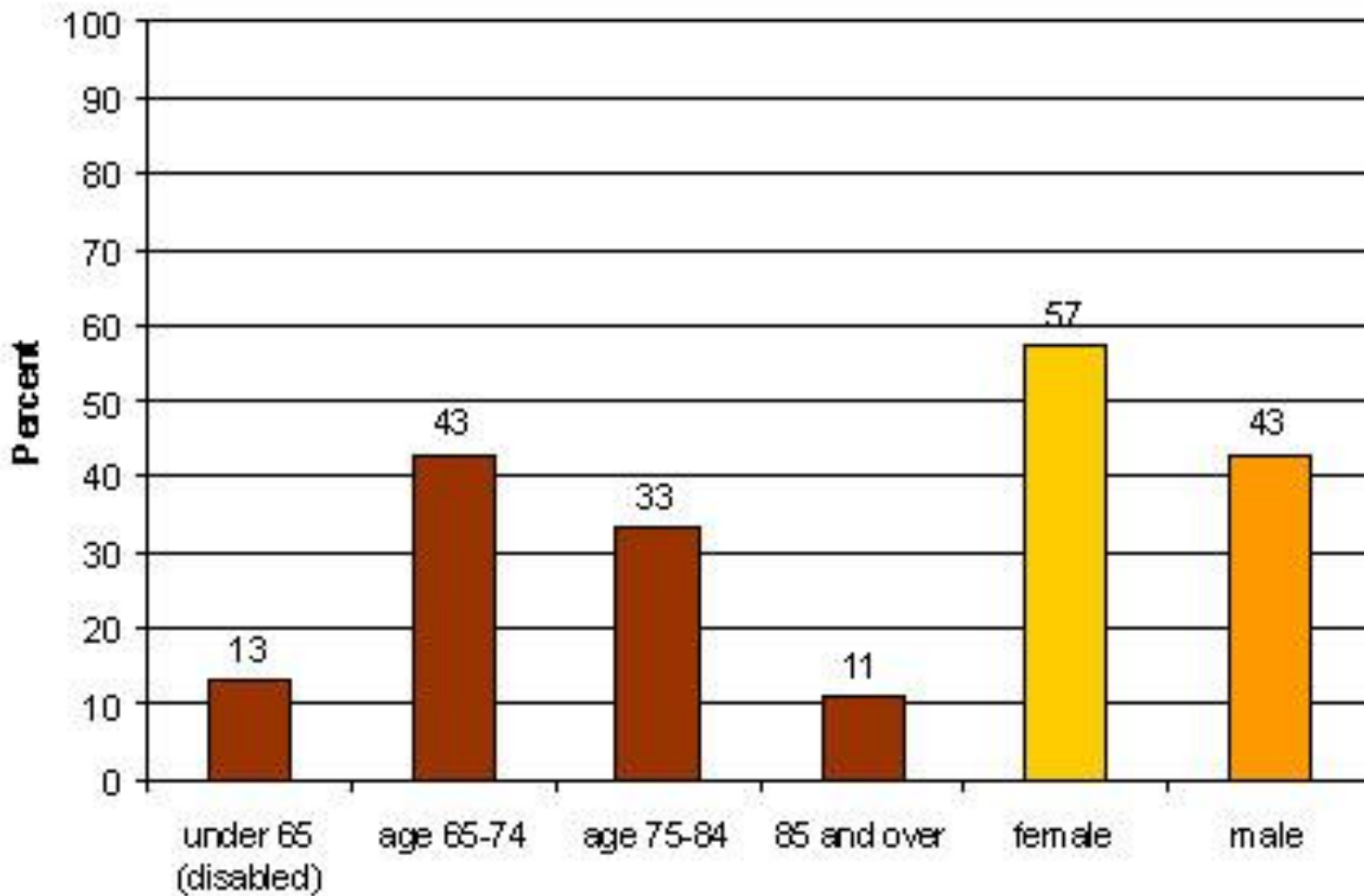
What is Medicare's Constituency?

