VIEWPOINT

Linking Immunization Status and Eligibility for Welfare and Benefits Payments

The Australian "No Jab, No Pay" Legislation

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The recent outbreaks of vaccine-preventable diseases have refocused attention on the threat posed by unvaccinated and undervaccinated individuals.[1] Governments around the world have responded by strengthening laws and policies directed at increasing vaccination rates. The standard menu of options includes education and information initiatives, incentives, and mandates; these may be directed at the general public, health care organizations, or practitioners.

The term *mandate* is somewhat misleading, because there are exceptions[1]—always on medical grounds, frequently on religious grounds, and sometimes on philosophical grounds. Moreover, the thrust of mandates is not to forcibly require vaccination but to predicate eligibility for a service or benefit on adherence to the recommended immunization schedule of vaccination. In the United States, every state requires proof of immunization for entry into public schools, and some states also have similar requirements for entry into day care facilities and private schools. These requirements can seem coercive to families who do not have other feasible schooling or child care options. However, the logic and acceptability of these requirements are rooted in the fact that the risks posed by clusters of nonimmunized children are heightened in these very settings.

In Australia, half of its 6 states and 2 territories have vaccine requirements for school entry, and the 3 most populous states (New South Wales, Victoria, and Queensland) recently extended such requirements for entry to kindergartens and child care facilities. These rules overlay a more controversial policy: for nearly 20 years, the Australian government has linked families' eligibility for government welfare and benefits to children's vaccination status. In this Viewpoint, we describe a recent expansion of the Australian program and consider the relevance, legality, and ethics of such an approach in the United States.

No Jab, No Pay

In the mid-1990s, vaccination rates were dangerously low in Australia: only half of all children had the nationally recommended immunization coverage. To address the problem, the federal government implemented a multipronged strategy that is widely regarded as having been successful. The welfare incentive program was one component of the strategy.

In 2015, a controversial new law— titled, "No Jab, No Pay"—expanded the program and substantially increased the incentives.[2] Effective January 1, 2016, families' eligibility for federal benefits worth up to US $15 000 per child per year (**Table**) depends on the immunization status of all family members through 19 years of age.[2] The benefits are unavailable to families for each year in which an otherwise eligible family member in this age group does not have the recommended vaccines for 1-, 2-, and 5-year-olds or is not participating in an immunization catch-up program.[2] The law also ended "conscientious objections" as a basis for exemptions,[2] following the termination of religious exemptions earlier in the year. Only medical exemptions remain, which may be granted after a physician attests to the existence of a disqualifying condition, such as certain allergies and immunocompromising illnesses.

The government has projected a savings over 5 years of US $380 million from the new law.[3] About half the estimated savings is expected to come from benefits not paid, with an estimated 10 000 families expected to lose eligibility for payments in 2016-2017 alone.[3] Although the effects of the law have yet to be formally evaluated, the government recently announced that 5738 previously unvaccinated children in families receiving benefits were immunized in the first 6 months of the new law's effective date, and 187 695 children who were lagging on the recommended vaccination schedule had caught up.[4,5] With a total of approximately 5 million children in Australia, these are substantial shifts.

Existing Incentives for Welfare Beneficiaries in the United States

In the United States, a number of state-based welfare programs already link welfare payments to vaccination status. For example, in California's CalWORKs welfare program, families who fail to submit up-to-date immunization records or an exemption form for children younger than 6 years risk losing part of their cash assistance. Florida's Temporary Cash Assistance program may withhold benefits from families with children younger than 5 years whose immunizations are not up to date. At the federal level, the Special Supplemental Nutrition Program for Women, Infants, and Children checks the immunization status of preschool children and encourages adherence with the recommended schedule.

However, stern approaches such as these are not widespread in the United States. Questions regarding whether they are warranted, lawful, and ethically acceptable warrant attention.

Prospects of No Jab, No Pay in the United States

A program designed to increase adherence with immunizations directed at welfare recipients would seem arbitrary, even discriminatory, unless vaccination rates in this population were especially low. Various state and federal initiatives over the last 20 years, most notably the

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Table. Federal Benefits Conditioned on Children's Immunization Status in Australia

Program	Description	Income Tested?	Value per Child per Year in 2016, A$[a]
Child care benefit	Helps meet costs of approved and registered care (eg, long-term, family, or occasional day care; vacation care; preschool and kindergarten)	Yes	≤11 024
Child care rebate	Covers 50% of out-of-pocket child care expenses for approved child care, up to an annual limit per child	No	≤7500
Family tax benefit part A end-of-year supplement ("family assistance payments")	Payment to assist families with costs of raising children	Yes	≤726

[a] Dollar amounts are current as of September 2016. Between December 1, 2015, and November 30, 2016, the Australian dollar averaged US $0.75.

