

The Attorney General's Health Care Agenda

Mike Hatch makes headlines as he takes on health care reform, patient protections, and data privacy

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By Kim Palmer

Mike Hatch campaigned for Minnesota attorney general on a platform of health care reform, pledging to shake up health plans and insurance companies. Since taking office last year, he has pursued an aggressive treatment plan, grabbing headlines along the way.

Hatch quickly proposed a patient protection bill that would have made it harder for health insurance plans to deny coverage. He won a \$3 million settlement after challenging U.S. Bancorp's practice of sharing customer data with telemarketing firms, a case that has implications for the health care and pharmaceutical industries, he says.

Late last year, Hatch joined a Minnesota Senior Federation lawsuit challenging the constitutionality of the federal government's formula for distributing Medicare benefits, saying it discriminates against Minnesota patients by setting reimbursement rates here that are lower than those in many other parts of the country. (The lawsuit seeks a court order forcing the Department of Health and Human Services to equalize rates across the country, lowering those that are above average and raising those that are below average.)

His initiatives have had mixed success. The Patient Protection Act of 1999 failed to pass the legislature. Legal experts have predicted that the Medicare lawsuit is a very long shot.

But Hatch is undeterred. "We've got a good judge, Judge [Donald] Alsop," he says. "We have a compelling example." (A 72-year-old former Minnesotan who now lives in Florida but would like to move back to be near her daughter has not done so because Medicare payments in Florida give her much more extensive coverage than she could get here.) "I'm hopeful."

He's also optimistic about getting a patient protection bill passed this legislative session. "It's all going to come back," he predicts, and in close to its original form. That would include a definition of experimental coverage, plus a requirement that denials be made by providers with knowledge of the particular medical area (an amendment supported by the Minnesota Medical Association). The bill would also require more disclosure of how doctors are paid by HMOs. (Generally, it is illegal for doctors to receive kickbacks for referring patients to other doctors, but legal for HMOs to base doctors' payment on *not* referring patients to other doctors.)

"Legislators are much more interested this time," Hatch says. "They've been able to go home and listen to their constituents; they've learned it's a real issue.

"Intense Fact Gathering"

Hatch drew media attention again last month, when he announced plans to audit Minnesota HMOs to help explain why health insurance premiums are rising by 20 percent annually. In fact, his office is conducting an "intense fact-gathering

process" concerning the bigger picture of health care in Minnesota. He predicts no legislative action this session from that research, but he does hope to release a report sometime this year. "We're looking at the health care financial structure in Minnesota," he says. "There have been a lot of mergers and consolidations," with the result that managed care organizations are very concentrated.

"We've put in a large amount of work and interviewed 100 providers," Hatch says. "The more we get into it, the more we find there's nothing easy about health care. It's very complex." His research is intended to answer questions such as "What are the economics of health care in Minnesota? Is it truly reflective of a competitive atmosphere? What are the factors that cause premiums to go up?"

But Hatch isn't ready to say what he thinks needs fixing. "If I'm going to criticize, I'd better come up with a better idea.

"Some of my initial conclusions are not as firm as they once were," he acknowledges. The health care industry is "very convoluted," with different issues dominating in different parts of the state. "You can't make any broad, sweeping statements ... although a year ago, nothing prevented me from making broad, sweeping comments," he notes wryly.

Hatch earned a reputation as a zealous consumer watchdog during his seven years as former Gov. Rudy Perpich's commerce commissioner. But the fact that he is an advocate for consumers doesn't mean he's out to get business, he says. "It's important, if you're in' a legitimate enterprise, to be able to compete fairly. If you go back and look at some of the great market failures, it was some very lax government involvement that led up to them. We forget that. We think pro-consumer is anti-business. It's not."

Data Privacy

Another area of concern to Hatch is the privacy of patients' medical records. "Should we be shipping patient data to the Department of Health? Ostensibly, [doing so is] designed to develop better treatment plans. I don't buy that. I don't think the Department of Health is a valid research entity, and I don't think it's the place of government to be having those names." He cites as an example a Florida government employee who released a list of AIDS patients' names to the media during a "moral crusade." Preventing such disclosure in Minnesota would require a simple amendment, Hatch says. "I think there will be a line of legislators willing to author that one."

Hatch doesn't believe such a privacy law would hamper medical research. "In areas where research is involved, data can be exchanged as long as names aren't. I don't think they need to be."

Also troubling to Hatch is that confidential patient data appear to be finding their way into the hands of pharmaceutical companies, which are using the information to target consumers with direct-mail and telemarketing campaigns. As a result of the data privacy suit against U.S. Bancorp, Hatch's office has been contacted by people who have received personal solicitations for medications such as mental-health drugs or back-pain remedies, he says. "There are millions of ways your name can get out there. It's amazing. We're still looking at the issues."

Hatch feels strongly about the right to privacy. "It's part of personal empowerment ... how we define ourselves as individuals. We have a right to define who we are for others, what attributes we wish to share with others, and what we wish to hold back. We don't want government to know everything about us."

The Meaning of Leadership

Hatch, 51, protects his own privacy when it comes to talking about himself and his roots. He grew up in Duluth, the third of four children. Asked what in his background prompted his interest in consumer issues, he declined to answer.

He'd rather discuss issues.

"Modern leaders aren't the leaders they once were," he says. "Modern politicians are ass-kissers. They want to be popular. It's an unfortunate commentary on political life. Leadership is about being respected, not being loved." The U.S. president he most admires? Hatch points to the statue at the center of the table in his conference room: Abraham Lincoln. "He had to make the most difficult decisions ever made by any man, woman, or child. This is the only guy who kept it [the country] together." A man like Lincoln would have a tough time getting elected president in today's image-oriented culture, Hatch notes. "He was very homely. He did not dress well. But he made some great speeches."

Hatch's interest in politics and government was born during his stint as a merchant marine, he says. (Hatch shipped out on a freighter after dropping out of college. He later graduated from the University of Minnesota-Duluth and the University of Minnesota Law School.) He remembers "bouncing up and down the Great Lakes along the Rust Belt, and the Midwest was the Rust Belt then," he says. The Vietnam War was under way. The civil rights movement was in full swing. Riots were breaking out. "It was hard not to become interested in government and politics in that era," Hatch says.

Continuing an Activist Tradition

Although Hatch, like his predecessor, Hubert ("Skip") Humphrey III, is a longtime DFLer, he wasted no time in dramatically reshaping the attorney general's office. In what the *Star Tribune* described as "perhaps the largest turnover in the office in more than 60 years," Hatch pared the attorney general's staff from 546 to 484 employees. The firings and resignations included several top attorneys from the office's health division.

Under Humphrey, Hatch told reporters last year, underworked and poorly supervised state lawyers often filled their time with unwarranted actions against ordinary citizens and small businesses. The reorganization, he says, was part of an effort to meet budget restraints, boost low attorney caseloads and pay scales, and tighten management.

The restructuring-and its results-has been one of his biggest accomplishments since taking office, Hatch says, "We've been able to organize the office the way we want." He describes the current staff as "bright" and "with-it," and the office as "invigorated."

His management style may differ from Humphrey's, but Hatch says he and his predecessor are similar in their activist approach to health care issues. "Skip demonstrated a lot of active leadership on tobacco, first of all in taking the lawsuit [against the tobacco companies], and in sticking to it," Hatch says. "We're both activists in this area. Health care is so huge. There are so many sides to the elephant you can touch, We've touched different sides."