Over 41 million people enrolled in
Medicare as of 2003

35 Million Seniors

6 Million Disabled

Medicare Coverage



Medicare History

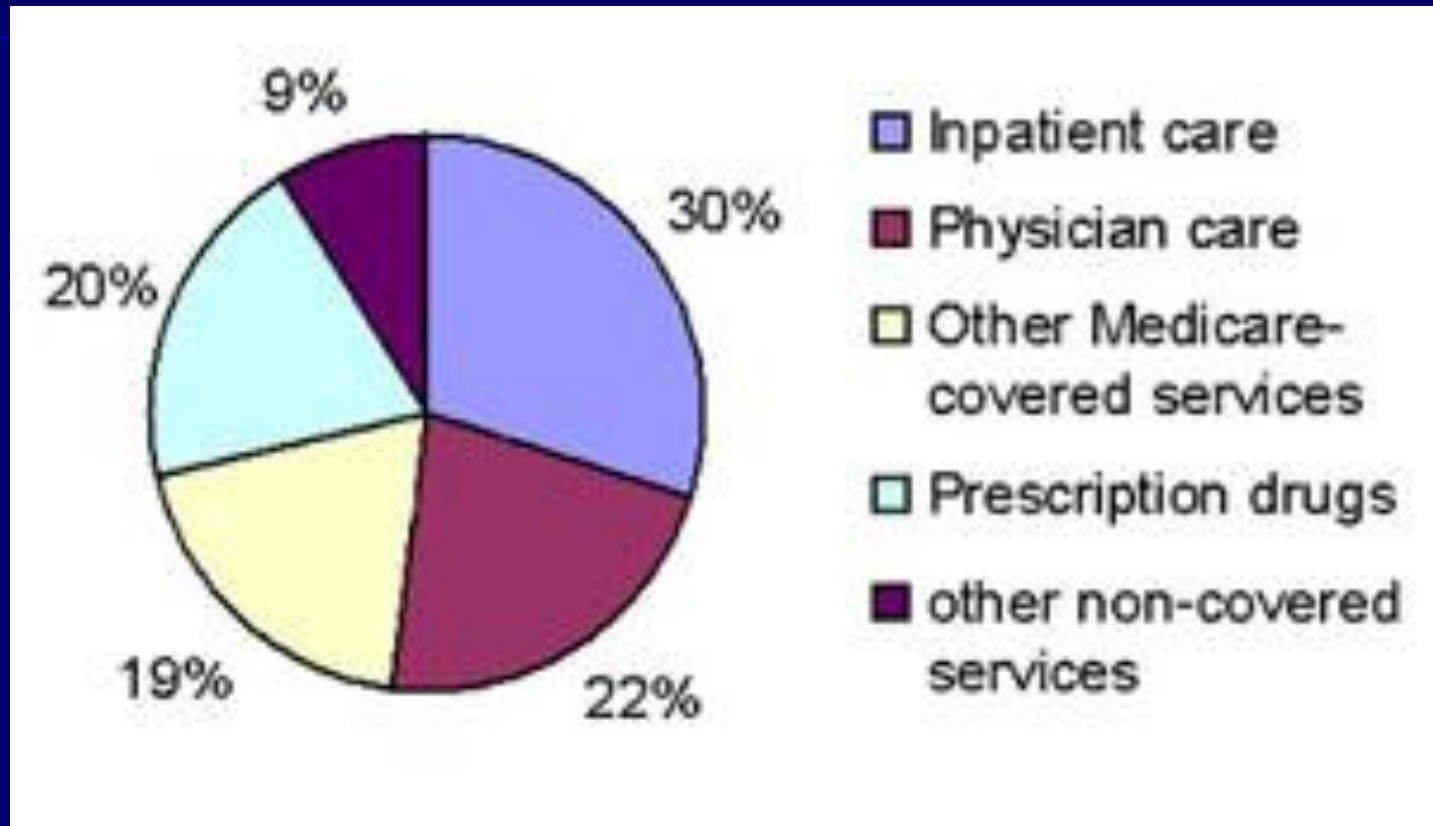
- Enacted in 1965, the Medicare program immediately covered 19.1 million people when it went into operation on July 1, 1966.
- Before 1966, only about half of all older Americans had health insurance.
- In 1972, Congress extended eligibility for Medicare to permanently disabled people who have received Social Security Disability Insurance (SSDI) payments for two years and individuals with end-stage renal disease (ESRD).