national Vaccines for Children program,[6] have substantially increased the proportion of preschool children in low-income families who receive recommended vaccinations. Nevertheless, low-income remains a significant risk factor for incomplete immunization.[6,7] For example, the 2015 National Immunization Survey indicated that in households below the poverty level, the proportion of 19- to 35-month-old children with the recommended coverage across a range of vaccines was 3 to 10 percentage points lower than among children of the same age living in households above the poverty line.[7] The association between low-income and undervaccination is sometimes obscured by the considerable attention focused on the large number of nonmedical exemptions claimed by white, high-income families.[8] It is debatable how much weight disproportionately low coverage among children in low-income households should carry. Some will argue that linking welfare eligibility to vaccination status remains indefensible unless the government can demonstrate that lack of immunization is not due to problems of access or cost.

Two lines of jurisprudence in US law converge to support the constitutionality of programs that condition welfare benefits on vaccination status. First, governments have long enjoyed broad legal authority to require vaccinations in the name of public health.[9] This authority permits conditioning receipt of services (eg, public schooling) on adherence and penalizing nonadherence. Second, because welfare payments are not a constitutionally protected right, governments have considerable latitude in how they distribute those payments and are permitted to make distinctions among recipients. Distinctions made on the basis of constitutionally protected categories, such as race and sex, are unlikely to survive judicial review. However, a broad distinction based on adherence with a clinically recommended vaccination schedule likely would. To the best of our knowledge, the existing state programs that link welfare payments to vaccination status have not encountered serious legal challenge.

Conditioning welfare payments on vaccination status also provokes a number of ethical concerns. The policy disproportionately affects the poor. Critics have also charged that it harms the very children it is intended to help: in addition to missing the vaccination, affected children experience adverse consequences from the reduction in financial support. Other objections point to undesirable collateral effects, including victimizing "violators," perpetuating disadvantage, fueling distrust of government and the public health system, and unhelpfully drawing attention away from barriers to vaccination such as lack of access, time, and education.

The realities of how choices about childhood vaccinations are made complicate the ethical calculus. The fact that children may lose benefits because of a decision their parents made is troubling. On the other hand, if the law prompts parents who would not otherwise have vaccinated their children to do so, those children avoid risks their parents have imposed on them.

These are difficult trade-offs. For many, the question of acceptability may come down to details of program design, such as the accessibility and cost of the required vaccinations, how often payments are actually withheld, and how important a public health problem immunization coverage is among the subgroups affected.

Conclusions

The sporadic reemergence of vaccine-preventable illnesses has exposed gaps in the laws and policies that surround one of public health's most successful interventions. If outbreaks of vaccine-preventable disease spread, state and federal governments could be expected to consider strong measures to plug those gaps. The Australian experience may be instructive. It may attract special interest in places where immunization coverage among welfare-dependent families is disproportionately low and themes of personal responsibility have strong political traction.

ARTICLE INFORMATION

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REFERENCES

1. Phadke VK, Bednarczyk RA, Salmon DA, Omer SB. Association between vaccine refusal and vaccine-preventable diseases in the United States: a review of measles and pertussis. *JAMA*. 2016;315(11):1149-1158.

2. Parliament of the Commonwealth of Australia. Social Services Legislation Amendment (No Jab, No Pay) Bill 2015. http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5540. Accessed January 27, 2017.

3. Klapdor M, Grove A. Parliament of the Commonwealth of Australia website. 'No Jab No Pay' and other immunisation measures. http://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/rp/budgetreview201516/vaccination#_ftn7. Published May 2015. Accessed November 30, 2016.

4. Minister for Social Services. No jab, no pay lifts immunisation rates. http://christianporter.dss.gov.au/media-releases/no-jab-no-pay-lifts-immunisation-rates. Published July 31, 2016. Accessed November 30, 2016.

5. Minister for Social Services. Tasmania leads childhood immunisation rate improvement as indigenous immunisation rates soar. http://christianporter.dss.gov.au/media-releases/20161106-immunisation. Published November 6, 2016. Accessed November 30, 2016.

6. Lieu TA, Ray GT, Klein NP, Chung C, Kulldorff M. Geographic clusters in underimmunization and vaccine refusal. *Pediatrics*. 2015;135(2):280-289.

7. Hill HA, Elam-Evans LD, Yankey D, Singleton JA, Dietz V. Vaccination coverage among children aged 19-35 months—United States, 2015. *MMWR Morb Mortal Wkly Rep*. 2016;65(39):1065-1071.

8. Yang YT, Delamater PL, Leslie TF, Mello MM. Sociodemographic predictors of vaccination exemptions on the basis of personal belief in California. *Am J Public Health*. 2016;106(1):172-177.

9. *Jacobson v Commonwealth of Massachusetts*, 197 US 11 (1905).