Medical Care in Other Countries

- **In 1883, Germany** passed a sickness insurance law which created mandatory sickness funds for certain classes of industrial workers. Contributions were mandated both from employers and employees and a small state contribution. Was, as in other European countries that followed, support of laborers.
- In **Britain** sickness insurance was a part of the **National Insurance Act of 1911**.

Who are collateral beneficiaries?

Where Do Medicare Dollars Go?



How Much Does Medicare Cost?

- 2006 Estimate \$345 billion
- 2004 was \$283 billion
- 1999 was \$212 billion



New Medicare Benefit

- Prescription Drug Coverage

Medicare Drug Benefit Choices

- From January 2006 beneficiaries can choose to
- (a) stay in traditional Medicare, a current Medicare HMO or a retiree plan without signing up for the drug benefit;
- (b) stay in traditional Medicare and enroll in a stand-alone drug plan;
- (c) enroll in a private health plan that offers drug coverage and Medicare health services.

Medicare Drug Benefits

- Enrollees will have an annual deductible of \$250,
- an estimated premium of \$35 a month (may vary in private plans)
- and a 25 percent copayment of drug costs up to \$2,250 in a year.
- After that, enrollees pay all drug costs until they have spent \$3,600 out of pocket (equal to \$5,100 in annual costs for those with no other drug insurance).
- At that point catastrophic coverage kicks in, and enrollees pay 5 percent of prescriptions or copays of \$2 for generics and \$5 for brand names (whichever is greater).



- Annual deductible of \$250;
- Premium of \$35 a month (may vary in private plans);
- 25 percent Copayment of drug costs up to \$2,250/ year;
- After \$2,250, pay all drug costs until they have spent \$3,600 out of pocket (equal to \$5,100 in annual costs for those with no other drug insurance);
- At that point, catastrophic coverage kicks in, and enrollees pay 5 percent of prescriptions or Copays of \$2 for generics and \$5 for brand names (whichever is greater).

Low-Income Drug Subsidies:

- People eligible for Medicaid and Medicare will pay no premium or deductible and have no gap in coverage. They will pay \$1 per prescription for generics and \$3 for brand names. Copays are waived for those in nursing homes.

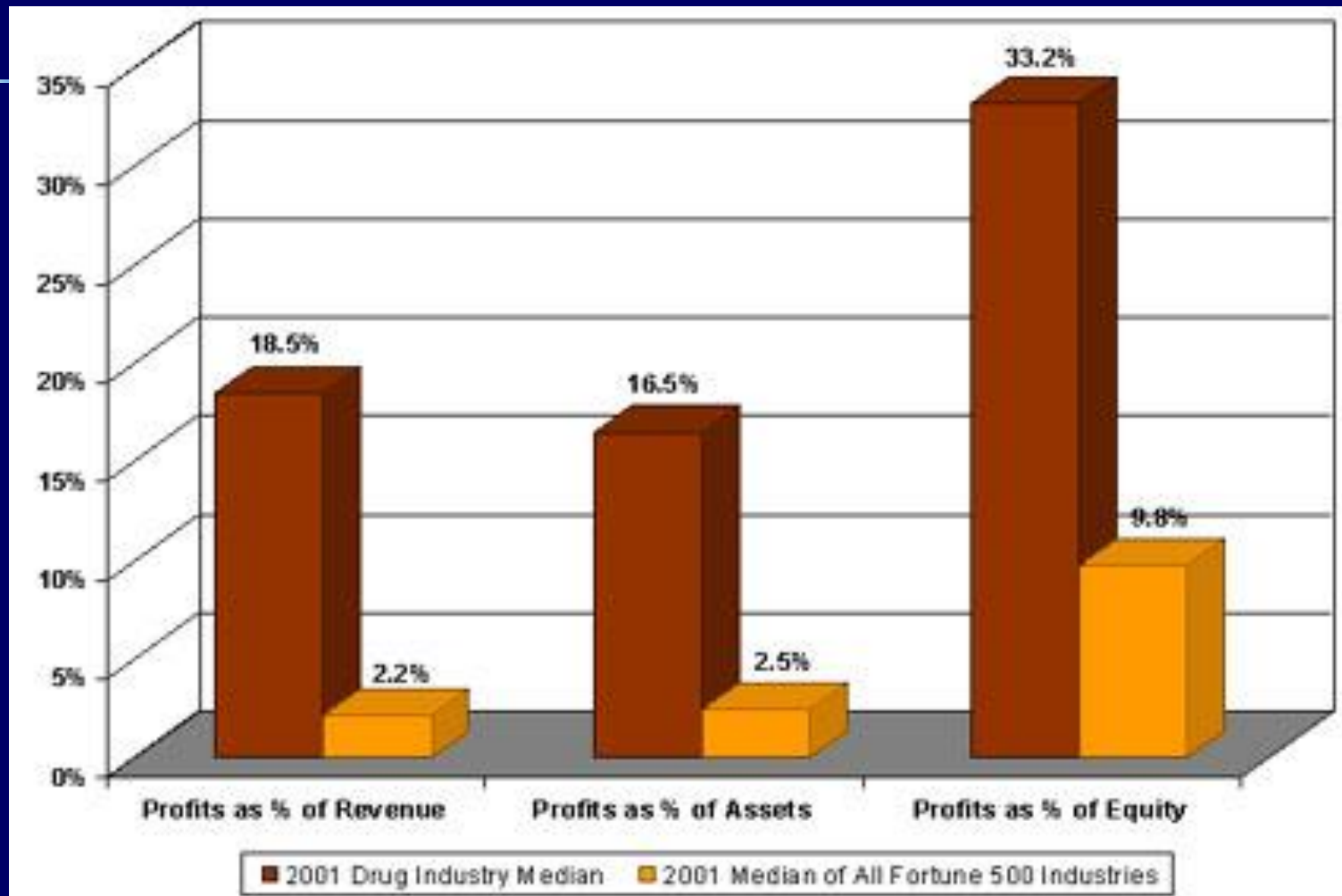
- **People with incomes below about \$13,000 (\$17,600 for couples) in 2006 and assets of under \$6,000 (\$9,000 for couples) will pay no premium or deductible and have no gap in coverage. They will pay \$2 for generics, \$5 for brand names and nothing above the catastrophic limit.**
- **People with incomes between \$13,000 and \$14,400 (\$17,600 and \$19,500 for couples) in 2006 and assets under \$10,000 (\$20,000 for couples) will pay premiums on a sliding scale, a \$50 deductible and 15 percent of drug costs with no gap in coverage. After spending \$3,600 out of pocket in a year, copays will be \$2 for generics, \$5 for brand names.**



2007 Medicare Changes:

- **The Part B premium will be linked to income for the first time, starting in 2007.**
- **People with incomes over \$80,000 (\$160,000 for couples) will pay more on a sliding scale – up to an extra \$70 per month.**
- **Will impact 1-2 m recips (of 40+)**
 - Robert Pear, "Medicare Premiums to Rise," NYT 2006

Drug Profits – Fortune Magazine



Medicaid

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Medicaid

- A federal-state program providing medical assistance to low-income persons who are aged, blind, disabled, members of families with dependent children, and certain other pregnant women and children.

Medicaid Law

- Joint Federal and State Law

Eligibility for Medicaid

- FINANCIAL REQUIREMENTS:
- First must be indigent
- Income and
- Resources

Eligibility Medicaid: Mandatory

- Families Aid to Families with Dependent Children (AFDC);
- Supplemental Security Income (SSI) recipients;
- Infants born to Medicaid-eligible pregnant women;
- Children under age 6 and pregnant women whose family income is at or below 133% of the Federal poverty level. States are required to extend Medicaid eligibility until age 19 to all children born after September 30, 1983 in families with incomes at or below the Federal poverty level.
- Recipients of adoption assistance and foster care under Social Security Act;
- Certain people with Medicare

What benefit is conferred?

MUST OFFER:

- inpatient
- outpatient
- nursing home care

MAY OFFER:

- eyeglasses
- prescription drugs

Administration of Medicaid

FEDERAL: CMS AND HHS

- STATE:

Within federal guidelines:

each state establishes:

eligibility

scope of services

sets the payment rates

Medicaid varies
considerably
among states

Who Pays for Medicaid?

Total of \$329 billion

Federal funds (out of general budget funds) pays 57%

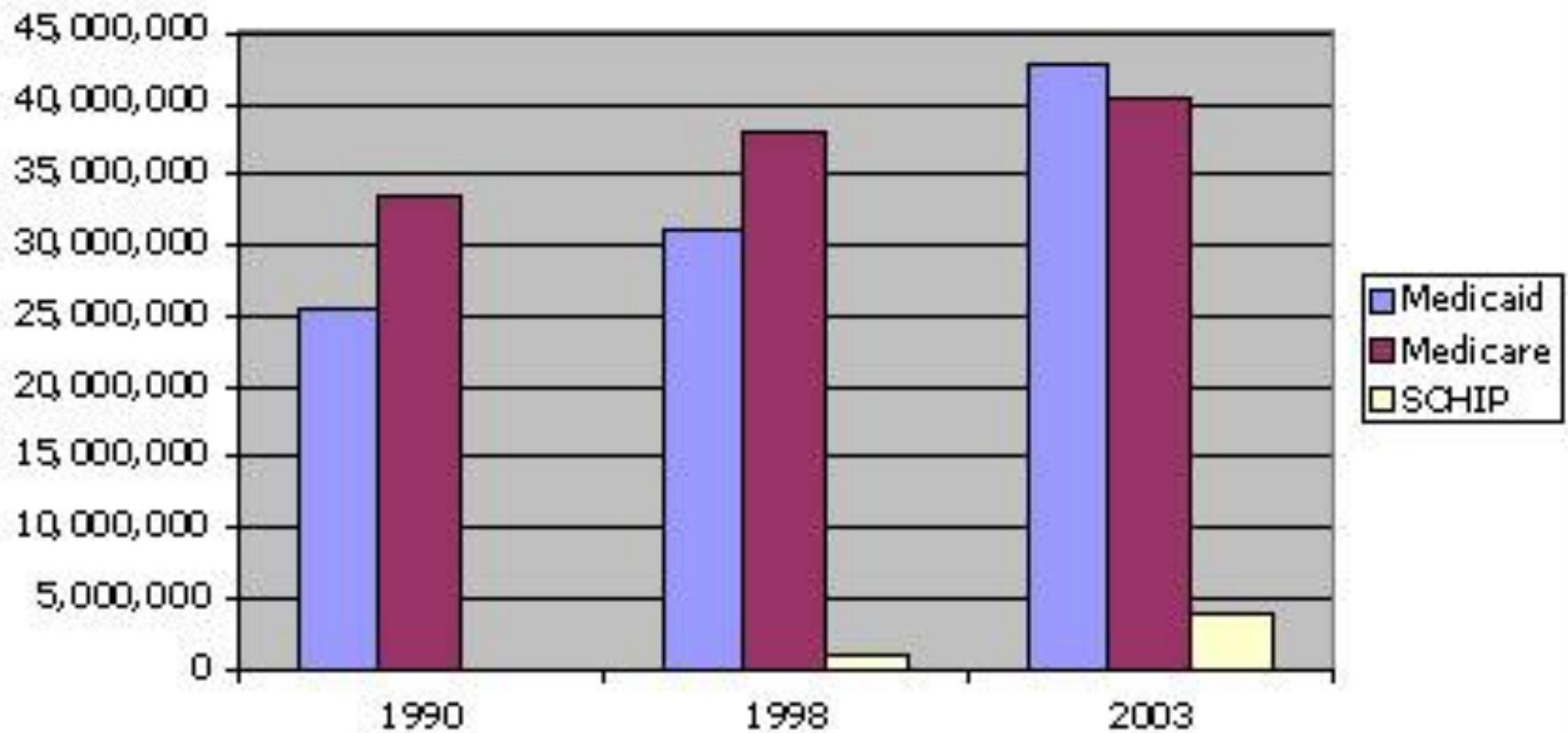
State funds (with sliding scale, depending on poverty of state) pay 43%

Source: Pew Trust

Medicaid Financial Problems

- States pay on average 21% of total state budgets on Medicaid
- Costs of Medicaid expected to rise 7.7% per year over next decade
- Source: Pew Trust

Medicaid, Medicare and SCHIP Enrollment



Medicaid Constituency

- 58 million people receive Medicaid –
- Some receive both Medicare and Medicaid

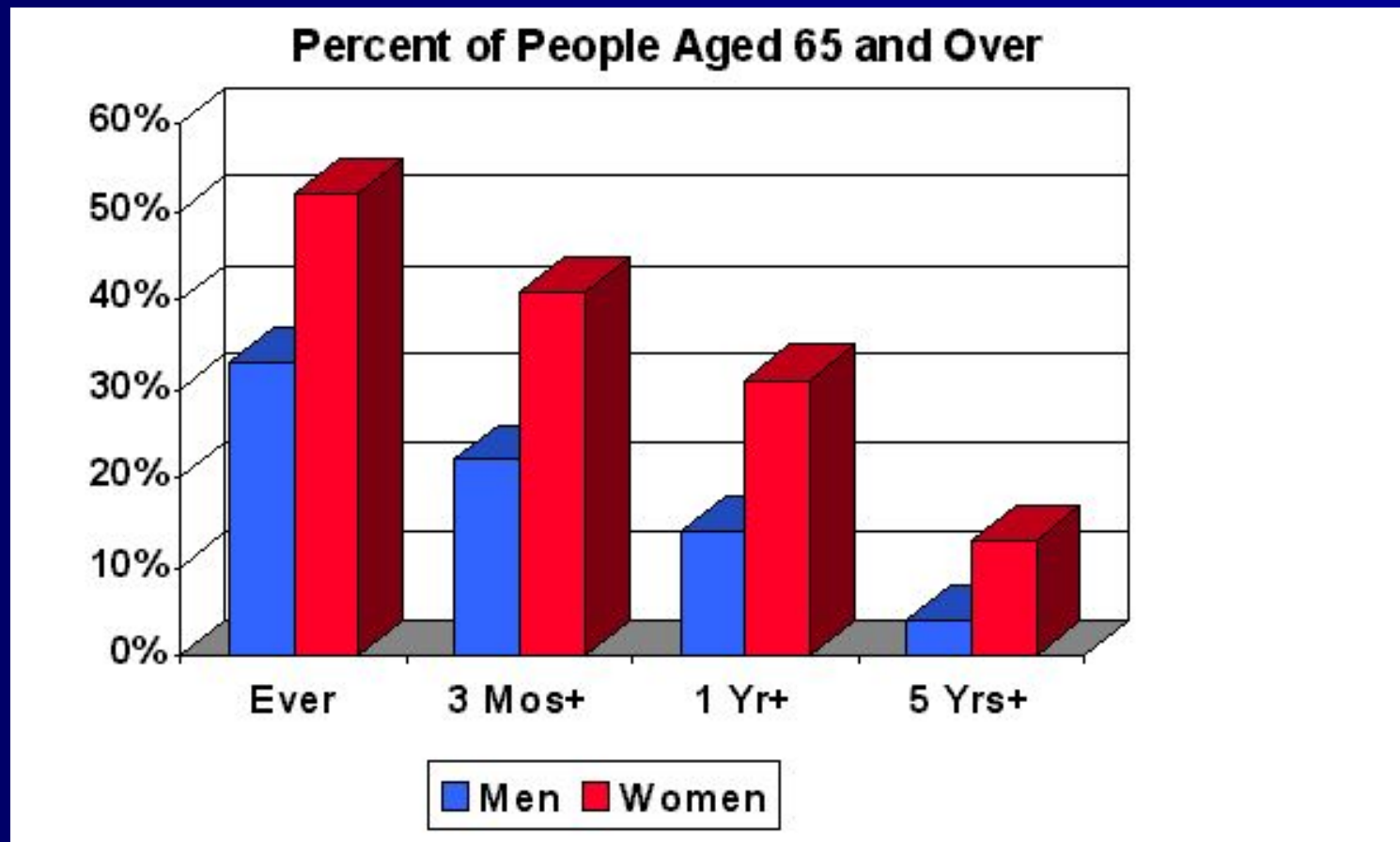
Elderly and Medicaid



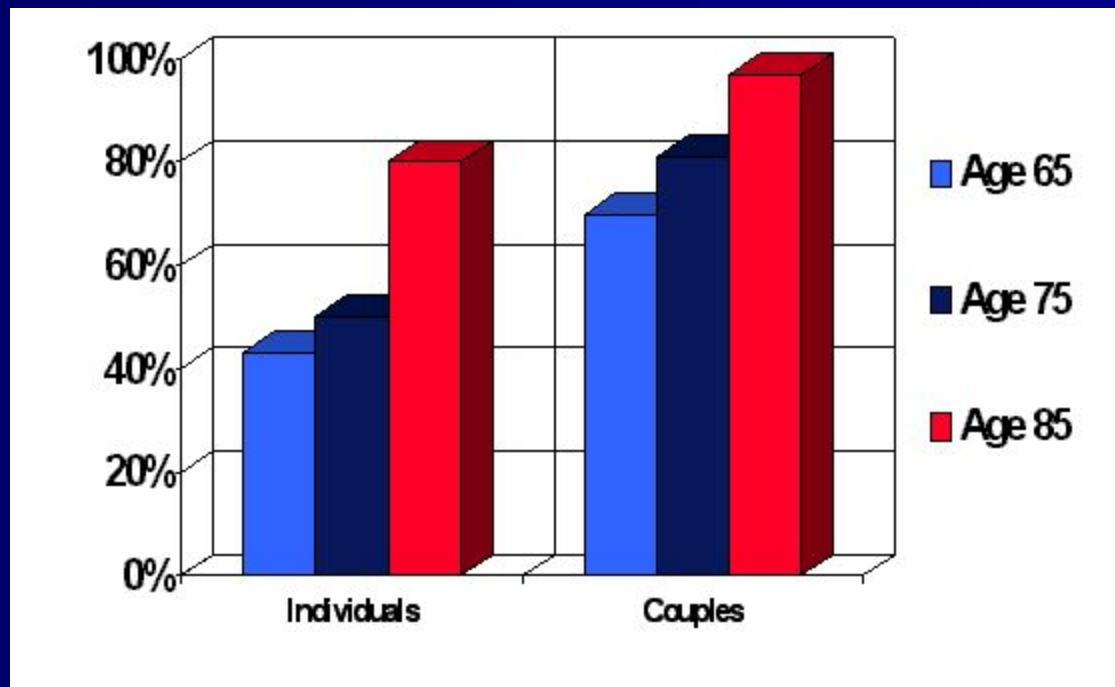
Medicaid & Nursing Homes

- 34% of Medicaid funds are spent on nursing home care 15-57
- 70% of Medicaid \$ on people over 65 is spent on nursing home care

Likelihood of Needing Long Term Care – Gender and Length of Stay



Long Term Nursing Care by Age



Likelihood of Nursing Home

- The U.S. General Accounting Office reported in 2000 that **nearly 40% of people age 65 now are likely to spend some time in a nursing home**. About half of them will stay less than six months, and 20% will spend five years there.

Medicaid Financial Planning?

- **Medicaid Planning**, or the act of shifting assets out of a Medicaid recipient's name so they can qualify for Medicaid, is a problematic legal issue.
- Under current Medicaid laws, there is a "**3-year look-back window**," which essentially means the government will scrutinize any transfer of assets that were in the applicant's name for three years prior to the Medicaid application being filed. Assets that have been transferred out the applicant's name within the 3-year look-back window may delay when Medicaid actually starts paying for the nursing home.

How Poor to Qualify for Medicaid?

- The government will not pay for nursing home care for people who possess non-housing assets of \$2,000 or more. (Even a house is included if there is no one living in it and the nursing home resident is not expected to go home.)

Policy Issues?

Policy Decision
to Protect the Assets of Wealthy Seniors?
but not the others?

Contrast Medicaid with estate taxes:

The estate tax affects only
estates larger than \$1 million
over the next few years

(\$2 million for husband and wife).

Only 2% of families will be expected to pay estate
taxes.



Policy Issues

- Recall History of Law and Poverty, FAMILY RESPONSIBILITY: 3 generation responsibility
- Tension between:
 - Do not want hard working seniors to have to impoverish themselves in order to get nursing home care
 - versus
 - Why should I pay for YOUR grandparents nursing home care?

CHIP

- **CHIP: Children's Health Insurance Program**
- **Structure much like Medicaid**
- **Federal / State Partnership**
- **States have significant leeway in establishing benefit levels**
- **Matching**
- **Benefit: Health Care Coverage for Kids under 18 in low-income families**
- **Low Income is Usually 200% of Poverty Level**
- **Administration: Fed and State**
- **Recipient Families can be charged *modest premiums, and deductibles***
- **How much cost? \$40 billion over 10 years**

Uninsured in US

- 46 Million People

What About Uninsured?

- Twenty-five percent of all working class families in LA have no health insurance coverage all year long, more than 500,000 people above the poverty line.
- 885,000 people under and over poverty line do not have health insurance.
- 20% of all Louisiana children have no health insurance.
- The number uninsured part of the year is 1.4 million (e.g. people between coverages or between jobs). Nationally 18% of all workers do not have health insurance.

Consequences of Lack of Health Insurance (part one)

- “ Uninsured Americans get about half the medical care of those with health insurance. As a result, they tend to be sicker and to die sooner.
- “ About 18,000 unnecessary deaths occur each year because of lack of health insurance.

Consequences (cont)

- “ Only half of uninsured children visited a physician during 2001, compared with three-quarters of insured children. Lack of regular care can result in more expensive care for preventable or treatable conditions, and disruptions in learning and development.
- “ When even one family member is uninsured, the entire family is at risk for the financial consequences of a catastrophic illness or injury.

Consequences (cont)

- “ Tax dollars paid for an estimated 85 percent of the roughly \$35 billion in un-reimbursed medical care for the uninsured in 2001.
- “ The burden of uncompensated care has been a factor in the closure of some hospitals and the unavailability of services in others. Disruptions in service can affect all who are served by a facility, even those who have health insurance.

What Happens When Some of the 46 Million Uninsured Get Sick?

Uninsured - Conclusion

- " The United States loses the equivalent of \$65 billion to \$130 billion annually as a result of the poor health and early deaths of uninsured adults.
- Source: National Academy of Sciences



**What Happens When
Some of the 46 million
Uninsured Get REALLY
Sick?**



EMTALA

- **Emergency Medical Treatment and Active Labor Act**
- **Anti-Dumping Law, 42 usc 1395dd**



History of EMTALA

- History: Hill-Burton gave hospitals big \$, in return asked for uncompensated care; worked, didn't work? Had to get a bigger stick, EMTALA is it
- Hill-Burton was passed in 1946, authorizing grants to construct hospitals. In return the hospitals were to provide a certain amount of uncompensated indigent care to the community. In 1974, it was found that hospitals actual provision of care was minimal. New rules and regs were promulgated and hospitals were forced to notify patients in writing of their obligation to provide hill-burton care

Two Duties on Hospitals

- 1. appropriate medical screening to determine whether patient has emergency medical condition**
- 2. hospital cannot transfer a patient with an emergency medical condition until that condition has stabilized**

All Hospitals?

- duty on "**participating hospitals**" (42 usc 1395dd (e)(2))
- Take public funds \$ and
- hospitals with emergency rooms to screen incoming emergency patients (whether or not they have insurance) to determine:

What Emergency Conditions Must Hospital Treat?

Q: whether they have an emergency medical condition?

- i. health in serious jeopardy or
- ii. is a woman in labor

If Emergency Condition

If so, must stabilize prior to transfer or discharge

- transfer is allowed if doctor certifies, in writing, that:
 - 1. the benefit to the patient outweighs the risk
 - 2. the receiving hospital has the space, personnel, and agrees to receive

Remedies for EMTALA Violations?

- if violated, civil penalties, atty fees, personal injuries action, but most importantly
- "if the violation is gross and flagrant or is repeated, ...exclusion from participation." 42 usc 1395dd (d) (1)

Actual Logo of Personal Injury Firm of
Friedman, Domiano and Smith, Cleveland, Ohio



Who pays for the uninsured do for healthcare?

- **Who pays for the cost of uncompensated care?**
- Public health care subsidies
- or
- Private health insurance plans

National Academy of Sciences says:

- " Tax dollars paid for an estimated 85 percent of the roughly \$35 billion in un-reimbursed medical care for the uninsured in 2001.

We Do Have A National Healthcare System:

- * Private insurance (premiums subject to market) – citizens
- * Public insurance - Medicare & Medicaid & CHIP – citizens
- * Uninsured & EMTALA - citizens

Public Policy Considerations?

- Is This The Best System?
- Is This The Least Expensive System?
- Does This System Provide the Best Healthcare?
- Are There Alternatives?

US Healthcare System

- To be continued....



JOHN KERRY

JOHN EDWARDS

DUMB AND DUMBER

FOR JOHN AND JOHN THIS ELECTION IS A NO-BRAINER.

